

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No.265

Case No. : CRWP-895-2023

Date of Decision : February 20, 2023

Jeetu

.... Petitioner

vs.

State of Haryana

.... Respondent

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

* * *

Present : Mr. Tarmeem Azad, Advocate
for the petitioner.

Mr. R. S. Nain, DAG, Haryana.

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GURBIR SINGH, J. :

This Criminal Writ Petition has been filed by the petitioner under Article 226 of the Constitution of India with a prayer for issuing a writ in the nature of Habeas Corpus for appointing a Warrant Officer and directing respondents no.2 to 4 to release detainee Anjum wife of Saif Ali and daughter of Minna Khan (respondent no.5) from illegal custody of respondent no.4 - In-charge of Aanchal Chhaya (orphanage home), as she is major.

Learned counsel for the petitioner has submitted that son of the petitioner married detainee Anjum (now daughter-in-law of the petitioner), who is illegally detained by respondent no.4 i.e. In-charge of Aanchal Chhaya (orphanage home), at the instance of police.

The parties are governed by Muslim law. As per a judgment

passed by a Co-ordinate Bench of this Court in **Gulam Deen and another vs. State of Punjab and others – CRWP-5744-2022**, a Muslim girl is entitled to marry after attaining the age of 15 years. The detainee – Anjum and son of the petitioner Saif Ali, after solemnizing marriage, filed a Protection Petition, whereby, vide order dated 18.07.2022 (Annexure P-2), a direction was issued to Superintendent of Police, Palwal, to look into the representation, if any, seeking protection of life and liberty and if necessary, to take requisite steps. Respondent no.5 then moved an application for recalling the said order dated 18.07.2022, but the same was declined vide order dated 14.11.2022 (Annexure P-4). It is further submitted that the detainee – Anjum is now a few months less for attaining the age of majority i.e. 18 years.

As per Status Report filed by the State, after recording statement under Section 164 Cr.P.C. by learned Illaqa Magistrate, Palwal, the detainee – Anjum was handed over to “One Stop Centre, GH, Palwal” for further custody being a minor and now, she is with them. Her statement recorded under Section 164 Cr.P.C. is Annexure R-1, wherein she has stated that she had married to Saif Ali voluntarily. He did not pressurize her to marry him. She wanted to live with Saif Ali.

Without any orders of any Authority, the detainee – Anjum was left with respondent no.4. Since she belongs to Muslim community and had married a Muslim boy according to the Muslim rights and is more than 15 years, her marriage apparently cannot be considered as void marriage. Rather, it is a valid marriage. It is so held in case **Yunus Khan vs. State of**

custody of the girl was given to her husband under similar circumstances.

Keeping in view peculiar facts and circumstances of the case, let the detenue – Anjum be taken to the court of Illaqa Magistrate, Palwal and her statement be recorded to the effect as to with whom she wants to live – her parents or her husband. Thereafter, she be allowed to go as per her own wish.

With the above directions, the petition stands disposed of.

February 20, 2023
monika

(GURBIR SINGH)
JUDGE

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