

Court No. - 16

Case :- HABEAS CORPUS WRIT PETITION No. - 167 of 2024

Petitioner :- Smt. Kanchan (Detenue) Thru. Her Next Friend And Husband Ram Jivan

Respondent :- State Of U.P. Thru. Addl. Chief Secy. Home Lko. And 3 Others

Counsel for Petitioner :- Dinesh Kumar Verma

Counsel for Respondent :- G.A.

Hon'ble Shamim Ahmed,J.

The petitioner has filed supplementary affidavit today. It is taken on record.

This petition has been filed with the following prayer:

"I. Issue a writ, order or direction in the nature of 'Habeas Corpus' directing the opposite parties to produce the petitioner/detenue before this Hon'ble Court and further, the petitioner/detenue be set free from the illegal custody of opposite party no.4.

II. issue a writ, order or direction in the nature of certiorari for quashing the order dated 06.01.2024 passed by Juvenile Justice Board, Sitapur, contained as Annexure No. 7 to this writ petition, ignoring the age of the detenue-petitioner as she was major at the time of alleged incident. Her age was about 19 years as per aadhar card, by which the detenue sent with her parents, but now she is become major as per T.C."

Learned counsel for the petitioner submits that the detenue had married with the petitioner out of love and affection, however, her father was not happy with this marriage and he lodged an F.I.R. against the petitioner herein. In pursuance to proceedings of the F.I.R., the detenue has been given in the custody of her father vide order dated 06.01.2024 passed by the Juvenile Justice Board, Sitapur, while she was major at the time of passing of the order and she herself had stated in her statement recorded under Section 164, Cr.P.C. that she does not want to go to her father's place. Copy of the order dated 06.01.2024 passed by the Juvenile Justice Board is filed as Annexure-7 to the present petition. The learned counsel further submits that the order dated 06.01.2024 is illegal, as the detenue and the next friend, namely, Ram Jiyawan, has solemnized marriage as per Hindu rites and rituals and as per the wishes of the corpus, thus, the order be quashed and the custody of the detenue be given to the next friend by this court.

On the other hand, Miss Ankita Tripathi, learned A.G.A. appearing for the State, has opposed the entire argument as

advanced by the learned counsel for the petitioner. She submits that the detainee was minor at the time of marriage, hence she was given into the custody of her father by the order of the Juvenile Justice Board dated 06.01.2024 and if the petitioner is aggrieved by the said order, he has a remedy to file an appeal under Section 101 of the Juvenile Justice Care and Protection Act, 2015, in view of the Full Bench judgment dated 08.03.2021 rendered in the case of **Km. Rachna v. State of U.P. [Habeas Corpus Writ Petition No. 362 of 2022]**, thus, the relief as prayed by learned counsel for the petitioner in the present writ petition cannot be granted by this court. Whatever the remedy the petitioner has prayed before this court, he may avail the same before the appropriate forum.

After considering the arguments, as advanced by the learned counsel for the parties, and after perusal of record, there appears force in the arguments as advanced by Miss Ankita Tripathi, learned A.G.A., as the custody of the minor girl was given to the father by the order of the Juvenile Justice Board dated 06.01.2024, thus, in view of the judgment rendered by the Full Bench of this Court in the case of **Km. Rachna (supra)**, the petitioner has a remedy to approach before the appropriate Forum, if he is aggrieved by the order of the Juvenile Justice Board, giving custody of the alleged detainee to the father.

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

(Shamim Ahmed, J.)

Order Date :- 8.7.2024
A.Nigam