

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRWP-7-2016

Date of Decision: January 14, 2016

Sumanjeet Kaur

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr. Rajiv Joshi, Advocate,
for the petitioner.

Mr. K.S. Pannu, DAG, Punjab,
for respondent Nos. 1 to 4.

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| 1. | <i>Whether Reporters of local papers may be allowed to see the judgment?</i> | YES |
| 2. | <i>To be referred to the Reporters or not?</i> | YES |
| 3. | <i>Whether the judgment should be reported in the Digest?</i> | YES |

NARESH KUMAR SANGHI, J (Oral)

The present criminal writ petition has been filed under Article 226 of the Constitution of India, by Sumanjeet Kaur, challenging the order dated 5.12.2015 (Annexure P-1), passed by the Tehsildar-cum-Executive Magistrate, Phillaur, District Jalandhar, whereby the petitioner was ordered to be sent to the State Protective Home, Jalandhar.

Learned counsel for the petitioner submits that Sumanjeet Kaur is approximately 22-year old woman and she cannot be detained in a Protective Home against her wishes,

without any valid reason. He further submits that even if it is assumed that she was not ready to live with her husband and children and had joined the company of a third person, still she cannot be directed to be detained in a Protective Home. In support of his contentions, learned counsel has placed reliance on the judgments delivered by this Court in the cases of **Kulwant Kaur v. State of Punjab**, 1994 (2) R.C.R. (Criminal) 128; **Balwinder Singh @ Binder v. State of Punjab and others**, 2008 (3) R.C.R. (Criminal) 1; and **Sabba Singh @ Sarbjeet Singh @ Harmanpreet Singh v. State of Punjab and others** (CRM-M-5899-2014, decided on 9.4.2014).

In compliance of the order dated 13.1.2016, passed by this Court, Sumanjeet Kaur has been produced before this Court and her statement on oath has been recorded separately.

Learned counsel for the State very fairly concedes that in terms of the statement suffered by Sumanjeet Kaur, she did not want to live in the State Protective Home, Jalandhar and, as such, she cannot be detained there without her consent. He further submits that he has no objection if the petitioner, Sumanjeet Kaur, is set free from the above said Protective Home.

After hearing learned counsel for the parties and taking into consideration the ratio of the judgments relied upon by learned counsel for the petitioner in support of his contentions, the present petition is accepted. The impugned order dated 5.12.2015, passed by respondent No. 3, is set aside and the petitioner, Sumanjeet Kaur, is directed to be released from the State Protective Home, Jalandhar, at once, if not required in any case.

A copy of the order, under the signatures of the Bench Secretary of this Court, be handed over to learned counsel for the State.

(NARESH KUMAR SANGHI)
JUDGE

January 14, 2016
Pkapoor