

215

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRWP No. 6415 of 2023
Date of Decision: 05.07.2023

Jamila

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Amit Siwach, Advocate for
Mr. Sagar Panghal, Advocate the petitioner.

Mr. Manish Bansal, Sr. D.A.G, Haryana.

ANOOP CHITKARA, J.

Seeking release of her husband, the petitioner, aged 41 years has come up before this Court by filing the present petition for habeas corpus.

2. The petitioner’s husband was stated to be a truck driver and according to the petitioner, her husband had gone to deliver some goods to Kolkata on 11.04.2022. He had gone with three persons, namely Saalim, Azad and Mubarik i.e. respondents No. 3, 4 and 6. After that, on 20.04.2022, she received a phone call from her husband that he has threat to his life from the aforesaid persons. Subsequently, on 22.04.2022, the petitioner came to know that the vehicle of the petitioner’s husband was traced in the Kaliachak, Police Station Malda, District West Bengal. The petitioner’s son reached at the police station and got to know that the vehicle was found at a deserted place without its driver or owner. Subsequently, he lodged a complaint in Kaliachak police Station, West Bengal about everything but no action was taken.

3. The concerned Deputy Superintendent of Police has filed the status report and it would be appropriate to extract the contents mentioned in paragraphs No. 4 to 8, which reads as follows:

“4. That during the course of enquiry, it came forth that Iqbal (husband of the petitioner) used to drive a Tata LPT 3118 vehicle bearing registration no. HR-73-7724 (which is in the name of his son Wajib). On 11.04.2022, the said vehicle had gone from Chaupanki (Bhiwadi, Rajasthan) to Kolkata, with Kamdhenu paint. Iqbal was driving the said truck. The said truck reached Kolkata on 16.04.2022 and the goods were unloaded. Iqbal had called his son

Wajib on his mobile no. 9813865321 from his (Iqbal's) mobile no. 9991861895. Thereafter, Iqbal had stayed in Kolkata till 20.04.2022 while waiting for goods to be loaded. Thereafter he had filled his truck with iron saria at Durgapur (around 200 kms away from Kolkata) and left for Assam. He had talked to his son Wajib at around 12 AM with regard to Fastag.

5. That on 21.04.2022, when the GPS location of the above mentioned truck was checked, the location was found to be of Distt. Mursidabad (West Bengal). The said truck was found at Kaliyachak, Distt. Malda (West Bengal). However, Iqbal could not be found. The persons namely Wajib, Azad etc. and the person whom Iqbal had called lastly were enquired about Iqbal, however, his location could not be found.

6. That thereafter, a case FIR No. 565 dated 27.05.2022 u/s 363 IPC was got registered by Wajib (son of missing person Iqbal) at P.S. Kaliyachak, Distt. Malda (West Bengal).

7. That the respondent no. 3 to 6 i.e. Salim, Azad, Ansar and Mubarik were also joined in the enquiry and their statements were recorded. The respondent no. 3 Salim stated that the vehicle used to ply from Bhiwadi to Jharkhand, Patna, Bihar and Kolkata and he was working as conductor and his brother Ansar used to drive the vehicle, from April, Tarif used to drive the vehicle. Now, they have sold the vehicle and Salim remains at home. Iqbal is his uncle (mausa) in relation. He used to converse with Iqbal from his mobile number 7047534779 He was in remand home at Faridabad in NDPS Act case in the month of March and April. When he came outside the jail, he came to know 2- 3 days later that Iqbal has gone missing. Iqbal was dealing with ganja etc. for the last many years and he was known to the persons in Bihar, Vadodara etc. who used to deal with ganja etc. He does not know anything else about Iqbal.

8. That the respondent no. 4 Azad re-iterated the above mentioned averments made by the respondent no. 3 Salim in his statement. The respondent no. 6 stated that he does not know Iqbal and that he has never met him. The statement of respondent no. 3 Salim is annexed as Annexure R-1 and statement of respondent no. 4 Aazad is annexed as Annexure R-2 and statement of respondent no. 5 Ansar is annexed as Annexure R-3 & statement of respondent no. 6 Mubarik is annexed as Annexure R-4 and statement of Wazid is annexed as Annexure R-5."

4. As per paragraph 4 of the status report, it is mentioned that on 16.04.2022, the truck had reached Kolkata. As per the petitioner, her husband had spoken with her on 20.04.2022. Thus, at that point of time, the petitioner's husband was out side the territorial

jurisdiction of this Court and was in West Bengal.

5. As per paragraph 6 of the status report, an FIR No. 565 dated 27.05.2022, under Section 363 IPC was registered at the instance of Wajib son of Iqbal at Police Station Kaliyachak, District Malda (West Bengal).

6. Now after a gap of 01 year and 02 months, the petitioner has come up before this Court seeking release of her husband from the aforesaid persons. Since the alleged detenue had last talked to the petitioner from West Bengal and a missing report was already registered there, therefore, the present petition in the nature of habeas corpus is not maintainable in this Court and the present petition is dismissed with liberty to take all other remedies in accordance with law. All pending miscellaneous applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

05.07.2023
Jyoti-II

Whether speaking/reasoned:	Yes
Whether reportable:	No.