

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

CRWP No. 3352 of 2020(O&M)

Date of Decision:09.02.2021

Sabo and anotherPetitioners

Versus

State of Punjab and others ...Respondents

CORAM:HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Manoj Tanwar, Advocate
for the petitioners.

Mr. Sarabjit Singh Cheema, AAG, Punjab.

HARI PAL VERMA, J.(Oral)

The matter has been taken up for hearing through video conferencing due to outbreak of COVID-19.

CRM-W-69 of 2021

Present application has been filed under Section 482 Cr.P.C. for placing on record the affidavit of petitioner No.2-Bag Hussain s/o Kalu @ Kaludin (Annexure A-1) in compliance of the order passed by this Court dated 12.01.2021.

For the reasons enumerated in the application, the present application is allowed and the affidavit (A-1) is taken on record.

CRWP No. 3352 of 2020(O&M)

Present criminal writ petition has been filed under Article 226/227 of the Constitution of India for issuance of an appropriate writ, order or direction especially in the nature of Mandamus directing the official respondents No. 1 to 3 to protect the life and liberty of the petitioners at the hands of respondents No. 4 to 9 and their other relatives and friends.

This petition is filed as the private respondents No. 4 to 9 were not happy with the marriage of the petitioners

Considering that the petitioners have solemnized marriage against the wishes of parents of the girl, this Court vide order dated 02.06.2020 directed the Senior Superintendent of Police, Gurdaspur to ensure that no physical harm is caused to the petitioners at the hands of private respondents or persons claiming under them. But at the same time, it was made clear that such interim protection is not to be taken as legalizing such marriage solemnized between the petitioners.

Noticing the contention raised on behalf of the parents of petitioner No.1 that the minor girl, namely, Sabo aged 15 years is forcibly detained by petitioner No.2, this Court vide order dated 17.06.2020 while adjourning the case to 17.07.2020 had directed learned counsel for the petitioner to provide the details of address and /or phone numbers of petitioner No.2 by email to learned State counsel to enable him to file proper verification report.

Accordingly, the status report by way of affidavit of Deputy Superintendent of Police, Rural Gurdaspur was filed as directed in the order dated 17.07.2020 passed by this Court.

On 12.01.2021, this Court has passed the following order:

“The matter has been taken up for hearing through video conferencing due to outbreak of COVID-19.

On 08.01.2021, following order was passed by this Court:

“The matter has been taken up for hearing

through video conferencing due to outbreak of COVID-19.

Through the instant application, counsel for the applicant seeks to place on record the ultrasonography report of petitioner No.1- Sabo to the effect that she is pregnant by 7 months and vide order dated 08.07.2020 passed in CRWP-4610-2020 titled as “Manu Deen and another Versus State of Punjab and others”, her custody has been given to Nari Niketan/Observation Home.

Let petitioner No.1 remain present through video conferencing on the adjourned date so as to ascertain her wishes, with whom she intends to go.

Adjourned to 12.01.2021.

SHO concerned shall make an effort to connect petitioner No.1 through video conferencing on the adjourned date.

A copy of this order be placed on the file of connected case.”

Pursuant to the aforesaid order, the petitioner No.1- Sabo is present through video conferencing.

Learned counsel for the petitioners submits that petitioner No.1- Sabo is pregnant from the petitioner No.2-Bag Hussain and is at advance stage of pregnancy, therefore, the custody of petitioner No.1 be given to the petitioner No.2, so that she can have safe delivery of her foetus. He, on instructions from petitioner no.2, who is present through video conferencing, submits that petitioner no.2 undertakes that in case respondent nos.4 and 5 visit the house of petitioner no.2 so as to meet petitioner no.1, he will

treat them well and will not create any problem for them.

At the same time, petitioner no.1 has also been interacted through video conferencing and she has shown her inclination to go with petitioner no.2 and not with respondent nos.4 and 5.

Vide order dated 08.07.2020 passed in connected petition i.e. CRWP-4610-2020, while sending the petitioner no.1 to Nari Niketan, following order was passed:-

“Notice of motion.

Mr. Mehardeep Singh Dullat, learned Additional Advocate General, takes notice for respondent Nos.1 to 3 and waives further notice. Three copies of the paper book shall be supplied to him during the course of the day.

To be heard along with CRWP-3552-2020 on 17.07.2020.

In the meanwhile, as the Aadhar Card placed on record indicates that the petitioner's daughter, Sabo, is a minor as on date inasmuch as her date of birth is 15.10.2004, the police authorities, viz., respondent Nos.1 to 3, shall strive to ascertain her whereabouts and in the event she is located, they shall place her in a Nari Niketan/Observation Home, as per due procedure.”

In view of request made by counsel for the petitioners, the petitioner no.1 is ordered to be released from Nari Niketan and her custody till the next date of hearing be given to petitioner no.2 in the

presence of two witnesses.

Adjourned to 22.01.2021.

Respondents no.4 and 5 would be at liberty to visit the house of petitioner no.2 i.e. matrimonial home of petitioner no.1.

Petitioner no.2 shall file an affidavit to the effect that he will not only treat petitioner no.1 well but rather, he will take care of her for safe delivery of foetus and he will also treat respondents no.4 and 5 in a dignified manner.

A photocopy of this order be placed in the file of connected case.”

Pursuant to the aforesaid order dated 12.01.2021, learned counsel for the petitioner has filed affidavit of petitioner No.2-Bag Hussain s/o of Kalu @ Kaludin, aged about 27 years resident of VPO Kahnuwan, Tehsil and District Gurdaspur (Annexure A-1), the contents of the affidavit are as under:

- “1. That I am the resident of above given address.*
- 2. That I performed marriage with Sabo d/o Mannu Din @ Munu on dated 17.05.2020 at Khativa Masjid, Village Masania, District Gurdaspur according to Muslim rites and ceremonies.*
- 3. That my wife Sabo is now 7 months pregnant and now she is residing with me as per order of the Hon'ble High Court dated 12.01.2021.*
- 4. That I undertake to take care of my wife Sabo and her Foetus. I will provide a better medical facilities for her delivery.*
- 5. That I, being the husband of Sabo will take care of Sabo and I am ready to uphold all the responsibilities of my family.*

6. That I have no objection if the parents of Sabo (Mannu Din @ Munu and Kia) and other family members come to meet Sabo and I also undertake to treat them well in a dignified manner.”

After the petitioner No.1-Sabo having relieved from the Nari Niketan/Observation home, she is being taken care by petitioner No.2 with complete satisfaction and petitioner No.2 further undertakes to take care of Sabo and her foetus with further further undertaking to provide her with better medical facilities for safe delivery of foetus.

In view of above, no further orders are required to be passed in the present petition and the same is accordingly disposed of.

However, it is made clear that in case petitioners still apprehend any threat to their life, they are at liberty to approach the SSP concerned for the redressal of their grievance, if any as legally permissible.

[HARI PAL VERMA]
JUDGE

February 09, 2021
rashmi

Whether speaking/reasoned
Whether reportable?s

yes/no
yes/no