

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

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**CRWP-2556-2021
Date of Decision : 17.03.2021**

Prem Dass

.....Petitioner

Versus

State of U.T. Chandigarh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Naveen Upadhyay, Advocate
for the petitioner.

Mr. Sumit Jain, Addl. Public Prosecutor
for respondents No.1 to 3.

JUSTICE ARUN KUMAR TYAGI, J.

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

The petitioner has filed the present petition under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of habeas corpus for directing respondents No.1 to 3 to get the detainee-Priya (daughter of the petitioner) released from illegal custody of respondent No.4.

Briefly stated the petition was filed on the averments that detainee-Priya daughter of petitioner-Prem Dass was kidnapped by respondent No.4 on 08.03.2021 from her house and illegally detained by him. The petitioner made representation dated 09.03.2021 to the Superintendent of Police, Chandigarh but no action has been taken on the same.

Vide order dated 15.03.2021, while issuing notice of motion, this Court directed respondent No.2 to ensure presence of detainee-Priya before this Court through video conferencing.

In compliance to the order dated 15.03.2021, ASI Parjeewan has ensured presence of detainee-Priya before this Court through video conferencing from the chamber of Mr. Sumit Jain, Addl. Public Prosecutor for U.T. Chandigarh.

On being asked, detainee-Priya has stated that she is aged

about 22 years and her date of birth is 29.10.1998. She has solemnized Nikah with respondent No.4-Samshad on 09.05.2019. She has not been illegally detained by any person including respondent No.4. She wants to live with her husband-respondent No.4 and does not want to go and live with her parents.

Learned Additional Public Prosecutor has pointed out that detenue-Priya along with respondent No.4 has filed CRWP-2290-2021 titled as 'Priya @ Alina and another Vs. State of U.T. Chandigarh and others' for protection of their life and liberty which was disposed of by the Coordinate Bench of this Court vide order dated 08.03.2021 with direction to respondent No.2-Senior Superintendent of Police, Chandigarh to consider the representation dated 27.02.2021 made on behalf of the petitioners and thereafter take appropriate action on the same as is deemed fit in accordance with law to ensure the protection of life and liberty of the petitioners.

Learned Counsel for the petitioner has submitted that the petitioner is not aware regarding her conversion to Islam and even petition for protection of her life and liberty was filed without her specific knowledge regarding the same.

In the present case this Court is not required to go into the question of validity of marriage of detenue-Priya with respondent No.4-Samshad on the ground of legality of her conversion to Islam and this Court is merely concerned with the questions of alleged illegal detention and issuance of writ of habeas corpus for release therefrom.

In ***Soni Gerry Vs. Gerry Douglas : 2018(1) RCR (Civil) 650***, where the daughter, who was major, expressed a desire to reside with her father in Kuwait, where she was pursuing her education. Hon'ble Supreme Court dismissed the habeas corpus petition filed by her mother on the ground that the daughter being major was entitled to exercise her choice. In that case Hon'ble Supreme Court observed as under:-

“10. It needs no special emphasis to state that attaining the age of majority in an individual's life has its own significance. She/He is entitled to make her/his choice. The courts cannot, as long as the choice remains, assume the role of parens patriae. The daughter is entitled to enjoy her freedom as the law permits and the court should not

assume the role of a super guardian being moved by any kind of sentiment of the mother or the egotism of the father. We say so without any reservation."

In view of this settled position of law, detainee-Priya, being major, is entitled to live with a person including respondent No.4 and at a place of her own choice as mentioned by her.

Learned Counsel for the petitioner has requested that the petitioner be allowed to have a meeting with detainee-Priya but detainee-Priya has refused to meet or talk with the petitioner.

Since detainee-Priya has not been abducted and illegally detained by anyone including respondent No.4, no further action is required to be taken on the present habeas corpus petition which is disposed of accordingly.

(ARUN KUMAR TYAGI)
JUDGE

17.03.2021
Kothiyal

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