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

**CRWP No.6941 of 2020
Date of Decision: 17.09.2020**

LAKHWINDER SINGH

.....Petitioner

Vs

STATE OF PUNJAB AND OTHERS

.....Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. H.S. Baath, Advocate
for the petitioner.

Mr. Ramdeep Pratap Singh, D.A.G., Punjab.

RAJ MOHAN SINGH, J.(Oral)

The case has been taken up for hearing through video conferencing.

Petitioner has preferred this petition for the issuance of appropriate writ in the nature of habeas corpus for the release of Simranjeet Kaur. Petitioner claims to be the husband of Simranjeet Kaur.

Petitioner and said Simranjeet Kaur jointly filed a petition bearing CRWP No.5779 of 2020 before this Court which was decided on 10.08.2020. Petition was disposed of with a direction to respondent No.2 therein to objectively consider

representation dated 31.07.2020 and to provide adequate protection to the petitioners, in case, the situation so requires. It was made clear that the order in any case will not bar any initiation of legal proceedings in accordance with law.

The allegations made in the present petition are that on 05.09.2020 at about 11.00 a.m., when the petitioner and detainee Simranjeet Kaur were coming back after paying homage at Kali Mata Mandir, Kalka, respondent No.4 took the detainee in his custody from lawful custody of her husband i.e. petitioner at the instance of private respondents No.5 and 6. With this background, the allegations have been made that the detainee is in illegal custody of respondent No.4, who is ASI posted in P.S. Kharar.

Notice of motion was issued on 07.09.2020. Respondent No.3 was directed to produce the detainee before this Court through video conferencing.

In compliance of the aforesaid order, Sh. Sukhbir Singh, SHO, P.S. Sadar, Kharar has appeared along with Simranjeet Kaur through video conferencing.

This Court has also interacted with the alleged detainee Simranjeet Kaur, who has stated that she wants to go with her husband i.e. the petitioner.

Learned State counsel has placed reliance upon the statement of the girl recorded under Section 164 Cr.P.C. by the Judicial Magistrate Ist Class, Kharar on 05.09.2020 wherein she has specifically stated she wants to stay along with her husband. She was sent to Gandhi Vanita Ashram, Jalandhar only under the orders of the Court owing to the situation prevailing in the Nari Niketan, Sector 76 Mohali.

It is also a settled position in view of ratio laid down in **Smt. Lila Gupta vs. Laxmi Narain and others, AIR 1978 Supreme Court, 1351; Neetu Singh Vs. State, 1999 (3) RCR (Criminal) 26; Seema Devi @ Simaran Kaur Vs. State of HP, 1998 (2) Crimes 168; Rukshana and another vs. Govt. of NCT of Delhi and others, 2007(3) R.C.R. (Criminal) 542; Court of Its Own Motion (Lajja Devi) vs. State, 2012 (4) R.C.R. (Civil) 821**, the girl cannot be kept in Nari Niketan/protection home against her wishes.

In view of Division Bench judgment of Delhi High Court in **Jatinder Kumar Sharma vs. State and Ors, 2010(4) R.C.R. (Criminal) 20**, the husband can be the lawful guardian of the girl in such situation.

In view of present situation, I deem it appropriate to dispose of the present petition with a direction to the Incharge,

Children Home, Gandhi Vanita Ashram, Jalandhar to release the detainee forthwith in the company of the petitioner. Petitioner is also directed to approach the aforesaid authority along with certified copy of this order.

September 17, 2020

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Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No