

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

CRWP-827-2018

Date of decision-11.01.2019

Roshan Ali

....Petitioner

Vs.

State of Punjab and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Kushagra Mahajan, Advocate for the petitioner.

Mr. Bhupender Beniwal, AAG, Punjab.

Mr. Rajeev Sharma, Advocate for the detainee.

MANOJ BAJAJ, J.

Petitioner Roshan Ali had filed this criminal writ petition for issuance of writ in the nature of habeas corpus for release of his daughter, namely, Julekha who was allegedly in the illegal confinement of Lyakat Ali-respondent No.4.

It is the case set up by the petitioner that his daughter is minor who was lured by respondent No.4 illegally with object to perform marriage with her. It is further averred in the petition that respondent No.4 had filed a petition bearing No.CRM-M-43724-2018 and sought protection from this Court vide order dated 04.10.2018. It was the case set up by respondent No.4 and the detainee in the said petition stated that they have performed Nikah in accordance with law and were facing threats.

In response to the petition, reply by way of an affidavit of

Harpreet Singh, PPS, Deputy Superintendent of Police, Sub-Division Ajnala, Amritsar on behalf of respondent Nos.1 to 3 has been filed wherein it is mentioned that a case FIR No.92 dated 24.09.2018 stands registered under Sections 363, 366-A, 120-B and 506 of Indian Penal Code at Police Station Rajasansi, Amritsar Rural on the basis of the statement made by complainant-Roshandeen.

On 09.10.2018, this Court had issued notice of motion in this case and direction was issued to respondent No.3-SHO, Police Station Raja Sansi, District Amritsar to produce the alleged detainee, namely, Julekha before this Court. However, on 19.11.2018, the detainee-Julekha was represented by her counsel Mr. Rajeev Sharma and on 05.12.2018, considering the reply filed by the State, this Court had ordered that detainee-Julekha be sent to Nari Niketan Chandigarh from where she will be taken to Children Home, Jalandhar. The relevant portion of the order dated 05.12.2018 reads as under:-

Thus, prima facie, this Court finds that the date of birth of Julekha is 20.12.2007. Thus, she was about 11 years at the time of filing CRM-M-43724-2018 and in order to seek protection from this Court, false representation was made as to give an impression that they have attained the majority age.

Accordingly, detainee-Julekha is ordered to be sent to Nari Niketan, Chandigarh, from where she will be taken to Children Home, Jalandhar, which is maintained by Child Welfare Committee as interest of minor would be more safe there, particularly when against Lyakat Ali i.e. respondent No.4, an FIR has been registered.

SHO, Police Station Raja Sansi, Amritsar is directed to facilitate her admission to the Children Home, Jalandhar, which is statutorily maintained by Child Welfare Committee.

Registry is directed to make necessary arrangements.

Adjourned to 11.01.2019.

Today, the petitioner and detainee both are present in the Court who are identified by their respective learned counsels. Detainee-Julekha has expressed her willingness to live with her father. This fact is not disputed by learned counsel appearing on behalf of the parties.

In view of the willingness of the detainee, this Court observes that custody of detainee be handed over to her father i.e. petitioner.

Disposed off.

(MANOJ BAJAJ)
JUDGE

11.01.2019

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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No