

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRWP-2905-2023 (O&M)
Date of Decision:-26.5.2023

Meenakshi Chaturvedi

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Rohit Mittal, Advocate, for the petitioner.

Mr. Gurmeet Singh, AAG, Haryana.

Mr. Lekh Raj Sharma, Advocate, for respondents No.4 and 5.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has approached this Court seeking issuance of a writ in the nature of Habeas Corpus so as to get her minor son Tanush Sharma aged about 7 years recovered who is alleged to be illegally detained by his grand parents i.e. respondents No.4 and 5.
2. Learned counsel for the petitioner has submitted that the grand parents cannot be said to have better rights than the petitioner qua the petitioner's son and since they are not handing over the custody of the child, such custody is essentially illegal and as such a writ in the nature of Habeas Corpus ought to be issued.
3. It is not in dispute that the marriage of the petitioner with Ravi Kant was solemnized in the year 2016. As per the petitioner she was thrown out of her

matrimonial home in the year 2019 leading to the petitioner lodging FIR No.104, dated 20.8.2022, Police Station Women Police Station, District Rewari, under Sections 328, 354-A, 354-C, 377, 498-A, 506, 509 IPC (Annexure P-3) against in-laws and husband apart from other FIRs.

4. As per the case of the petitioner, it was on 22.2.2022 that the son of the petitioner was snatched from her by her father-in-law and consequently the petitioner filed a petition seeking custody of her son in the Family Court at Rewari on 22.11.2022. At that time the child was with his father and no directions qua any interim custody were issued.
5. Subsequently, the petitioner's husband i.e. father of Tanush Sharma expired on 13.1.2023 and ever since the petitioner's son has been residing with his grand parents at Gurugram. According to the petitioner it was after death of petitioner's husband that the child was taken away by his grant parents.
6. This Court has considered the submissions addressed before this Court.
7. Having regard to the fact that the child aged 7 years has been residing either with his father or grand parents since February 2022 and after the demise of his father with his grand parents which would necessarily indicate that it will take some time for the child to forge bonds with his mother again and it will not be possible or feasible to hand over the custody just on one fine day. In any case, the petitioner had already approached the Family Court by way of filing a petition against her husband, but on account of the death of her husband the same would have been rendered redundant. In these circumstances this Court is of the opinion that it will be more appropriate that the petitioner approaches the Family Court so as to seek custody of her minor son from respondents No.4 and 5. In case any such petition is filed before the

Family Court, the Presiding Officer shall take necessary steps for disposing of such petition at the earliest subject to its convenience. Further, in case any application for grant of interim custody is filed the same shall be disposed of expeditiously preferably within a period of 2 weeks of filing of such application provided the respondents put in appearance. The trial Court shall take all necessary steps for securing presence of the respondents who may also be served through counsel representing them in any other pending litigation. It is further directed that the trial Court shall consider issuing necessary directions at the earliest for visitation rights to the petitioner which may be granted liberally so as to enable the petitioner to have frequent meetings with her son to enable her to forge the bond between her son as prima-facie the petitioner would have a better right qua custody of her child viz a viz the grand parents of the child unless there are some other strong and compelling circumstances to the contrary which justify that the custody be not handed over to the mother.

- 8. It is however, clarified that none of the observations recorded above shall be taken to be an expression as regards merits of the case.
- 9. The petition, as such, is disposed of accordingly.

26.5.2023
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(GURVINDER SINGH GILL)
JUDGE

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