

Court No. - 15

Case :- HABEAS CORPUS WRIT PETITION No. - 401 of 2023

Petitioner :- Devansh Goyal Thru His Mother Garima Goyal and Another

Respondent :- State Of U.P. Thru. Addl. Chief Secy. Home Civil Sectt. Lko And Another

Counsel for Petitioner :- Ajai Kumar Singh, Prabhat Rathore, Shobhit Singh

Counsel for Respondent :- G.A.

Hon'ble Shamim Ahmed, J.

Heard learned counsel for the petitioners as well as learned A.G.A. for the State and perused the record.

This Habeas Corpus Writ Petition has been filed with the following reliefs:

"(I) To issue a writ, order or direction in the nature of Habeas Corpus directing the opposite parties to produce the petitioner no.1 (detenue) before the Hon'ble Court and set him free from clutches of the opposite party No.2 forthwith.

(II) To issue a writ, order or direction in the nature of Mandamus commanding the opposite party No.2 for the safety and future of the petitioner No.1 (detenue) and issue direction in the welfare of the detenue and to allow him to stay free and being minor he be liable to be allowed to live with her natural guardian i.e. the mother (petitioner no.2)."

Learned counsel for the petitioner submits that the petitioner is mother of the minor child and the father has illegally detained the minor child with him, thus, this Court may issue a direction in this regard so that the custody of the minor child be given to the mother, the next friend.

Learned A.G.A. for the State submits that the relief sought in this Habeas Corpus Writ Petition could not be granted by this Court as the mother of the minor child could not be able to point out any illegality or any infirmity regarding the custody with the father. Thus, the prayer made in this petition could not be granted by this Court and if the mother wants custody of the minor child, then the remedy lies before the appropriate forum under the Guardians and Wards Act, 1890 or Hindu Minority

and Guardianship Act, 1956 for claiming the custody of minor child in accordance with law.

After some argument, learned counsel for the petitioner submits that he may be permitted to approach the competent court in accordance with law under the Guardians and Wards Act, 1890 or Hindu Minority and Guardianship Act, 1956 for claiming the custody of minor child.

Accordingly, the present writ petition is **disposed of** with liberty to the petitioner to approach the appropriate forum in accordance with law for claiming the custody of minor child.

Order Date :- 21.12.2023

Saurabh