

**225 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRWP-1536-2016

Date of decision : 23.12.2016

MANISH KUMAR

.....Petitioner

versus

STATE OF PUNJAB AND ORS

.....Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present: Mr. Kulwinder S. Lakhanpal, Advocate
for the petitioner.

Ms. Veena Kumari, Advocate
for respondent No.4.

Mr. Ashish Sanghi, DAG, Punjab.

AJAY TEWARI, J. (Oral)

This is a petition praying for issuance of a writ in the nature of Habeas Corpus to set free the detenue namely Kanu Priya from the illegal custody of respondents No. 4 and 5.

On 28.11.2016, the following order was passed:

*This is a petition praying for issuance of a writ
in the nature of Habeas Corpus directing respondents*

No.1 to 3 to get release or produce the detenue Kanu Priya (wife of the petitioner) who is alleged to be in the illegal custody of respondents No.4 & 5.

The averments in the writ petition are duly supported by an affidavit.

Notice of motion.

Learned counsel undertakes to serve the respondents by way of dasti process. May do so. Dasti only.

Keeping in view the averments made in the petition which are duly supported by the affidavit of the petitioner, a roving writ in the nature of habeas corpus is issued and a Warrant Officer is appointed, to be nominated by the Registry, to conduct the search at premises of respondents No. 4 & 5 or any other place to be pointed out by the petitioner after giving information to the Local Police Station. Fee of the Warrant Officer shall be borne by the petitioner.

The Warrant Officer shall submit his report to this Court on or before the next date.

To come up on 15.12.2016.

On 15.12.2016, the following order was passed:

Report of the Warrant Officer has been filed, as per which it has transpired that they went to Delhi and first went to Police Post Okhla Industrial Area

Phase III South Delhi where they were informed that the girl had been sent to Priyas Nari Niketan, Tihar Jail, Delhi. Thereafter, on the asking of the petitioner, the Warrant Officer came back to Chandigarh.

Today, respondent No.4 is present along with Lalit Bharti who is the brother of late Ved Parkash father of the alleged detainee. They have shown to the Court a duplicate copy of the birth certificate, a certificate of the school first attended, and a certificate of the school currently attended by the alleged detainee. All these certificates show the date of birth of the girl as 25.08.2001, whereas in the Aadhar Card bearing No.306333118443, her date of birth is shown as 25.08.1998. As per respondent No. 4, this Aadhar Card has been prepared on false basis and could even be a forged document.

Learned Addl. AG Punjab states that IO ASI Harjinder Singh is present in Court and seeks a short adjournment to enable him to verify all these facts.

Adjourned to 23.12.2016. Meanwhile, respondent No.4 is directed to produce the girl in Court on the adjourned date.

Learned DAG on instructions from ASI Hem Raj states that the police went to Delhi and verified that school certificate are correct because an entry of date of birth was mentioned in the Municipal records where date of

birth of the detainee is shown as 2001. They have also shown to me another Aadhar Card of the same number i.e. 306333118443 which shows the date of birth of the alleged detainee as 25.08.2001. In these circumstances, in terms of the provisions of Juvenile Justice Act and the decisions of the Supreme Court, I have come to the conclusion that the alleged detainee is minor. She is now in the custody of mother which cannot be taken as illegal custody.

Petition stands dismissed.

(AJAY TEWARI)
JUDGE

December 23, 2016
anuradha

Whether speaking/reasoned

Yes/No

Whether Reportable :

Yes/No