

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

CRWP-5109-2021 (O&M)

Date of decision: 23.09.2022

Sukhwinder Kaur

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Sandeep Sharma, Advocate and
Mr. Sarju Puri, Advocate for the petitioner.

Mr. Harkanwar Jeet Singh, AAG Punjab, with
ASI Jai Gopal.

Mr. Pawan Kumar, Advocate and
Mr. Saurabh Arora, Advocate for respondents No. 4 to 9.

HARNARESH SINGH GILL, J. (ORAL)

This is a petition under Article 226 of the Constitution of India for issuance a writ in the nature of Habeas Corpus directing respondent Nos. 2 and 3 to recover the detenues, namely, Karamjot Singh (12 years) and Mankirat Kaur (06 years) from the illegal detention of respondent Nos. 4 to 9 and hand over to the petitioner, being a mother and natural guardian.

Reply by way of affidavit dated 16.04.2022 of the Deputy Superintendent of Police, Sub-Division Phillaur, Jalandhar Rural, already filed in the Registry is taken on record.

Learned counsel for the petitioner submits that the custody of the minor child be given to the petitioner being the natural guardian; that as far as the involvement of the petitioner in FIR No. 206 dated 08.06.2019 is concerned, he submits that as per the FIR itself, the husband of the petitioner was fed up from his wife (petitioner) and ended his life by consuming some poisonous substance; that in the said case, no poison was detected and Section 302 IPC was added later on the statement of one Avtar Singh, neighbor of the deceased and that the petitioner is on regular bail in the said case.

Learned State counsel points out that an FIR No. 206 dated 08.06.2019, under Sections 306, 302 (added later) IPC read with Section 34 IPC was registered at Police Station Phillaur, District Jalandhar (Rural), on the complaint of respondent No.6-Gurmail Singh, brother of the deceased and brother-in-law of the petitioner, against the petitioner for committing murder of Khushpal Singh (husband of the petitioner). Karamjot Singh, minor son of the petitioner, in his statement recorded by the police in the presence of the family members and soft spoken persons of the society, has specifically stated that 'my mother had murdered my father Khushpal due to which she went to jail, I and my sister Mankirat Kaur are residing with our grandparents, who are looking after us and fulfilled our all needs. We do not want to live with our mother and I and my sister wants to live with our grandfather'.

Having heard the learned counsel for the parties and going through the documents on record and the facts that the minor son of the petitioner in his statement has specifically denied to join the company of his mother and she is facing trial under Section 302 IPC for committing the

murder of her husband, this Court is of the considered opinion that the petitioner cannot be handed over the custody of the children, as such course of action is not considered to be of paramount welfare of the children.

In view of the above, the present petition is dismissed.

23.09.2022

Mangal Singh

(HARNARESH SINGH GILL)
JUDGE

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