

GAHC010151002022



AS:12400-DB

2022:GAU-

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : W.P.(Crl.)/28/2022

AMARDEEP SINGH @ SINGH AMARDEEP
SON OF LATE BALBIR SINGH, RESIDENT OF A.T. ROAD, CHILARAI PATH,
WARD NO. 13, NEAR SIKH TEMPLE, P.S. AND DIST.- SIVASAGAR, ASSAM.

VERSUS

MRS. SURINDER KAUR AND 4 ORS.
WIFE OF MR. AMARDEEP SINGH, RESIDENT OF HOUSE NO. 23/24, PUNJABI
COLONY, VIP ROAD, HIJUGURI, NEAR HOLY CHILD SCHOOL, P.S. AND
DIST.- TINSUKIA, PIN- 786192.

2:SARDAR AMARJIT SINGH
SON OF NOT KNOWN

RESIDENT OF HOUSE NO. 23/24
PUNJABI COLONY
VIP ROAD
HIJUGURI
NEAR HOLY CHILD SCHOOL
P.S. AND DIST.- TINSUKIA
PIN- 786192.

3:SARDARNI INDERJEET KAUR
WIFE OF SARDAR AMARJIT SINGH

RESIDENT OF HOUSE NO. 23/24
PUNJABI COLONY
VIP ROAD
HIJUGURI
NEAR HOLY CHILD SCHOOL
P.S. AND DIST.- TINSUKIA

PIN- 786192.

4:THE BRANCH MANAGER
IDBI BANK
TINSUKIA BRANCH
P.O. AND DISTRICT- TINSUKIA
ASSAM
PIN- 786125.

5:THE SUPERINTENDENT OF POLICE
TINSUKIA
TINSUKIA
ASSAM
PIN- 786125

Advocate for the Petitioner : MR. A CHAMUAH, MR. A BHATTACHARYYA

Advocate for the Respondent : GA, ASSAM, MR J DAS,MR A TALUKDAR,MR. A KHOUND,MS
B BORA,MR. M BORAH,MS. N CHOUDHURY,MR. A K BHUYAN

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

11.12.2024

(K.R. Surana, J)

Heard Mr. A. Bhattacharyya, learned counsel for the petitioner. Also heard Mr. P. Sarmah, learned Additional Senior Govt. Advocate representing respondent no.5. There is no representation from the respondent nos. 1 to 4.

2. By filing this Habeas Corpus petition under Article 226 of the Constitution of India, the petitioner, who has estranged relationship with respondent no.1, his wife, has approached this Court with a prayer to find out the whereabouts of his son as well as respondent no.1 and on being located/found to be produced before this Court and for necessary orders for

enabling the petitioner to have video/audio calling with his son, who was at the relevant time aged 6 (six) years old. It is projected that the respondent nos. 2 and 3, who are the in-laws of the petitioner, had refused to divulge information about the respondent no.1 or the petitioner's son. Accordingly, it is projected that the access of the petitioner to his son was cut-off.

3. This Court while issuing notice of motion on 05.08.2022, directed the petitioner to deposit a sum of Rs.20,000/- (Rupees twenty thousand only) towards issuance of notice on respondent no.5 i.e. the Superintendent of Police, Tinsukia.

4. The learned counsel for the petitioner as well as the learned Additional Senior Govt. Advocate have both submitted that in the meanwhile the son of the petitioner was traced out and the petitioner is stated to be currently in touch with his son through mobile video/audio calling applications.

5. Consequent upon passing of this order dated 05.08.2022, the petitioner has deposited a sum of Rs.20,000/- (Rupees twenty thousand only) before the Registry of this Court and it appears from the note dated 06.05.2024 of the Registrar General that the said amount is still lying in the bank account of Registrar General, Gauhati High Court, as there is no direction for disbursing the said cost.

6. Thereafter, by an order dated 15.05.2024, this Court required the learned Govt. Advocate to apprise the Court as to whether there is any corpus/benevolent account of Police personnel of the State, more particularly for Tinsukia district. Pursuant to the said order, the learned Govt. Advocate has produced the said copy or written instructions dated 06.06.2024, indicating that the Assam Police Headquarters has an account in the name of Assam Police

Central Distress Fund at State Bank of India, Guwahati Branch and the bank account and other relevant bank particulars are disclosed in the said letter.

7. However, by an order dated 02.12.2024, the Court had posed a query as to whether a cost should be imposed on a distressed father who has approached this Court to trace out of his son and whether the State should get such cost. Accordingly, to deliberate on the said query, the matter was then adjourned. Accordingly, the matter is listed today for consideration of the query of the Court, as indicated in the order dated 02.12.2024.

8. Although the learned Additional Senior Govt. Advocate has submitted that definitely there was some cost involved in tracing out of the son of the petitioner and pursuant to order of report, the particulars of the benevolent fund of the Assam Police has been disclosed.

9. However, upon consideration of the matter in the entirety, the Court is of the considered opinion that as the petitioner, namely, Amardeep Singh @ Singh Amardeep, who was a distressed father had approached this Court by filing this Habeas Corpus petition seeking access to his son who was almost 6 (six) years old as on 30.07.2022 and by the effort of the Assam Police, specifically the Superintendent of Police, Tinsukia, the petitioner now has an access to his son. Under such circumstances, the Court is of the considered opinion that to allow the State to appropriate the cost for Rs.20,000/- (Rupees twenty thousand only) for a father to have access to his son is not warranted as the State otherwise has a duty to produce a child before the distressed father.

10. Therefore, the Court is of the considered opinion that by making a pre-deposit of cost for Rs.20,000/- (Rupees twenty thousand only) before this Court, the petitioner has expressed his unhesitant desire to have access of his son. It

reflects his due concern for his son.

11. Accordingly, the Court is inclined to direct the Registry to refund the sum of Rs.20,000/- (Rupees twenty thousand only) to the petitioner i.e. Amardeep Singh @ Singh Amardeep. The refund may be made by drawing a cheque payable to Amardeep Singh @ Singh Amardeep, the petitioner and to the handover the same to Mr. A. Bhattacharyya, learned counsel for the petitioner for onward transmission to the petitioner or have the same deposited in the bank account of the petitioner, if relevant particulars are provided.

12. A copy of the order be provided to the Registrar General of this Court.

13. As the reliefs as prayed for by the petitioner has been granted by allowing access of the petitioner to his son through video conferencing, the Court does not find any reason to keep this matter pending, to which the learned counsel for the petitioner agrees.

14. Accordingly, on satisfaction, this Habeas Corpus petition stands closed.

JUDGE

JUDGE

Comparing Assistant