

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND  
HARYANA AT CHANDIGARH**

Crl. Writ Petition No.1680 of 2016 (O&M)  
Date of Decision: 04.01.2017

Rajni

...Petitioner

Versus

State of Punjab and others

...Respondents

**CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR**

Present:- Mr. Gautam Thapar, Advocate  
for the petitioner.

Mr. Shilesh Gupta, Addl. AG Punjab  
for respondents No.1 to 3.

Detenue Jasdeep Kaur d/o Sh. Harminder Singh  
and petitioner No.4-Rakesh Kumar in person.

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**JAISHREE THAKUR, J. (Oral)**

Mr. S.K. Gupta, Advocate, puts in appearance on behalf of respondents No.4 to 13 and files the power of attorney, which is taken on record.

The instant petition has been filed under Article 226/227 of the Constitution of India praying for issuance of roving writ in the nature of Habeas Corpus for release/search of Jasdeep Kaur d/o Sh. Harminder Singh, from the illegal and unlawful custody from respondents No.4 to 13.

Notices were issued in the said matter and detenue Jasdeep

Kaur d/o Harminder Singh is present in court today.

Learned counsel for the petitioner contends that Jasdeep Kaur is a minor, aged about 16 years and 04 months with the date of birth shown as 30<sup>th</sup> July, 2000 and as such, being a minor, the petitioner should be given her custody.

Per contra, learned counsel appearing on behalf of Jasdeep Kaur submits that she had married with Rakesh Kumar on 22<sup>nd</sup> December, 2016 and after the said marriage, approached this court in Criminal Misc. No.46482 of 2016 seeking protection of life and liberty from the petitioner herein and respondents in Criminal Misc. No.46482 of 2016 and as such, having married, she should be allowed to remain with her husband Rakesh Kumar.

The alleged detainee Jasdeep Kaur has made a statement in the court that she is happily married and would like to reside with her husband.

I have heard learned counsel for the parties as well as the detainee and perused the pleadings of the case.

This court finds that both Rakesh Kumar and the alleged detainee had obtained protection from this court after having contracted marriage on 22<sup>nd</sup> December, 2016. The School Leaving Certificate (Annexure P1) that has been issued does show her date of birth as 30<sup>th</sup> July, 2000, thus making her under age.

The instant petition has been filed seeking a roving writ in the nature of Habeas Corpus. The contention as raised by learned counsel appearing on behalf of petitioner that the detainee a minor is aged about 16 years and 04 months and thus, had given a false statement while obtaining

protection from this court, her custody should be handed over to the petitioner, cannot be sustained, since there is no illegal detention of the said detenue, who voluntarily married Rakesh Kumar. Even the statement that has been made by her in court does not reflect that she has been kept in illegal custody or was forced or compelled by any deceitful manner to get married with Rakesh Kumar. Even otherwise Section 3 of Protection of Child Marriage Act, 2006, lays down that a child marriage is voidable at the option of contracting party being a child. Herein Jasdeep Kaur admittedly being a minor at the time of having contracting the marriage, submits that the marriage was of her own free will, therefore, the instant petition being filed for issuance of writ in the nature of Habeas Corpus is clearly not made out.

However, any observations that have been made while declining the writ of Habeas Corpus would not affect the merits of any criminal proceedings that have been initiated by the petitioner herein or that are pending between the parties.

With the above observations, the instant petition stands disposed of.

**January 04, 2017**  
*vijay saini*

**(JAISHREE THAKUR)**  
**JUDGE**

Whether speaking/reasoned  
Whether reportable

Yes/No  
Yes/No