

Court No. - 13

Case :- HABEAS CORPUS WRIT PETITION No. - 286 of 2023

Petitioner :- Smt. Roshni Thru. Her Husband Mohd. Waris

Respondent :- State Of U.P. Thru. Prin. Secy. Home Lko. And 3 Others

Counsel for Petitioner :- Anoop Srivastava

Counsel for Respondent :- G.A., Vineet Kumar Mishra

Hon'ble Karunesh Singh Pawar,J.

1. The petition seeks issuance of a writ in the nature of Habeas Corpus commanding the opposite parties, particularly respondents No. 2 and 3 to produce the detainee in Court and set her at liberty.

2. Heard learned counsel for the petitioner and learned Additional Government Advocate as well as learned counsel for respondent No.4.

3.The gist of the issued involved in the petition is given in order dated 16.10.2023. The order is extracted below :

"Heard learned counsel for the petitioner and learned A.G.A. for respondent no. 1, 2 and 3.

Learned counsel for the petitioner submits that the detainee is the legally wedded wife of the deponent. Marriage certificate as well as registration certificate of the marriage is on record. It is also submitted that the detainee has been forcibly detained by opposite party no. 4 against her will and therefore, respondent no. 4 may be directed to produce the detainee before this Court.

Learned A.G.A. on the basis of instructions has submitted that the detainee is residing with respondent no. 4 on account of her own free will and accord and it is not a case of illegal detention.

Learned counsel for the petitioner has disputed the instructions and submitted that the statement of the detainee has been taken by force under influence of respondent no. 4 and police. He also submits that he is ready and willing to deposit a reasonable amount to bear expenses of the detainee for coming to this Court.

In view of the undertaking given by the petitioner, he is directed to deposit a sum of Rs. 15,000/- before the Senior Registrar of this Court within a period of three days from today.

In case, the amount is deposited by the petitioner before this Court within the above stipulated time period, he shall intimate the office of the learned A.G.A. and upon such deposition, notice shall be issued to respondent no. 4 who shall

produce the detenue before this Court on the next date.

List on 17.11.2023."

4. In deference to above extracted order, a sum of Rs.15,000/- has been deposited by the deponent.

The detenue is present before the Court along with respondent No.4. The deponent is also present before the Court. On a query being made to the detenue Roshni, she has stated that she on her own will is residing with respondent No.4. She has stated that she has not been illegally detained. She is major.

5. In view of the submission made by the detenue before this court, it is evident that it is not a case of illegal detention. The detenue is residing with respondent No.4 on her own free will and accord. The writ of habeas corpus fails. The petition is dismissed.

The sum of Rs.15,000/- deposited by the deponent shall be paid to the detenue Roshni, by the Senior Registrar of this Court within a week from the date of receipt of a certified copy of this order, as cost for her appearance before this Court.

Order Date :- 17.11.2023

kkb/