

WPA (H) 72 of 2022

(Tajaruddin Mallick Vs. The State of
West Bengal & Ors.)

Mr. Daanish Haque
Mr. Abdul Zahid
Mr. Siraj Munir

.... For the petitioner

Mr. Debabrata Chatterjee
Mr. Simanta Kabir

.... For the State

Mr. Anuran Samanta
Mr. Ganesh Manna

..... For the respondent no. 5

The present writ petition has been preferred
primarily praying for the following relief:-

*‘A writ of and/or in the nature of Habeas
Corpus do issue commanding the respondents
and/or each them to recover and produce
Petitioner’s wife, namely Ankita Rong before
this Hon’ble Court.’*

Mr. Haque, learned advocate appearing for the
petitioner submits that the petitioner was having a love
relationship with one Ankita Rong (in short, Ankita)
since the year 2016. Thereafter, he married Ankita on
28th September, 2022 and since then Ankita was
residing at her matrimonial house. Suddenly, Ankita
went missing on and from 19th October, 2022 and such
fact was brought to the notice of the respondent no. 4
by a representation dated 14th December, 2022. In the
midst thereof and on the basis of a complaint lodged
by the respondent no. 5 alleging that her daughter had
been kidnapped, Panchla Police Station Case No. 335

of 2022 dated 8th October, 2022 under Sections 365/34 of the Indian Penal Code was registered. The petitioner applied for anticipatory bail and such prayer was allowed by an order dated 9th November, 2022.

Mr. Haque contends that the police authorities in collusion with the respondent no. 5 had prevented the petitioner from leading a peaceful married life with Ankita, who is a major and whom the petitioner married on 28th September, 2022. In support of such marriage reliance has been placed upon the document annexed at page – 19 of the writ petition.

He argues that the petitioner as the husband of Ankita can prefer a *habeas corpus* petition for regaining the custody of his wife. In support of such contention reliance has been placed upon a judgment delivered in the case of *Mohd Ikram Hussain Vs. State of U.P. & Ors.* reported in *AIR 1964 SC 1625*.

Per contra, Mr. Chatterjee, learned advocate appearing for the State submits that the present petition itself is not maintainable since Ankita is not under illegal detention.

He submits that there had been no legal solemnization of marriage and the document upon which reliance has been placed by Mr. Haque is a document specifying a notice period from 28th September, 2022 to 28th October, 2022.

He further submits that on the basis of the complaint lodged by the respondent no. 5, Panchla

Police Station Case No. 335 of 2022 dated 8th October, 2022 was registered and upon conclusion of investigation, a charge-sheet has been filed on 31st October, 2022. Drawing our attention to the said charge-sheet, Mr. Chatterjee submits that in course of investigation, the brother-in-law of the principal accused, namely, Sk. Osman Goni, was arrested on 14th October, 2022 and thereafter, the victim girl was recovered from the house of one Sk. Sablush Rahaman on 19th October, 2022. On 20th October, 2022, Ankita was produced before the learned Court below and her statement was recorded under Section 164 of the Code. Thereafter, the learned Court handed over Ankita's custody to the respondent no.5.

Mr. Chatterjee has also placed before us representations submitted by the victim girl to the respondent no. 4 on 15th December, 2022 and 20th December, 2022 stating, *inter alia*, that she is residing at her parental house voluntarily. Let the documents, as produced, be kept on record. The judgment upon which reliance has been placed by Mr. Haque, is distinguishable on facts.

Answering our query, Mr. Samanta, learned advocate appearing for the respondent no. 5 submits that Ankita is presently residing at her parental house at Village - Beldubi, P.S. – Panchla, District – Howrah.

In reply, Mr. Haque doubts the authenticity of representations submitted by Ankita on 15th December, 2022 and 20th December, 2022.

A writ in the nature of *habeas corpus* is a prerogative writ by virtue of which the causes and validity of detention of a person are investigated by a summary procedure. The judgment upon which reliance has been placed by Mr. Haque, is distinguishable on facts. It appears that Ankita is an adult lady and from the representations submitted by her, it appears that she is willingly residing at her parental house. In course of investigation in the Panchla Police Station Case No. 335 of 2022, the victim girl was recovered and after she was produced before the Court, her custody was handed over to the respondent no.5. There is no such material on record before this Court to infer that Ankita has been illegally detained. In exercise of its extra-ordinary jurisdiction, this Court cannot usurp the ordinary administration of criminal justice and interfere in the present *habeas corpus* petition.

In view thereof, no interference is called for in the present *habeas corpus* petition.

Nothing in this order shall, however, prevent the petitioner from initiating proceedings before any other Court or forum seeking relief, in accordance with law.

The writ petition being WPA (H) 72 of 2022 is, accordingly, disposed of.

There shall, however, be no order as to costs.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Partha Sarathi Chatterjee, J.) (Tapabrata Chakraborty, J.)