

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRWP-1327-2021

Rashid KhanPetitioner

Versus

State of Haryana and othersRespondent

CRWP-1624-2021

IbrahimPetitioner

Versus

State of Haryana and othersRespondent

Date of Decision: 26.02.2021

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Khalid, Advocate,
for the petitioner. (in CRWP-1327-2021)

Mr. Arjun Atri, Advocate,
for the petitioner (in CRWP-1624-2021)

Mr. Deepak Grewal, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (Oral)

CRWP-1327-2021

Prayer in this petition filed by Rashid Khan is to issue a writ in the nature of habeas corpus for releasing detainee-Husna from the Safe House, Nuh at Mewat.

The learned counsel for the petitioner submits that the petitioner has performed Nikah with detainee-Husna on 01.09.2020 at Pinjor, Panckhula, and they were residing as husband and wife. He has further stated that both, the petitioner and detainee-Husna has filed CRWP-7395-

2020, seeking a direction to the police authorities to protect their life and liberty in which, notice of motion was issued and on 23.09.2020, a direction was issued to decide their representation dated 12.09.2020 by the Superintendent of Police concerned.

The learned counsel for the petitioner further submits that in the meantime, the family of Husna got an FIR No.288 dated 19.09.2020 under Sections 366, 120-B of IPC and Sections 5 and 6 of the POCSO Act was registered at Police Station Jureda, District Bharatpur (Rajasthan). The learned counsel for the petitioner submits that the petitioner has already been released on bail by the Rajasthan High Court vide order dated 30.01.2021.

Accordingly, the petitioner has prayed that the detenue be released from the Safe House, Nuh and her date of birth is 10.02.1998 and she is not a minor. Vide order dated 10.02.2021, it was directed that detenue-Hansa will be produced before the Illaqa Magistrate for recording her statement if she wants to reside with the husband (the petitioner) or with her parents.

CRWP-1624-2021

Prayer in this petition filed by Ibrahim, father of Husna, is to issue a writ in the nature of habeas corpus directing the police authorities to release her daughter from the Safe House, Nuh and handover her custody to the petitioner.

It is stated in the petition that in CRWP-7395-2020, on 09.11.2020, a direction was issued that the detenue be kept in Protection Home at Nuh and the custody of Rashid Khan be handed over to Rajasthan police in connection with the aforesaid FIR No.288. It was also noticed in

this order that it is claimed by petitioner Ibrahim that the date of birth of Husna is 04.03.2007 and she is a minor.

In compliance of the aforesaid order, detenue-Husna was produced before the learned Chief Judicial Magistrate, Nuh, on 19.02.2021 and her statement under Section 164 Cr.P.C was recorded, in which, she has stated that she is aged about 20 years and on 10.09.2020, she left home of her own sweet will with Rashid Khan and came to Chandigarh, where she performed marriage with him on 11.09.2020. Both of them stayed in Chandigarh for 2-3 days and then stayed in Gurugram for about 01 month and thereafter, she was sent to Protection Home. She has further stated that she wants to reside with her husband Rashid Khan by her own free will and does not want to go with her parents. Even, a similar statement was made by her before the ASI Anil Kumar that she does not want to go from the Safe House without the permission of the Court and she wants to go with her husband, who is in custody of Rajasthan police and till then she wants to stay in Safe House at Nuh.

The learned counsel for the petitioner submits that as per the statement of detenue-Husna, she has opted to stay in Safe House till the time the petitioner was in judicial custody in Rajasthan police and after his release on bail, there is no requirement to keep the detenue in Safe House as she has volunteered to accompany her husband Rashid Khan.

After hearing the learned counsel for the parties in both the cases and going through the statement made by the detenue before the learned Chief Judicial Magistrate, I deem it fit and proper to direct the Incharge, Safe House at Nuh to release the detenue and permit her to

accompany petitioner-Rashid Khan, who she claims to had married with on 11.09.2020.

With the aforesaid observations, these petitions are hereby disposed of.

A photocopy of this order be placed on the file of another connected case.

26.02.2021
adhikari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/non-speaking	:	Yes/No
Whether reportable	:	Yes/No