

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

224

**CRWP-472-2018
Date of Decision: July 13, 2023**

Sandeep Kaur

.....Petitioner(s)

Vs.

State of Punjab and others

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Sandeep Sharma, Advocate for the petitioner(s).

Mr. Karunesh Kaushal, AAG, Punjab.

Mr. Amardeep Singh Gill, Advocate for respondent No.3.

ANOOP CHITKARA J. (ORAL)

The present petition has been filed for issuance of writ in the nature of Habeas Corpus directing the official respondents to release the detenue-minor son of the petitioner and hand over the custody to her, being his mother.

2. Counsel for the petitioner submits that the custody of the minor may be restored to the petitioner being his mother. He further submits that minor was in illegal custody of respondent No.3 and now he has been expired and his wife is in judicial custody under an NDPS case and prayed for custody of the minor.

3. On the other hand, counsel for respondent No.3 submits that the custody of minor is legally given by an adoption deed and the said adoption deed is in challenge before the Competent Court. Even after death of respondent No.3, valid custodian is his wife but the petitioner fails to array her as party before this Court. On the question of visiting rights, counsel for respondent No.3 submits that they have no objection if visiting rights for a limited period are given to petitioner-mother.

4. Counsel for the petitioner submits that he would be satisfied if visiting rights be given for 100 days to enable him to file petition under Guardians & Wards Act before the Competent Court.

5. Given above, 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 take the child to spend time with him for three hours on every Sunday from 10:00 am to 1:00 p.m. It is clarified that family member i.e. father & mother of respondent No.3, shall mentally prepare the child to spend time in the company of his mother, which is her natural right, and shall co-operate with her. It is clarified that in case the petitioner fails to visit on any Sunday to meet her child, this would not amount to waive off her right and she can meet on any holiday that falls in that very week. Moreover, in case family members of respondent No.3 do not let the child to meet her mother, the custody of the child would restore to the petitioner-mother.

6. This settlement shall go on for 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 further in accordance with law except diluting this portion of order till the completion of 100 days. In case of restoration of custody to petitioner by the trial Court before 100 days, this order shall eclipse automatically.

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

(ANOOP CHITKARA)
JUDGE

July 13, 2023/anju rani

Whether speaking/reasoned:	Yes/No
Whether reportable:	No