

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

CRWP No.5136 of 2020

Date of Decision: 04.08.2020

Sonu Petitioner

Versus

State of Haryana and others Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr.K.P.S.Virk, Advocate for
Mr.Fatehjeet Singh, Advocate for the petitioner.
Mr.Apoorv Garg, DAG, Haryana.

HARNARESH SINGH GILL, J.(ORAL)

Case is taken up for hearing through video conferencing.

This is a criminal writ petition filed under Article 226/227 of Constitution of India for issuing a writ in the nature of Habeas Corpus directing respondents No.1 to 3 to produce the detainee- Anju.

It has been stated by the learned counsel for the petitioner that the marriage of the petitioner with the detainee was solemnized on 13.10.2019 whereas an FIR No.238, under Sections 363/366-A IPC was lodged on 17.10.2019. After registration of the FIR, the Investigating Officer recorded the statement of the petitioner and detainee under Section 161 Cr.P.C. in which detainee specifically stated that she had joined the company of the petitioner of her own and solemnised the marriage with him of her own free Will.

The learned counsel for the petitioner further pointed out that the detenue was produced before the Sub Divisional Judicial Magistrate, Narwana and in her statement under Section 164 Cr.P.C. she again stated that she wanted to reside with the petitioner. The petitioner was arrested on 20.12.2019. Thereafter, the detenue was taken for counselling and since then she has been detained in the Nari Niketan at Karnal.

Counsel for the petitioner relies upon the Division Bench judgement of Delhi High Court reported as *Neetu Singh Vs. State 1993 (3) RCR (Crl) 26* wherein it was held that the minor girl can not be detained in Nari Niketan against her wishes and that the marriage of a minor girl is neither void nor voidable.

Learned counsel for the State has pointed out that the detenue is a minor and she has given her statement under Section 161 Cr.P.C. before the Investigating Agency and under Section 164 Cr.P.C. before the Judicial Magistrate that she wants to join the company of the petitioner.

Since the marriage of the detenue was performed with the petitioner on 13.10.2019 and now the petitioner has been granted bail on 06.07.2020 in case FIR No.238 dated 17.10.2019 registered under Section 363/366-A IPC he is ready to live with detenue with whom his marriage was solemnized.

Keeping in view the statement given by the detenue before the Magistrate under Section 164 Cr.P.C. that she intends to reside with petitioner Sonu, respondent No.3 i.e. Superintendent, Nari Niketan Mahila Ashram Complex, Karnal is directed to release the detenue so that

she can join the company of Sonu. It is made clear that the detenue shall be released when Sonu approaches Respondent No.3 i.e. Superintendent, Nari Niketan Mahila Ashram Complex, Karnal and the identity of the Sonu is to be authenticated at the level of respondent No.3.

Petition is disposed of accordingly.

(HARNARESH SINGH GILL)
JUDGE

04.08.2020
raman

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No