

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

CRWP No. 10430 of 2021 (O&M)

DECIDED ON:12th October, 2022

Hamidi

.....PETITIONER

VERSUS

State of Haryana and others

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN.

Present: Mr. Talim Hussain, Advocate for petitioner.

Mr. Gurmeet Singh, AAG Haryana.

AVNEESH JHINGAN, J (ORAL)

This writ petition in the nature of Habeas Corpus is filed for release of detenu-Mufeed, son of the petitioner.

From the pleadings it is forth coming that the detenu is married to Raseena, who had earlier registered FIR No. 288 dated 27.8.2018, under Sections 452, 354-A and 506 IPC against the petitioner and her family. The detenu is suffering from mental disability.

On 1.11.2021, CMO concerned was directed to file affidavit with regard to mental ailment of detenu.

Vide order dated 7.3.2022, report was sought of the Psychiatrist to the effect that as to whether the detenu is disabled to voluntarily make a choice, to reside at his in-laws' place alongwith his wife or to live with his mother.

Affidavit dated 30.3.2022 annexing the medical report was filed.

As per report it is suggestive of Severe Neurocognitive Impairment and the relevant part of the report is reproduced below:

"Neurologist at PGIMS Rohtak has opined that patient's condition may improve with anti epileptic drugs and surgical procedure of removal of mass from brain.

Impression: On the basis of above mentioned findings, in my opinion patient is likely to be suffering from "other specified mental disorder due to brain damage and dysfunctions and to physical disease (ICD 10-F06.8) with Generalized idiopathic epilepsy and epileptic syndromes (ICD10-G40.3)".

From the report, it cannot be concluded that the detenu is in a position to take decision.

In view of the disputed questions of fact involved and considering that the detenu is residing with his wife in his inlaw's house, it is not a case of illegal custody. No interference is called for in writ jurisdiction.

The petition is dismissed.

Needless to say that the petitioner would be at liberty to avail remedy in accordance with law.

Since the main case has been dismissed, the pending application, if any is rendered infructuous.

(AVNEESH JHINGAN)
JUDGE

12th October, 2022

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Whether speaking/reasoned *Yes*

Whether reportable *No*