

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

212

CRWP-54-2023

Decided on : 07.02.2023

Samsuddin

. . . Petitioner(s)

Versus

State of Haryana and others

. . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Afjal Hussain, Advocate
for the petitioner(s).

Mr. Pawan K. Jhanda, AAG, Haryana.

SANJAY VASHISTH, J. (Oral)

At the outset, Mr. Rishab Garg, Advocate puts in appearance on behalf of respondents No.4 & 5, and files his *Vakalatnama* in Court today, which is taken on record, subject to all just exceptions. Office to tag the same at appropriate place.

Order dated 5.1.2023, passed by this Court says as under:

“Prayer in this petition, filed under Article 226 of the Constitution of India, is for issuance of a writ in the nature of habeas corpus.

Learned counsel contends that the alleged detainee, namely, Esana, resident of Sudaka, Tehsil Nuh, District Mewat, who is daughter of present petitioner, has been illegally detained by respondents No. 4 and 5.

Learned counsel for the petitioner contends that detainee, who is already married to one Saddam Hussain, has now been forcibly taken away at some unknown place by respondents No. 4 and 5. Counsel also submits that her husband namely, Saddam Hussain has never approached this Court for the relief as claimed in the present petition. Counsel submits that he received a phone call from unknown number and the detainee was crying on the other side and

named respondents No. 4 and 5 that they had detained her against her wishes at some unknown place.

Para 2 of the petition says as under:

"2. That the detenue namely Esana is daughter of petitioner and she has been illegally detained by respondent No.4 and 5 without any authority and the petitioner has come to know about this fact when the petitioner received a phone call from unknown number and the detenue was crying on the other side and she named respondent No.4 and 5 that they had detained her against her wishes at some unknown place. The very fact was brought to the knowledge of the police of police station Sadar Nuh but instead of setting the law into motion, the police has not done anything to nab respondent No.4 and 5 and to secure release of the detenue from the clutches of respondent No.4 and 5. There is apprehension to the life of the detenue from the respondents No. 4 and 5 even they may kill the detenue".

Notice of motion, for 07.02.2023.

On asking of the Court, Mr. Vikas Bhardwaj, AAG, Haryana, accepts notice on behalf of respondents No. 1 to 3 (State).

In the meantime, Registry is directed to appoint a Warrant Officer, on payment of usual charges, who will visit the place(s) of alleged detention of detenue and if found in illegal detention, then to get her released immediately after recording her statement. Warrant Officer shall submit his detailed report in that regard on or before the date fixed by this Court."

In compliance to the aforesaid order, report dated 02.02.2023, filed by warrant officer, has been opened from the sealed cover in Court today, and perused. Said report says as under:-

"The warrant and notices were given to me by the counsel of the petitioner on 26.01.2023. After that I along with relative of the petitioner proceeded for police Station-Sadar Nuh and reached there at 2:30 p.m. At that time, SHO/SI-Shri Sataynarayan and SI-Shri Munipal were present in the Police Station along with other officials, to whom I disclosed my identity and purpose for my visit. After

hearing this, SI-Munipal told me that he was the Inquiry Officer in the case of detenue. He has informed me that the detenue-Esana had given her statement under Section 164 Cr.P.C before the Court of Chief Judicial Magistrate, Nuh (Annexure-'A') by stating that she wanted to be with her husband- Vakeel through her life and she is happy with him and she do not want to meet her parents. However, a policy party was deputed by the SHO to accompany me to visit the place of alleged detention of detenue-Esana. We reached at the house of Vakeel(respondent No. 4). Then, I searched the house with the help of police but detenue was not found. I asked the family members of respondent No. 4 about the detenue. In response thereto, the brother of Vakeel (respondent No-4) who was present in the house at that time, told me that perhaps, she is in Delhi with his brother -Vakeel, but he do not know the exact place. To confirm the present place of detenue, SI-Munipal made telephonic call to Vakeel (respondent No-4) but, he did not picked up the phone call. Then, the said SI-Munipal made call to a close friend of Vakeel, who has informed that the detenue-Esana and Vakeel are in Delhi at this time. Then, I also talked to him and told him to come to Nuh and met me immediately as I have to record the statement of dentenue -Esana but he refused to come to Nuh and told me that they can meet me at Delhi or on the way, if I want to record her statement. On completing the raid, we returned to the Police Station Sadar, Nuh. After getting copies of the Roznamcha reports entered vide G. D. No. 018 dated 26.01.2023 and G.D No. 21 dated 26.01.2023 (Annexures-'B' and 'C' respectively), I left for my residence. However, while I was on the way, the detenue-Esana along with Vakeel(respondent No-4) met me, then I recorded her statement (Annexure-'D') whrein she has stated that she got married on 09.01.2023 with Vakeel without any pressure. She is very happy with her husband and want to reside with him. She do not want to meet her parents as her life and her husband's life is in danger in the hands of her parents.

After recording her statement I left for my residence and reached there at about 12:30 am on 27.01.2023.

Accordingly, the report is submitted for kind perusal of the Hon'ble High Court, please.

Encl. As above

Sd/-
HARBANS SINGH
Warrant Officer
02/02/2023"

It is also noticeable that along with said report, statement dated 16.01.2023, recorded under Section 164 Cr.P.C., before the CJM, Nuh, is attached as Annexure 'A' along with the statement dated 26.01.2023 of alleged detainee-Esana, aged 22 years, recorded by Warrant Officer, which is also attached as Annexure 'D' along with said report.

As per the said statement of the detainee and the report submitted by the warrant officer, it appears that the alleged detainee is willing to stay in the company of respondent No.5 - Saffi Mohd. with her own wish. Thus nothing is left in the present petition.

Petition stands dismissed accordingly.

(SANJAY VASHISTH)
JUDGE

February 07, 2023

J.Ram

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No