

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRWP-46-2022

Date of decision : 05.01.2022

Kamal Kumar

... Petitioner

Versus

The State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Aditya Partap Singh, Advocate
for the petitioner.

Mr.Sarabjit Singh Cheema, AAG, Punjab.

(Through Video Conferencing)

VIKAS BAHL, J.(ORAL)

This is a Criminal Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ in the nature of habeas corpus to release the detenues (as mentioned in para 2 of this petition) who are stated to be in unlawful custody of respondents no.4 and 5.

It has been averred in the petition that the nearest relatives of the petitioner have been illegally detained by respondents no.4 and 5 in their brick kiln under the names and style of Jindal (Narayan Bricks) situated in village Rampur, Police Station Ghanaur, Tehsil Rajpura, District Patiala. The details of the detenues have been given in para 2 of the petition and the same are three in number. It is further submitted that the said detention is illegal and is in violation of the mandatory provisions of the Bonded Labour (Abolition) Act, 1976 (hereinafter to be referred as “the Act of 1976”) and

31.12.2021 (Annexure P-1) to the District Commissioner-cum- District Magistrate, Patiala.

It has been held by this Court in “**Murti versus The State of Punjab and others**”, **LPA No. 32 of 2013**, as under:-

“It may be mentioned here that the allegations of the appellant in the writ petition are that the alleged detenues mentioned in para No.3 of the writ petition who are working as labourers at the brick kiln of respondent Nos.4 & 5 are being kept as bonded labours. There can indeed be no doubt that if a labourer has been detained as bonded labour, it amounts to an offence under Sections 16 & 17 of the Bonded Labour (Abolition) Act, 1976. We, however, clarify that the aforesaid observation does not mean that the allegations levelled by the appellant have been accepted. Suffice it to observe that under the Act, the District Magistrate is under statutory obligation to hold a fact finding enquiry as and when a complaint alleging violation of the provisions of Bonded Labour (Abolition) Act, 1976 is received. Since the appellant in the instant case has specifically averred that the persons mentioned in para No.3 of the writ petition have been detained as bonded labourers, we allow this appeal and set aside/modify the order dated 9.1.2013 passed by the learned Single Judge to the extent that the petitioner's writ petition is disposed of with a direction to the District Magistrate, Sangrur, to treat this writ petition as a complaint under the 1976 Act and take immediate action in accordance with law, within a period of one week from the date of receiving a certified copy of this order alongwith a copy of the writ petition.”

Accordingly, the present Criminal Writ Petition is disposed of

petition as a complaint under the Act of 1976 and take immediate action in accordance with law, within a period of one week from the date of receipt of certified copy of this order along with copy of the writ petition.

(VIKAS BAHL)
JUDGE

January 05, 2022
Davinder Kumar

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