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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.04.2019

CORAM:

THE HON'BLE MR.JUSTICE M.SATHYANARAYANAN

and

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

H.C.P.No.648 of 2019

G.Kumar ... Petitioner(father of the detenue)

-vs-

1.Inspector of Police,
Kaveripakkam Police Station,
Vellore District.

2.Viji ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus or any other Writ or order in the nature of writ pertaining to the illegal custody or illegal detention of the detenue Ms.K.Pavithra (F/17) and consequently direct the 1st respondent to produce the detenue before this Hon'ble Court and handover to the petitioner.

For Petitioner : Mr.R.Priyakumar

For Respondents: Mr.C.Iyyapparaj,
Additional Public Prosecutor
Mr.Senthilvel for R2

ORDER

[Order of the Court was made by M.Sathyanarayanan, J.]

The petitioner is the father of the then minor detenue, namely K.Pavithra, aged 17 years, who was born on 11.02.2001 and according to him, his daughter was studying B.Sc., (Nursing) I year in Ramachandra Medical College, Chennai for the past one year and she was staying in the college hostel. The petitioner would further state that on 26.01.2019, the detenue returned home on account of college vacation and on 27.01.2019, she left home on the pretext that she is going to attend the college and as per college records available, she did not go to the college. The petitioner made keen efforts to find out the whereabouts of her daughter/minor detenue and in this regard, suspected about the role played by the second respondent and as to the missing of his minor



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daughter/detenué, also lodged a complaint on the file of the first respondent, based on which a case in Crime No.74 of 2019 came to be registered for the offence under Section 366(A) I.P.C. The petitioner, being the father of the detenué, is very much concerned about her safety and well-being and therefore, came forward to file this Habeas Corpus Petition.

2. The Habeas Corpus Petition was entertained on 29.03.2019 and when the matter was again listed on 22.04.2019, the learned Additional Public Prosecutor sought time to file a Status Report and accordingly, it was directed to be listed on 12.06.2016. Mr.C.Iyyapparaj, learned Additional Public Prosecutor appearing for the first respondent today made a mention on the ground that the detenué has been secured and accordingly, the matter is taken up today.

3. The detenué is produced before this Court and on enquiry, she would state that she was born on 11.02.2001 and as on date, she is a major and she was in love with the second respondent right from school days. The detenué would further state that the second respondent is eking out his livelihood as a mason helper and since she apprehend that she will not be allowed to have any relationship with the second respondent and her parents may oppose their marriage, she voluntarily went out of the parental home with the company of the second respondent and got married in Om Sakthi Temple in Gudiyatham Taluk, Vellore District and thereafter started living as husband and wife at Samayapuram, Trichirapalli District.

4. The sister of the second respondent along with her husband are also present and they would state that in the light of registration of the case, the second respondent is absconding and they are willing to take care of the detenué.

5. Mr.Senthilvel, learned counsel appearing for the second respondent as well as for the detenué would submit that apprehending arrest pursuant to registration of the case in Crime No.74 of 2019 by the first respondent, the second respondent has filed a petition for Anticipatory Bail in CrI.O.P.No.11742 of 2019 and for want of instructions, the matter has been adjourned to the 2nd Vacation Court.

6. The parents of the detenué are also present and they would state that the detenué has been kidnapped by the second respondent while she was minor and admittedly, the second respondent is an uneducated man and they have spent their hard earned money by paying Capitation Fee and got her daughter admitted in B.Sc., Nursing course at



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Ramachandra Medical College, Chennai and in the midway, she abandoned her education career and they are willing to take back the detainee, provided she should sever her relationship with the second respondent, for which the detainee is not inclined.

7. Mr.C.Iyyapparaj, learned Additional Public Prosecutor would submit that the second respondent is apprehended and the statement of the victim is yet to be recorded in the case registered and subject to the conduct of medical examination, further proceedings would follow. However, this Court is not inclined to go into the merits or otherwise of the case registered by the first respondent and they are duty bound to investigate the case in accordance with law.

8. The detainee, admittedly, as on date is a major and she want to live with the second respondent and she, being an educated girl studied upto Higher Secondary Course, appears to be well-informed and matured and as such, this Court cannot pass any positive order entrusting her custody to her parents, who are present before this Court.

9. In the result, this Habeas Corpus Petition is disposed of and the detainee is set at liberty, so as to enable her to take a call as to her future and well-being.

Sd/-

Assistant Registrar(CS iv)

//True Copy//

Sub Assistant Registrar

Jvm

To

1.The Inspector of Police,
Kaveripakkam Police Station,
Vellore District.

2.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.D.Balaji , Advocate SR.No. 43087

H.C.P.No.648 of 2019

A.SK(13/05/2019)