

Court No. - 16

Case :- HABEAS CORPUS WRIT PETITION No. - 168 of 2022

Petitioner :- Ravi Alias Bhundan Thru.His Mother Nasiban @ Vimlawati

Respondent :- State Of U.P. Thru. Prin. Secy. Home Lko. And 4 Others

Counsel for Petitioner :- Anita Sinha,Upendra Kumar Sagar

Counsel for Respondent :- G.A.,Ashok Shukla,Rajesh Chandra Sinha,Satish Kumar Sharma

Hon'ble Shamim Ahmed,J.

Learned counsel for the petitioner has filed rejoinder-affidavit, which is taken on record.

Heard Sri Upendra Kumar Sagar, learned counsel for the petitioner as also Sri Ashok Kumar Singh, learned A.G.A.-1 for the State, and perused the record.

This Habeas Corpus writ petition has been filed, *inter alia*, with the following prayer:

"i.) Issue a writ, order or direction in the nature of Habeas Corpus, to directing opposite party No. 2 to produce the detainee/petitioner from the custody of opp. party No. 4 to 6, on a specific date before this Hon'ble Court and after recording her statement and give custody to his mother, in the interest of justice.

ii.) To issue a writ, order or direction in the nature of Habeas Corpus to set the petitioner at liberty and allow him to live accordingly to his mother wish."

Learned counsel for the petitioner submits that the detainee, Ravi Alias Bhundan, aged about 16 years at the time of incident, had gone missing long back in September, 2021 and an F.I.R. to this effect bearing Case Crime No. 0637 of 2021, under Section 364, I.P.C., was also lodged by mother of the detainee, Nasiban alias Vimlawati, at the concerned Police Station, clearly disclosing names of two persons as accused, namely, Gaurav Srivastava and Saurabh Srivastava. He also submits that investigation in the matter is going on, but in spite of such a long gap of time whereabouts of the detainee are not known. Copy of the first information report has been filed as Annexure No. 5 to the writ petition. Thus, the learned counsel submits that this court may pass some suitable order for production of the detainee before this Court.

Sri Ashok Kumar Singh, learned A.G.A.-I has made objection to the entire arguments, as advanced by learned counsel for the petitioner and he submits that the relief as sought in the present

Habeas Corpus writ petition cannot be granted to the petitioner, as mother of the detenue, Nasiban alias Vimlawati, has already lodged a first information report at the concerned Police Station in connection with the said incident, and it is a matter of investigation by the Police, which is going on. If the petitioner is not satisfied with the progress of the investigation, then he has other remedy for redressal of his grievances, but the relief as sought in the present writ petition, cannot be granted, thus, the present Habeas Corpus writ petition deserves to be dismissed.

After considering the arguments as advanced by learned counsel for the parties and after perusal of the record, this court is also in agreement with the arguments as advanced by the learned A.G.A.-I Sri Ashok Kumar Singh that the first information report has already been lodged in the matter on 30.09.2021 under Section 364, I.P.C. against two persons, namely, Gaurav Srivastava and Saurabh Srivastava, and investigation is still pending. If the petitioner is aggrieved by the progress of the investigation, then he has remedy to approach the competent authorities for redressal of grievances for expeditious disposal of the investigation and for search of the detenue, who is missing for the last 3 years.

It is also strange that the after a long period of three years since registration of the F.I.R. the Police or the Investigating Agency has yet not completed the investigation, which shows their laxity and casual approach. The investigation must have been completed within a shortest possible time to know the correct facts of the case.

With the above observations, this writ petition is **disposed of**.

(Shamim Ahmed, J.)

Order Date :- 19.9.2024

A.Nigam