

**Court No. - 16**

**Case :-** HABEAS CORPUS WRIT PETITION No. - 214 of 2024

**Petitioner :-** Master Kushagra Pal (Detenue) And Another

**Respondent :-** State Of U.P. Thru. Prin. Secy. Home Lko. And 3 Others

**Counsel for Petitioner :-** Shwetabh Singh,Shahjabeen

**Counsel for Respondent :-** G.A.

**Hon'ble Shamim Ahmed,J.**

Heard Sri Shwetabh Singh, learned counsel for the petitioner as well as Sri Ashok Kumar Singh, learned A.G.A.-I for the State and perused the record.

The instant writ petition has been filed seeking issuance of writ, order or direction in the nature of Habeas Corpus commanding and directing the opposite parties to produce the petitioner (detenue) before this Hon'ble High Court and he may be set at liberty under the care and custody of his father.

Learned counsel for the petitioner submits that the petitioner is a blind man and his wife had gone to her parents' home alongwith her minor child and neither she is coming to live with her husband nor allowing the next friend to meet his minor child. Thus, he submits that this Court may issue a direction so that detenue may be produced before this Court.

On the other hand, learned A.G.A.-I for the State submits that the detenue is not under illegal custody as he is living with his mother. He further submits that the wife of the next friend is living at her parents' home and on perusal of averments made in the petition, it does not reveal that the wife or the child are being tortured or any cruelty is being committed to them, thus, it cannot be said that they are under illegal detention. He further submits that if the next friend is aggrieved then he may file a suit under Section 9 of the Hindu Marriage Act, 1955 for Restitution of conjugal rights.

After hearing learned counsel for the respective parties, this Court finds that the detenue is not under illegal custody as he is living with her mother. This Court further finds that the wife of the next friend is living at her parents' home and there is no averment in the petition that the wife or her child are being tortured or any cruelty is being committed to them.

With the above observations, the instant writ petition is **disposed of** with liberty to the petitioner to avail remedy as available under Section 9 of the The Hindu Marriage Act, 1955 to file a suit before the appropriate forum.

**Order Date :- 24.7.2024**

Saurabh