

Court No. - 16

Case :- HABEAS CORPUS WRIT PETITION No. - 39 of 2024

Petitioner :- Khushabu Thru. Her Husband Dipak Kumar @ Gulsan

Respondent :- State Of U.P. Thru. Secy. Home, Civil Sectt. Lko. And 3 Others

Counsel for Petitioner :- Rajneesh Kumar Pandey, Manuvendra Singh

Counsel for Respondent :- G.A., Deepak Kumar Pandey

Hon'ble Shamim Ahmed, J.

Heard Sri Manuvendra Singh, learned counsel for the petitioner and Sri Ashok Kumar Singh, learned AGA-I who appears for the respondents.

The writ petition has been filed with the following prayer:-

"Issue a writ, order or direction in the nature of writ of habeas corpus commanding the opposite party no. 4 to produce the corpus of detenue namely Khushbu wife of Dipak Kumar @ Gulsan who is in the illegal detention of the opposite party no. 4 before this Hon'ble Court."

This Court vide order dated 24.04.2024 passed the following order which is quoted hereinunder:-

"1. Power filed by Shri Deepak Kumar Pandey on behalf of opposite party no.2 and the same is taken on record.

2. In pursuance of the earlier order of this Court the alleged detenue, namely, Khushbu has been presented before this Court by Shri Chandra Shekhar Sonkar, Sub Inspector, Police Station Baldirai, District Sultanpur and Ms. Anita Maurya, Lady Constable, Police Station Baldirai, District Sultanpur.

3. This Court found it in the interest of justice to have an interaction with her as allegations pertaining to her illegal detention has been levelled. On interaction made with the alleged detenue she informed that she is comfortable at the house of his parents and has not been illegally detained, however, the efforts are being made by her parents to marry her against her wish with any other person while she has already married to the petitioner- Deepak.

4. She further stated that she be also provided opportunity after becoming major to chose her partner and must not be married against her wishes.

5. Having regard to the interaction made with the alleged detenue it is surfaced that she has not been illegally detained by her parents with whom she is living with her wish and will. However, she is having an apprehension that her marriage may be solemnized by her parents against her wishes.

6. Thus, at this juncture this Court is not inclined to disturb the custody of the detenue given to her parents by CWC, Sultanpur, however, it is directed that the detenue which has been without prior permission of this Court shall not be compelled to marry against her wish and will as she has stated to have already married.

7. The Station House Officer of Police Station Baldirai Sultanpur shall keep a watch that the detenue- Khushbu is not illegally harassed, subjected to ill treatment or forced to marry some one against her will and on occurrence of any such unfortunate event the Station House Officer of the Police Station Baldirai shall be personally responsible and for compliance of this direction he (S.H.O. Baldirai) shall visit the house of detenue on regular basis.

8. A copy of this order be immediately sent to the Superintendent of Police Sultanpur for the purpose of ensuring the compliance of the order of this Court and also to secure the security of the detenue who is at present residing with her parents.

9. In case of any difficulty, the detenue- Khushbu may immediately approach the concerned Police Station or any Police Chauki situated near her house.

10. List on 21.5.2024, by showing the name of Shri Deepak Kumar Pandey as counsel for opposite party no.2 in the cause list.

11. The detenue need not to remain present before this Court on any future date of listing unless called for. "

The matter was listed on 21.05.2024 but learned counsel for the petitioner informed that the case could not be taken up and thereafter the case was listed on 22.07.2024 and on the request of the counsel the case was listed on 06.08.2024, i.e., today.

The learned counsel for the petitioner did not dispute this fact that the detenue Khushbu, custody was given by the order of the CWC, Sultanpur to her parents as she was declared to be minor and the detenue was also appeared before this Court on 24.04.2024, where she clearly stated this fact that she is living happily with her parents and she is not under any illegal detention. Thus, in this view the detenue Khushbu, custody was given by the order of CWC, Sultanpur which reflects in the order dated 24.04.2024, thus in view of the judgement by the full court of this court in the case of Rachna and others Vs. State of U.P. and others passed in Habeas Corpus Writ Petition No. 362 of 2020 vide order dated 08.03.2021, the present habeas corpus writ petition is not maintainable and if the

petitioner is aggrieved by the order of the CWC, Sultanpur dated 18.01.2024, he has a remedy to file an appeal under Section 101 of the Juvenile Justice (Care and Protection of Children) Act, 2015.

It is further directed that the amount of Rs. 25,000/- which was deposited before the Senior Registrar of this court vide order dated 23.02.2024, may also be given to the detinue Khushboo by the Senior Registrar of this Court by way of bank draft within one month from today, at the address given in the petition by registered post or by calling the detinue in person before this court.

With the aforesaid, the writ petition is **dismissed**.

Office is directed to give a copy of this order to the learned AGA as well as the Senior Registrar of this court for its necessary compliance.

Order Date :- 6.8.2024

Anurag