

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

**206**

**CWP-10507-2022 (O&M)  
Date of Decision: 10.02.2023**

**HARJINDER SINGH**

... Petitioner

**VERSUS**

**THE STATE OF PUNJAB AND OTHERS**

... Respondents

**CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.**

Present: Dr. Gurjit Kaur Bagri, Advocate for  
Mr. G.S. Ghuman, Advocate and  
Mr. G.P.S. Ghuman, Advocate  
for the petitioner.

Ms. Niharika Sharma, AAG, Punjab.

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**VINOD S. BHARDWAJ, J. (ORAL)**

The present petition has been filed under Articles 226/227 of the Constitution of India, 1950 for issuance of a writ in the nature of Mandamus for directing the respondents to deliver the permanent custody of new born child, who is found by the petitioner on his way from duty.

Briefly summarized, the facts of the present case are that the petitioner, who is posted as Assistant Sub Inspector, Punjab Police in District Kapurthala, is married to one Jyoti Bala. Their marriage was solemnized on 29.09.2014. However, no issue is yet born out of this wedlock despite a lapse of nearly eight years. The petitioner was on his way home after completion of his official duty on 04.04.2022 and when he reached the bridge near Village Bhagwanpur, he found an abandoned newly born baby boy. He made attempts to trace the parents of the child, however, they were nowhere to be found. The circumstances indicated that the child has been abandoned at birth. He immediately informed the Control Room of Punjab Police, District Kapurthala

and the said baby boy was admitted at Civil Hospital, Kapurthala and is still in the protective care and custody of the Civil Hospital, Kapurthala. An FIR No.26 dated 04.04.2022 under Section 317 of IPC has also been registered at Police Station Fattu Dyinga District Kapurthala. The petitioner thereafter submitted an application before the District Child Protection Officer for taking the child in adoption. However, no decision has been taken thereupon.

Notice of petition was served upon the State of Punjab.

The petitioner also moved an application bearing No.CM-15839-CWP-2022 seeking interim custody of the minor child during the pendency of the writ petition since the condition of the child was stable and he was to be discharged from the hospital.

Notice of the aforesaid application was also issued to the respondent-State.

Learned Counsel for the State has placed reliance on the affidavit filed by the District Child Protection Officer, Kapurthala, wherein the aforesaid factual aspects have been admitted. It has also been submitted that the application for adoption of orphaned/surrendered/ abandoned child has to be submitted in terms of Section 58 of the Juvenile Justice (Care and Protection of Children) Act, 2015 and the Rules framed by the Central Adoption Resource Authority (CARA). She submits that since the application has not been submitted by the petitioner in the prescribed format to the competent Authority, the decision to give the child in adoption cannot be taken. The respondent-State, however, has no objection to the consideration of the application for adoption in accordance with law and in a time bound manner in case such an application is submitted before the Competent Authority. Additionally, the learned State Counsel, on instructions from ASI

Sukhchain Singh, No.71//KPT has also no objection to handing over interim custody of the abovesaid minor child-baby boy in favour of the petitioner.

Accordingly, the present petition is disposed of with a direction that the petitioner shall submit an application in the prescribed format as per the Section 58 of the Juvenile Justice (Care and Protection of Children) Act, 2015, as amended from time to time before the competent Authority within a period of eight weeks from today, whereupon a decision shall be taken by the competent Authority in accordance with law in a time bound manner and preferably within a period of two months from the date of submission of such application by the petitioner.

In the meanwhile, the interim custody of the above said minor child-baby boy shall be handed over to the petitioner by the Civil Hospital and/or District Child Protection Officer, Kapurthala after completion of all types of formalities.

The petition as well as the Misc. Application for seeking interim custody of the child stand disposed of accordingly.

**10.02.2023.**  
*rajender*

**(VINOD S. BHARDWAJ)**  
**JUDGE**

*Whether speaking/reasoned* : Yes/No

*Whether reportable* : Yes/No