

Court No. - 13

Case :- HABEAS CORPUS WRIT PETITION No. - 365 of 2023

Petitioner :- Akbar Ali Khan Thru. Mother Smt. Kahkashan Khanam

Respondent :- State Of U.P. Thru. Prin. Secy. Home Deptt. Lko. And 5 Others

Counsel for Petitioner :- Bajhul Quamar Siddiqui

Counsel for Respondent :- G.A.

Hon'ble Karunesh Singh Pawar,J.

Heard learned counsel for the petitioner as well as learned AGA for the State.

Notices to respondent no. 4, 5 and 6 are dispensed with in view of the proposed order.

The petitioner by this petition has prayed for the following relief:-

A writ, order or direction in the nature of Habeas Corpus directing the Opposite Parties to produce the detainee/corpus before this Hon'ble Court.

Learned AGA on the basis of written instructions has submitted that several cases pursuant to the matrimonial dispute are pending between the parties. In a divorce case i.e. case No. 363/2015 which is pending before the competent Court, the mediation proceedings are going on, in which both the parties are appearing and the deponent has been provided an opportunity to meet the detainee. He also submits that it is not a case of illegal detention and the petitioner can avail alternative remedy for interim custody under Protection of Women from Domestic Violence Act, 2005

Perused the record, so also the instructions provided by the learned AGA.

According to the instructions, the detainee has not been kept under illegal detention. He goes to college independently. He roams freely in the neighborhood and thus, it cannot be said that it is a case of illegal detention.

Learned counsel for the petitioner, at this stage, submits that he does not want to press the petition on merits rather prays that since the proceedings under Section 12 of Protection of Women from Domestic Violence Act, 2005 are already pending before the Family Court at Hardoi, therefore, the petitioner may be permitted to file an application under Protection of Women from Domestic Violence Act for interim custody.

On due consideration to the submission advanced as well as perusal of the record and considering the innocuous prayer of the petitioner, it is provided that in case an application under section 21 of Protection of Women from Domestic Violence Act, 2005 for interim custody is filed within fifteen from today, the same shall be decided by the concerned Court within a further period of one month.

With the aforesaid observations, the petition is disposed of.

Instructions provided by the learned AGA is taken on record.

Order Date :- 28.11.2023

R.C.