

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

104)

CRWP no.548 of 2021

Date of Decision: 27.01.2021

Rajwinder Kaur

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Mr. Kamldip Singh, Advocate, for the petitioner.
Mr. Sukhbeer Singh, AAG, Punjab
Mr. Maninder Singh Bajwa, Advocate.
for respondents no.5 to 9 and 11.

Amol Rattan Singh, J. (Oral)

Case heard by video conferencing.

On 19.01.2021, the following order had been passed in this petition:-

“Case heard by video conferencing.

By this petition, the petitioner seeks issuance of a writ in the nature of habeas corpus, directing respondents no.1 to 4 to immediately release the petitioner, who is stated to be a major but has been illegally and wrongly confined in the Nari Niketan, Guza Basti, Football Chownk, Jalandar.

Notice of motion is issued, with Mr. Ramdeep Partap Singh, learned DAG, Punjab, accepting notice on behalf of the respondent State, on the asking of the court.

Respondents no.5 to 11 be served by way of normal process.

Additionally, they be served through the SHO, Police Station Kachha Pakka, District Tarn Taran.

Since learned counsel for the petitioner submits that the petitioner had actually gone to the police station where she was kept for two days before being produced before an Area Magistrate, who then directed that she be kept at a Protection Home at Jalandhar, and he does not have a copy of the order of that court which is stated to be not available even on the website of the District Court, Tarn Taran, the SSP, Tarn Taran, is directed to have an affidavit of a gazetted officer filed, annexing therewith the order passed by the Area Magistrate concerned to the effect that the petitioner be admitted to the Protection Home at Jalandhar, with it also to be explained as to why she had been kept at the police station for two days.

The footage of the CCTV camera installed in Police Station Kachha Pakka, from 12 midnight of 03/04.01.2021 uptill 12 midnight of 06/07.01.2021 be

annexed in a CD/pen drive along with the affidavit of the DSP.

Adjourned to 27.01.2021.

To be shown in the urgent motion list.

A copy of the petition be e-mailed to the learned State counsel today itself by counsel for the petitioner.”

Today no reply on behalf of the State is on record; however, Mr. Sukhbeer Singh, learned AAG, Punjab, submits that he has received it but it could not be filed due to paucity of time and that it is stated therein that in fact the petitioner herself had come to the police on January 04, 2021 with a complaint that her parents (respondents no.5 and 6), as also her brothers and uncle (respondents no.7 to 11) were forcing her to get married to someone whom she did not wish to marry.

Mr. Maninder Singh Bajwa, Advocate, appears for respondents no.5 to 9 and 11 and submits that a representation dated 29.12.2020 was made by respondent no.5 (father of the petitioner) to the SHO, Police Station Kachha Pakka, District Tarn Taran, stating therein that his daughter had gone missing and that she may have been abducted. Upon query, he does not deny that the petitioner (daughter of respondents no.5 and 6), is about 22/23 years old, with Mr. Kamaldip Singh stating that she is about 25 years old.

Be that as it may, even the parents of the petitioner do not deny that she is well above the age of 18 years and consequently is of the age of majority.

Learned State counsel has further submitted that on the basis of the reply available with him (by way of an affidavit of the DSP, Sub-Division, Valtoha, District Tarn Taran), upon the petitioner having approached the police station as above, she was produced before the learned Executive Magistrate, where she made a statement to the effect that she did not wish to go back to her parents and wanted to marry one Nishan Singh.

Hence, to ensure that she was given protection, the learned Magistrate ordered that she be taken to the Nari Niketan at Jalandhar, where she however

could not be taken immediately due to the Covid-19 pandemic and it was only after the result of her test came on 05.01.2021, finding her to have tested negative, that she was sent to the Nari Niketan.

Learned counsel for the petitioner submits that the petitioner does not wish to reside at the Nari Niketan and wishes to go wherever she wants to (and not to her parents).

Upon specific query to the learned counsel for the petitioner as to whether the petitioner, who has sought issuance of a writ of habeas corpus, actually wants to come present before the court by way of video conferencing, he submits that all that she is seeking is that she, being of the age of majority, be released from the Nari Niketan, Jalandhar.

That being so, with respondents no.5 and 6, i.e. her parents, also not denying (as per their learned counsel) that the petitioner is well above the age of majority, this petition is allowed, inasmuch the Superintendent of the Nari Niketan (or the Protection Home, where the petitioner was directed to be kept pursuant to the order of the Sub-Divisional Magistrate), is directed to release the petitioner, with the SHO concerned under whose jurisdiction the said Nari Niketan/protection home falls, directed to produce the petitioner (while maintaining necessary precautions as are maintained during this Covid-19 pandemic, of social distancing and wearing of masks etc.), before the learned Area Magistrate concerned in Jalandhar, by **29.01.2021**, to enable the petitioner to record her statement as to where she wishes to reside, with her to be thereafter taken to that place under escort of a lady police constable, as counsel for respondents no.5 and 6 has expressed an apprehension that if something were to happen to her, it would again be her parents who would be blamed.

The learned Magistrate would also try and make the petitioner understand (if the petitioner wishes to), that she should meet her parents once, in the Mediation and Conciliation Centre at the Jalandhar District Courts, obviously

under the supervision of a learned Mediator, and a lady police Constable if necessary, so as to try and clear any misunderstanding between them. Thereafter of course she would be escorted to the place where she wishes to go voluntarily; but naturally, if she expresses her desire not to meet her parents at all, this court cannot direct that she be forced to enter mediation in such circumstances.

The petition stands disposed of accordingly.

27.01.2021
vcgarg

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned :Yes
Whether Reportable :No