

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

258

CRWP-259-2023

Date of Decision: January 17, 2023

Sucha Singh

.....Petitioner(s)

Vs.

State of Punjab and others

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr.Zubin Chhura, Advocate for the petitioner.

Mr. Harsimar Singh Sitta, DAG, Punjab

ANOOP CHITKARA J. (ORAL)

1. The present petition has been filed for issuance of writ in the nature of habeas corpus directing the official respondents to get release the detenue-Kuldeep Kaur (minor) from the illegal detention of the private respondents.
2. State counsel submits that on the last occasion, petition was filed on her behalf and she was produced before the Judicial Magistrate, who recorded her statement under Section 164 Cr.P.C.. In the head-note of such statement, she had mentioned her age to be 16 years. However, she did not make any statement about her age on Oath. Even State got ossification test done, according to which her age based on the bone density, was found to be from 17 to 19 years of age. He further submits that she told that all her family members are in her side except her father-petitioner.
3. The facts of the case are that a minor girl whose age is disputed and she claimed to be major, has went away from the home and has still not been traced.
4. Given the presumption that the girl being not 18 years coupled with the fact that her age being recorded as 16 years in the head note of the statement under Section 164 Cr.P.C., as and when police able to trace her, will produce her before the same Judicial Magistrate, who had recorded her previous statements provided that the Magistrate is still posted at the same place. However, in case Magistrate has been transferred or on long leave then it shall be open for the police to produce the girl

before any nearest Magistrate. On such production, the concerned Magistrate shall interact with her and record her age on Oath and after that in case she is found to be minor, then the Magistrate would either send her to her parent(s) or to Child Welfare Home till she attains the age of 18 years.

The petition is disposed of with the aforesaid observations.

(ANOOP CHITKARA)
JUDGE

January 17, 2023
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Whether speaking/reasoned:	Yes/No
Whether reportable:	No