

**Court No. - 13**

**Case :-** HABEAS CORPUS WRIT PETITION No. - 289 of 2023

**Petitioner :-** Mr. Sanjay Pandey, Thru. His Friend Ajeet Pandey

**Respondent :-** State Of U.P. Thru. Prin. Secy. Home, Lucknow And Others

**Counsel for Petitioner :-** Upmanyu Srivastava

**Counsel for Respondent :-** G.A.,Chandan Srivastava,Pranshu Agrawal

**Hon'ble Karunesh Singh Pawar,J.**

1. Heard learned counsel for the petitioner, learned A.G.A. for the State-respondent Nos.1 and 2 and Sri Pranshu Agrawal for respondent No.3.

2. In view of the proposed order being passed, notices to respondent No.4 is dispensed with.

3. This petition has been filed by detenu-Sanjay Pandey aged about 58 years through his next friend Ajeet Pandey praying for the following main reliefs:-

*"I. Issue an appropriate writ, direction of order in the nature of Habeas Corpus directing the Opposite Party No. 2 to release the corpus person ie the petitioner namely Mr. Sanjay Pandey from the illegal detention of the Opposite Party No. 3 and produce the corpus person before this Hon'ble Court and set him free forthwith.*

*II. Pass an order or direction directing the Opposite Party No. 3 to appropriately compensate the Petitioner for illegally detaining him since 18 June 2023 against his wish and will."*

4. Learned counsel for the petitioner submits that petitioner is a Class-I Gazetted Officer currently working with the Central Government. Relationship between the petitioner and respondent No.4 went to sore and they are contesting a divorce petition. The wife of the petitioner has lodged for illegal custody of opposite party No.3 with the motive to take possession and property of the detenu situated at C.M. 11/1 Sector-B, Aliganj.

5. Sri Pranshu Agrawal, learned counsel for respondent No.3 has invited attention of the court towards counter affidavit filed

by him. He has submitted that detenue is of sound mind. He was diagnosed with a chronic liver disease due to consumption of liquor for so many years. Pathological Examination Report is on record.

6. On 03.07.2023 during the treatment of petitioner-Sanjay Pandey, the consent of extended care was taken and the same was given by his wife Smt. Lata Pandey and ultimately after treatment he was discharged on 19.09.2023 and on his own request as well as his sister Minakshi (who requested on phone from Australia), professor Divya Pandey, the cousin sister of the detenue came and took him away. The discharge summary showing the signatures is also on record.

7. A perusal of the counter affidavit filed by respondent No.3 depicts that averment in the petition *prima facie* appears to have been contrary to the facts stated in the counter affidavit filed by opposite party No.3. The writ petition contains disputed questions of facts. It appears that detenue is sick and is being taken care by his family including his wife.

8. As per the records available on the counter affidavit which has not been rebutted by the petitioner till date and no rejoinder affidavit has been filed. The fact that detenue is of sound mind is admitted by learned counsel for the petitioner before this Court. The writ petition being devoid of merits and also containing disputed questions of facts is liable to be dismissed and is accordingly dismissed.

9. After this order was passed, Sri Upmanyu Srivastava, learned counsel for the petitioner submits that he may be permitted to withdraw the petition.

10. Learned A.G.A. as well as learned counsel for respondent No.3 have no objection to this prayer.

11. In view of the above, the petition is dismissed as withdrawn.

**Order Date :- 23.11.2023**

Saurabh Yadav/-