

**In The High Court for the States of Punjab and Haryana
At Chandigarh**

CRWP-5137-2020 (O&M)
Date of Decision:- 1.11.2021

Gurpreet Singh ... Petitioner

Versus

State of Punjab and another ... Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Balbir Kumar Saini, Advocate, for the petitioner.

Mr. Ajay Pal Singh Gill, DAG, Punjab,
assisted by HC Manjinder Singh and
Lady Constable Gurpreet Kaur.

GURVINDER SINGH GILL, J. (Oral)

1. The instant petition has been filed by Gurpreet Singh seeking issuance of a writ in the nature of Habeas Corpus, directing official respondents to get his wife Rajwinder Kaur, released who was stated to be lodged in Children Home, Gandhi Vinita Ashram, Jalandhar.
2. When the matter was taken up on 7.8.2020 a direction was issued to Senior Superintendent of Police, Moga to furnish information as to how many sisters the alleged detainee Rajwinder Kaur has and as to what are their respective ages. Pursuant to said direction, an affidavit was filed by Senior Superintendent of Police, Moga, wherein he deposed that the petitioner had infact married the second daughter of Nachhattar Singh i.e. Gurwinder Kaur

and the petitioner as well as the said second daughter of Nachhattar Singh i.e. Gurwinder Kaur had sought protection from the Court of Sessions, Ferozepur but the said second daughter (Gurwinder Kaur) incorrectly disclosed her identity as Rajwinder Kaur and disclosed an incorrect date of birth i.e. 10.7.2001, whereas infact she was a minor and her date of birth was 26.10.2003 as per the entry in the record of the Registrar, Births and Deaths. A notice was also issued to the petitioner as to why this Court should not proceed against him under provisions of Contempt of Courts Act, 1971 for deliberately misleading the Court.

3. Vide order dated 6.11.2020, a direction was issued to respondent No.2-Superintendent, Children Home, Gandhi Vinita Ashram, Jalandhar, District Jalandhar to produce the alleged detainee, her father, her mother and her two sisters before the learned Chief Judicial Magistrate, Moga and the learned Chief Judicial Magistrate, Moga was directed to determine the age of the three sisters. The Chief Judicial Magistrate, Moga, vide his report dated 19.11.2020 held that detainee is known as 'Rajjo' and her date of birth is 26.10.2003.
4. Vide order dated 18.3.2021, the Registrar, Births and Deaths, Moga and also the District Education Officer, Moga were directed to produce the original record before this Court and the three daughters of Nachhattar Singh were also directed to be present in the Court on the next date of hearing.
5. On 31.3.2021, all the three sisters were present in the Court. The shortest in height of all the three sisters disclosed her name as Manpreet, who was the youngest of the three and no dispute was raised as regards her identity. However, both the other two sisters claimed themselves to be Rajwinder

Kaur. While the shorter of the two stated that she was married to one Satpal Singh of Village Dhilwan about 2½ years back and that her sister standing by her side, who is slightly taller than her is Gurwinder Kaur @ Rajjo, who is incorrectly claiming herself to be Rajwinder Kaur, the taller girl also claimed herself to be Rajwinder Kaur stating her date of birth as 10.7.2001. The original record was also produced and was not found to be forged or fabricated.

6. Thereafter, when the matter was listed on 15.7.2021, a request for adjournment was made on behalf of the petitioner for adjourning the matter beyond 26.10.2021 (the date inadvertantly mentioned as 26.10.2003 in the order) on the ground that Gurwinder Kaur @ Rajjo would attain majority. Accordingly, the case was adjourned to 1.11.2021 and the detenue was also directed to be produced in the Court.
7. Pursuant to aforesaid order dated 15.7.2021 the alleged detenue has been produced before this Court by Lady Constable Gurpreet Kaur. Upon queries made by this Court, the alleged detenue stated that her name as Rajwinder Kaur and that she wanted to reside in the company of the petitioner and did not intend to reside with her parents.
8. In view of the aforestated position, wherein this Court finds that the detenue, as of now, in any case, is a major and wishes to reside with the petitioner, there would be no justification for keeping her lodged in children home. Consequently, it is directed that the alleged detenue namely Rajwinder Kaur shall not be detained any longer at Children Home, Gandhi Vinita Ashram, Jalandhar and shall be released forthwith.

9. Mr. Ajay Pal Singh Gill, DAG, Punjab, upon instructions from Lady Constable Gurpreet Kaur and HC Manjinder Singh, has informed that certain formalities are required to be completed at Children Home, Gandhi Vinita Ashram, Jalandhar and that she will be released forthwith after completion of the same today itself or at the best by tomorrow evening.
10. The Incharge, Children Home, Gandhi Vinita Ashram, Jalandhar is directed to do the needful and after completion of all the formalities the alleged detainee be permitted to leave the Ashram.
11. Needless to mention, the Incharge of Children Home, Gandhi Vinita Ashram, Jalandhar, shall not withhold the release of the detainee on the ground of incorrect mention of the name of alleged detainee whose name is stated to have been recorded as Gurwinder Kaur in some of the record of the Ashram.
12. Before parting with this order, it needs to be observed that while the petitioner asserts and even the detainee claims herself to be Rajwinder Kaur but the report of Chief Judicial Magistrate, Moga and also the affidavit dated 26.8.2020 of Senior Superintendent of Police based on police inquiry prima facie shows that her actual name is Gurwinder Kaur alias Rajjo and her date of birth is 26.10.2003. The detainee, apparently, in order to show herself to be a major so as to be able to live with her husband, represented herself to be Rajwinder Kaur, whereas it is her elder sister, whose name is Rajwinder Kaur. It appears that the alleged detainee had been disclosing her name incorrectly solely for the purpose of staying with her husband and not for any other purpose. It is also borne out that infact Nachhattar Singh, father of the alleged detainee, had also moved an application under Section 340 read

with Section 195 Cr.P.C. before the Court of Sessions, Ferozepur seeking initiation of criminal proceedings against the alleged detenue and the petitioner Gurpreet Singh for having disclosed the age incorrectly but the said application was dismissed. Nothing has been shown to this Court as to whether the said order has ever been challenged in this Court. In these circumstances, particularly keeping in view the tender age of the alleged detenue, this Court does not deem appropriate to initiate any proceedings under Contempt of Courts Act, 1971 either against her or the petitioner and consequently the notice issued on 12.10.2020 is hereby dropped.

1.11.2021

pankaj

**(GURVINDER SINGH GILL)
JUDGE**

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No