

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (Habeas Corpus) No. 23 of 2017**

- Mohd Shadab Ansari @ Vicky Ansari S/o Mohd Barik Ansari, aged about 26 years, R/o Joda Pipal, Kedarpur Ambikapur, District Sarguja (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, Through : Secretary Department of Home Mantralaya Mahanadi Bhawan New Raipur (VC.G.)
2. Inspector General of Police, Ambikapur Range, District Sarguja (C.G.)
3. The Collector, Ambikapur, District Sarguja (C.G.)
4. The Superintendent of Police, Ambikapur, District Sarguja (C.G.)
5. The Station House Officer, Police Station Kotwali Ambikapur, District Sarguja (C.G.)
6. Nandlal Keshri S/o Not known aged about 45 years, R/o Sattipara Ambikapur District Sarguja (C.G.)
7. Smt. Rita Keshari W/o Nandlal Keshri, aged about 40 years, R/o Sattipara Ambikapur, District Sarguja (C.G.)

---- Respondents

For Petitioner	:	Shri S.B. Pandey, Advocate
For State	:	Shri U.N.S. Deo, Government Advocate

Hon'ble Shri Thottathil B. Radhakrishnan, Chief Justice**Hon'ble Shri Sharad Kumar Gupta, Judge****Order on Board****Per, Thottathil B. Radhakrishnan, Chief Justice****22/09/2017**

1. This writ petition is filed seeking issuance of writ in the nature of Habeas Corpus alleging that respondents No. 6 and 7 have unauthorizedly and illegally detained their daughter Supriya Keshari, against her will.

2. Pursuant to earlier directions, statement of alleged *detenue* was recorded by a Woman Head Constable who visited the residence of respondents No. 6 and 7 in *mufti* (otherwise than in uniform). The learned Government Advocate had brought that statement to the notice of this Court. Thereupon, *rule nisi* was issued requiring respondents No. 6 and 7 to produce the *detenue* and also requiring the jurisdictional police to ensure the availability of the *detenue* before this Court.
3. Supriya Keshari is presented before us. She is accompanied by a Woman Police Constable. We interacted with her. She is well oriented and coherent in her communication and thought process. She stated that she is 23 years old. She says that she has completed education in Engineering and is pursuing training of Public Service Commission by attending coaching centre. We see that she is determined to live the matrimonial life with the petitioner.
4. Supriya Keshari's parents, respondents No.6 & 7, namely, Nandlal Keshari and Smt. Rita Keshari are also present. We interacted with them. They are against the proposal of their daughter marrying the petitioner. They appeared to be stubborn on that stand, which is something which we can understand having regard to the fact that Supriya Keshari and the writ petitioner belong to two different religious entities, the said girl being Hindu and the petitioner being Muslim. In fact, they (the parents of Supriya Keshari) left the Court room when they apparently knew that their daughter is insisting that she would marry only the petitioner.
5. The petitioner is accompanied by Mohd. Barik Ansari and Shahin Ansari, who are stated to be his parents. We have interacted with them as well. They appear to have taken it in their stride and have accepted the desire and decision of their son, the petitioner.

6. We had fairly lengthy discussion with the petitioner, Supriya Keshari and their parents, having also particular regard to the fact that both the petitioner and Supriya Keshari have younger sibling. The contextual setting of the religious backgrounds from which the petitioner and Supriya Keshari come was also projected to them. They have opted to take the course of pursuing the possibility of getting married in terms of the Special Marriage Act, 1954. We record it.
7. We record the statement of the petitioner that he is earning for himself by involving in the real estate business transactions in Ambikapur, the district to which he belongs and that he is earning sufficient enough to support Supriya Keshari, even if we were to ensure that she gets safely and appropriately housed for such time as we may direct in view of the fact that the petitioner and Supriya Keshari do not have the case that they are married in accordance with law.
8. Noticing that respondents No.6 & 7 who are the parents of Supriya Keshari are not open to any persuasion by us to take care of their daughter till the issue is finally settled as between the petitioner and Supriya Keshari, we are inclined to think that the situation in hand has to be dealt with by making appropriate direction for the care of the said female for various obvious reasons. We are not inclined to let her go with the petitioner under the cover of the judicial order that we would issue because we do not see that there is a valid marriage between them and it would not be appropriate, on the facts and in the circumstances of the case in hand, to permit their co-habitation as of now.
9. With the assistance of the learned Government Advocate, we have been able to identify GDC College Girls Hostel, Near Girls Degree College (Govt.), Near Police Station Civil Lines, Bilaspur to be a safe place where

Supriya Keshari could be housed for the time being. We therefore, direct the authorities of that institution to grant permission and accommodation to Supriya Keshari described in the writ petition, in the aforesaid institution, the expenditure for which will be met by the petitioner once in 15 days, as and when accrues. We clarify that the petitioner and the said Supriya Keshari will be at liberty to take recourse of the provisions of the Special Marriage Act, 1954, including by issuance of due notice under Section 5 of that Act. However, any request for such notice shall not be made for a period of five days from now. The said period of five days is preserved by us for Supriya Keshari and the petitioner to independently think for themselves as to whether they would decide to go into their proposal for marriage, or to opt out of it. The continued accommodation for Supriya Keshari in the said institution will be till the marriage is duly registered, provided such event happens within a period of two months from today. Upon issuance of certificate of marriage under the Special Marriage Act, 1954 to the petitioner and the Supriya Keshari, the petitioner will produce a duly authenticated copy of that certificate before the Registrar General of this Court, which will be incorporated and recorded as part of this file. If the marriage between the petitioner and Supriya Keshari is duly registered in terms of the provisions of the Special Marriage Act, 1954, Supriya Keshari will be at liberty to leave the said institution of her own free will to live with the petitioner. If such marriage does not happen leading to Supriya Keshari leaving institution within the said period of two months, the authorities of that institution will report such fact to the Registrar General of this Court. This matter will then be listed for further orders as may be called for under such circumstances, notwithstanding this order.

10. With the aforesaid, we direct that the jurisdictional police will ensure that in the event of any untoward incident, due care shall be exercised in

accordance with law and maintaining the peaceful atmosphere of the institution where Supriya Keshari is directed to be accommodated. It is further ordered that the said institution will provide access to Supriya Keshari's parents, namely, respondents No. 6 and 7 as well as the petitioner and his parents whose names are recorded in paragraph no. 4 above to interact with Supriya Keshari at any time between 3.30 to 5.30 p.m. on any day as any of them may choose, following the due rules of the institution concerned.

11. The writ petition is ordered as above making absolute the *rule nisi* issued on 20.09.2017.

Sd/-

(Thottathil B. Radhakrishnan)
Chief Justice

Sd/-

(Sharad Kumar Gupta)
Judge