

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

CRWP No.23 of 2019

Date of Decision: March 01, 2019

Sudesh Rani and another

...Petitioners

VERSUS

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Manjeet Singh, Advocate
for the petitioner.

Mr.Sharad Kumar Yadav, DAG, Haryana
for the respondent-State.

Mr.Manish Soni, Advocate
for respondent No.5.

INDERJIT SINGH, J.

The petitioners have filed this criminal writ petition against State of Haryana and other respondents under Article 226 of the Constitution of India read with Section 482 Cr.P.C. for issuance of a writ in the nature of Habeas Corpus thereby directing official respondents to recover detinue Geet Poonia, minor child aged about 11 years, daughter of Jagdish Poonia, who is in illegal detention of respondent No.5 etc.

Notice of motion was issued. Learned State counsel as well as learned counsel for respondent No.5 appeared and contested the petition.

I have heard learned counsel for the parties as well as learned

State counsel and have gone through the record.

At the time of arguments, it has been brought to the notice of this Court that petitioner No.1 Sudesh Rani is step mother of detenue minor child namely Geet Poonia, who is aged about 11 years. Respondent No.5 is the real paternal uncle of the minor girl whereas Sudesh Rani is the step mother and petitioner No.2 Sajjan Singh is maternal grand-father of the minor child. The parents of minor child are already dead.

Learned counsel for respondent No.5 brought it to the notice of this court that Jagdish Poonia, father of the minor child, had committed suicide. A suicide note was found and in that case, FIR has been registered against Sudesh Rani under Section 306, 120-B and 509 IPC, which is placed on record as Annexure P-6. It is also argued before this Court that minor child Geet Poonia is a witness against Sudesh Rani and her statement under Section 164 Cr.P.C. has already been recorded.

Keeping in view this fact also, custody of the minor child cannot be given to Sudesh Rani, otherwise, there will be threat to the life of minor child as she is to appear as a witness against Sudesh Rani in criminal case. Secondly, Sudesh Rani is also not natural guardian. It is also argued by learned counsel for private respondent that in the suicide note, it is written by Jagdish Poonia, father of detenue that as per his last wish, this child be brought up by respondent No.5.

Keeping in view the facts and circumstances of the present case, I find that the dispute is regarding custody of the minor child, which should be decided by the Guardian Judge by looking into all the facts, when the evidence is produced before him and also after looking the welfare of the minor child, which is paramount consideration. Even if the custody is

given to petitioner No.2 Sajjan Singh, even then, there is every chance that

he may give the custody of minor child to petitioner No.1 Sudesh Rani, which will not be in the interest of justice.

In view of the above discussion, I do not find any merit in the present petition and the same is dismissed. However, nothing stated above, shall constitute my opinion, in any way, regarding any proceedings pending or to be filed by the parties. The above-said observations have been given only for the purpose of deciding the present petition.

March 01, 2019
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No