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

**CRWP-3317-2021
Decided on : 26.07.2022**

Raj Kishore Parsad

. . . Petitioner

Versus

State of Punjab and others

. . . Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Manik Makkar, Advocate
for the petitioner.

Mr. Davinder Bir Singh, D.A.G., Punjab.

JASGURPREET SINGH PURI, J. (Oral)

The present petition has been filed under Articles 226/227 of the Constitution of India, seeking issuance of a writ in the nature of Habeas Corpus directing respondents No.2 to 4 to produce minor daughter of the petitioner namely, Lalita Kumari before this Court, who is in the illegal custody of private respondents No.5 to 9.

Learned counsel for the petitioner submitted that the daughter of the petitioner is minor and at the time, when the petition was filed, she was 15 years of age and now, she is 16 years old. He further submitted that she was in the illegal custody of respondent No.5 namely, Lakhwinder Singh and therefore, the present petition was filed. He submitted that vide directions issued by this Court, she is now in Safe Home/Nari Niketan at Jalandhar and therefore, the custody should be handed over to the petitioner.

Learned State counsel, on instructions from ASI Sushil Kumar, submitted that the detainee is now in Nari Niketan at Jalandhar. She was

produced before the learned Magistrate and her statement was recorded, wherein, she has stated that she voluntarily married to respondent No.5 and she is now a major as her date of birth is 01.01.2002.

I have heard learned counsel for the parties.

When this matter was taken up on 05.08.2021, learned counsel for the petitioner and the learned State counsel had stated that the daughter of the petitioner was minor and there was dispute with regard to the authenticity of the Aadhar Card. This Court, therefore, directed the Senior Superintendent of Police, Rupnagar to himself inquire into the matter and produce the girl before the learned Illaqa Magistrate once again. It was further directed by this Court that once the girl is produced before the learned Magistrate then the Magistrate shall record her statement especially with regard to her age and after ascertaining as to whether the girl was making a voluntary statement or not. It was further directed that thereafter, the girl shall be sent to Safe Home/Nari Niketan forthwith till the next date of hearing and the safety of the girl shall be ensured by the police authorities and the Senior Superintendent of Police shall depute a lady police official in this regard.

Thereafter, an affidavit has been filed by the Deputy Superintendent of Police, Sri Anandpur Sahib, District Rupnagar, Punjab and along with the affidavit, the statement of the girl, who was produced before the learned Magistrate in pursuance of the orders passed by this Court, has also been attached as Annexure R-1/T

A perusal of the aforesaid statement made under Section 164 Cr.P.C., would show that she has stated before the learned Magistrate that she is residing with her husband namely, Lakhwinder Singh and she is

making the statement on her own will and no one has forced her for the same. The learned Magistrate, after recording was satisfied that she was making her statement voluntarily and again then enquired about the age of the girl to which she stated that her date of birth is 01.01.2002. She has also stated in her statement that she has an Aadhar Card in her possession and the date of birth mentioned on the Aadhar Card is also the same i.e. 01.01.2002 and that her mother had told her that her date of birth is 01.01.2002. Photocopy of the Aadhar Card was also submitted before the Court of Magistrate and no other document was produced by the girl regarding the proof of her age. Thereafter, she also stated in her statement that she went with Lakhwinder Singh out of her own will and they have solemnized marriage on their own will and that her parents have lodged a false case against her husband. The learned Magistrate, thereafter, has also recorded that on the basis of her statement and the documents produced by her, her age comes out to be 19 years and 06 months as on 30.08.2021.

The learned Deputy Advocate General, Punjab has also referred to another document Annexure R-5/T, which was the verification certificate made from the Office of Panchayat Chanayanbandh, Block Majholiya, West Champaran, to state that birth certificate relied upon by the petitioner, was a fake certificate and it has been stated by the Registrar (Birth and Death), Gram Panchayat, Chanayanbandh, Block Majholiya, West Champaran that such a certificate dated 25.07.2021 has not been issued by the Office of Panchayat, Chanayanbandh, which according to learned counsel for the parties falls in the State of Bihar and he submitted that in this way, the age of girl as of now would be more than 20 years.

The girl, who is daughter of the petitioner, is as of now in the

Safe Home/Nari Niketan at Jalandhar. As per the statement made by the girl before the learned Magistrate under Section 164 Cr.P.C and the documents given by the girl herself, her age comes out to be more than 20 years since her date of birth was 01.01.2002. The document relied upon by learned counsel for the petitioner was verified by the State and it was found that such a certificate was not issued by the Office of the Panchayat of Chanayanbandh.

Therefore, this Court is *prima facie* satisfied that the age of the girl as of today is more than 20 years. However, the aforesaid observation would be only for the purpose of deciding as to whether the girl should be kept further in the Safe Home or not. As of now, there is no material on record to show that the girl is a minor. When a girl has attained the age of majority then she has a right to live on her own choice and to stay at a place, wherever she chooses and no restriction can be imposed upon the girl, who has attained the age of majority.

In view of the aforesaid position, the present petition is disposed of. The respondent-State as well as the Safe Home/Nari Niketan, Jalandhar are hereby directed to release the girl forthwith and set her free. She will be at liberty to live at a place of her own choice.

Said order be conveyed to the Safe Home/Nari Niketan, Jalandhar, for compliance.

(JASGURPREET SINGH PURI)
JUDGE

July 26, 2022
gurpreet

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