

Court No. - 16

Case :- HABEAS CORPUS WRIT PETITION No. - 257 of 2024

Petitioner :- Sunisha (Minor) Thru. Her Mother Kesh Kali

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

Counsel for Petitioner :- Kapil Dev Srivastava, Deepak Kumar, Rohitash Kumar Singh

Counsel for Respondent :- G.A.

Hon'ble Shamim Ahmed, J.

1. Heard Sri Kapil Dev Srivastava, learned counsel for the petitioner and Sri Ashok KUMAR Singh, learned A.G.A.-I for the State.

2. This habeas Corpus petition has been filed with the following relief(s):

"(i) issue a writ, order or direction in the nature of Habeas Corpus thereby directing the opp. parties to produce the petitioner detenue before this Hon'ble Court and further may records her statement by this Hon'ble Court."

3. Learned counsel for the petitioner submits that the respondent No.4 has illegally detained the corpus, thus he should be called before this Court in order to set her free from illegal detention and confinement by the respondent No.4.

4. Sri Ashok Kumar Singh, learned A.G.A.-I submits that the petitioner has already lodged an F.I.R. dated 28.06.2023 under Sections 363 and 366 I.P.C. bearing F.I.R. No. 0095 of 2023 against the respondent No.4. He further submits that the statement of the corpus was also recorded under Sections 161 and 164 Cr.P.C., thereafter Section 376 I.P.C. and Section 3/4 POCSO Act were inserted during the course of investigation. In addition thereto, he further submits that the custody of minor child-corpus was given to the mother by the order dated 19.01.2024 passed by the Child Welfare Committee, Civil Lines, Unnao. At present, corpus again went with respondent No.4 on her own sweet will. He further submits that the matter is pending for investigation before the police and the relief sought by the petitioner cannot be granted.

5. After hearing learned counsel for the parties, this court is of the view that an F.I.R. dated 28.06.2023 under Sections 363 and 366 I.P.C. bearing F.I.R. No. 0095 of 2023 against the respondent No.4 and after recording the statement of the corpus under Sections 161 and 164 Cr.P.C., Section 376 I.P.C. and

Section 3/4 POCSO Act were inserted during the course of investigation and after recording statement the custody of minor child-corpus was given to the mother by the order dated 19.01.2024 passed by the Child Welfare Committee, Civil Lines, Unnao. As informed by learned A.G.A.-1 corpus again went with the respondent No.4 on her own sweet will. The relief sought in the present habeas corpus petition cannot be granted, as the F.I.R. has already been lodged and investigating is pending. If the petitioner is aggrieved, he may approach before the competent authority for early disposal of the investigation of the matter.

6. With these observations, this habeas corpus petition is finally **disposed of** with liberty to the petitioner to avail other remedy in accordance with law.

Order Date :- 2.9.2024

Arvind