

CRWP-6751-2022

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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRWP-6751-2022

Date of Decision: August 16, 2023

Jyoti Rani

.....Petitioner(s)

Vs.

State of Punjab and others

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Prashant Bansal Advocate
for the petitioner(s).

Mr. Anup Singla, Asst. A.G. Punjab

Mr. Kanwar Inder Singh, Advocate and
Mr. Tarun Seth, Legal Aid Counsel for respondent No.4 & 5.

Mr. Vishal Sharma, Advocate
for respondent No.4 and 5.

ANOOP CHITKARA J. (ORAL)

The present petition has been filed for issuance of writ in the nature of Habeas Corpus directing the official respondents for release of detenues-Daksh and Nitin (sons of the petitioner), who is stated to be in illegal custody of private respondents No.4 and 5.

2. On the last date of hearing, counsel for respondents No.4 and 5 could not appear because he omitted the date of hearing before this Court and this Court appointed Legal Aid Counsels on behalf of respondents No.4 and 5. Now counsel for respondents No.4 and 5 appeared and submits that he want to proceed with the case further.

3. Given above, legal aid counsels are discharged from the present case.

4. Counsel for the petitioner prayed for grant of visiting rights or custody of minor for few days i.e. till she avail statutory remedy in accordance with law.

5. To enable the petitioner to take legal recourse under statutory provisions, in the interregnum for a period of 100 days, the petitioner shall be at liberty to pick up her sons- Daksh and Nitin on every Saturday between 4:00 pm to 6:00 pm from the private respondents' premises and the private respondents shall pick up the children back from the petitioner's residence every Sunday between 4:00 pm to 6:00 pm. This settlement shall also run on public holiday(s) & school vacation as well. On holiday & school vacation, the petitioner shall take away the children between 9:00 to 10:00 am and private respondents can take them back in the evening between 5:00 pm to 7:00 pm. It is clarified that in case the petitioner denies to hand over the custody of the children back, this conduct of petitioner shall be taken against her very seriously. It is also clarified that if private respondents fail to pick up their children, the petitioner is permitted to enroll children in the nearest school.

6. Given the assurance of the petitioner, this Court trusts her, believes her and in case she denies to hand over custody of the children back, it shall be permissible for private respondent to file an application and custody of the children shall be restored to them and this Court shall proceed against the petitioner in accordance with law. It is clarified that respondents No.4 and 5 shall co-operate with her.

7. It is further clarified that when the petitioner visits to pick up the child, she would carry decent gifts for the children as well as also for other family members of her husband. The private respondents to accept her gifts with utmost respect and when they visit to pick up the child, they also reciprocate with better

gifts. Moreover, at the time of meeting, petitioner and private respondents No.4 and 5 not create any scene and behave in a decent manner toward each other. In case, any of the party fails to comply with this direction, the other party can approach to this Court and this Court shall take it very seriously.

8. In case of any issue arises between the petitioner and private respondents No.4 and 5, each party can approach to his/her counsel and their counsel shall interact with each other to settle the matter.

9. This settlement shall go on for a period of 100 days. In case the petitioner approaches the competent Court, under the Guardians and Wards Act, 1890, before 100 days, the concerned Court may proceed with further in accordance with law except diluting this portion of order till the completion of 100 days. It is further clarified that in case the concerned Court passes any more favourable order in favour of the petitioner before the expiry of 100 days, this order shall eclipse automatically.

10. With the aforesaid observations, the present petition is disposed of.
All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

August 16, 2023
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Whether speaking/reasoned:	Yes/No
Whether reportable:	No