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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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Date of Decision: 20.08.2023

Sunil Kumar

.....Petitioner(s)

Vs.

State of Haryana and others

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Deepak Kumar Bartia, Advocate for the petitioner

Mr. Manish Bansal, Sr. DAG, Haryana

(Through Video Conferencing at Lordship's residence)

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 ensure releasing of the detenue-Pooja Rani, aged 27 years from the alleged illegal custody of respondent Nos.3 and 4.

2. Notices were issued to the official respondents yesterday, through the State Counsel. Given the nature of the order that this Court proposes to pass, neither the response of official respondents nor the issuance of notices to the private respondents is required.

3. Counsel for the petitioner on instructions submits that the petitioner along with detenue was illegally detained by respondents No.3 and 4 from 14.08.2023 to 16.08.2023. On 16.08.2023, respondent No.4 produced the detenue before the concerned Judicial Magistrate, who had recorded the statement of the detenue under Section 164. Cr.P.C. in which she explicitly states that she had gone with the petitioner of her own free will.

4. Counsel for State on instructions, submits that initially the parents of the detenue Pooja had filed a complaint about her missing and acting on such complaint, the police had got her statement recorded under section 164 CrPC, in which Pooja had stated that she had gone on her own free will. However, she kept silent with whom did she wanted to stay. Pooja was initially sent to 'One Stop Centre for Women' in Karnal and now she is living with her own free will with her maternal uncle (*Mama*). However,

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based on the instruction, the petitioner's counsel states that the detainee is staying with her *Mama* against her free will and is being forced to stay with him against her wishes.

5. Given the stand of the petitioner, the concerned DySP shall either himself/herself or by deputing any other police officials except respondents No.3, 4 and 5 to produce the detainee-Pooja Rani before the nearest Judicial Magistrate preferably a female Judicial Magistrate on 21.08.2023 or within a reasonable time, where the petitioner may also meet the detainee, (provided she wants to meet him) in the presence of female police official, for 15 minutes before her production before the concerned Judicial Magistrate and for 15 minutes after recording of her statement, if she decided not to stay with him. It is clarified that at the time of meeting of the petitioner with the detainee, the petitioner would be extremely respectful and modest to the detainee, and in case he violates the directions issued by this Court, it shall be viewed very seriously against him.

6. On such production, the concerned Judicial Magistrate shall interact with detainee Pooja Rani. After such interaction, it is for the Judicial Magistrate's either to record her statement under Section 164 Cr.P.C. or simply to pass an order to the effect about her liberty. Needless to say, that the detainee is an adult and she has a right to live at a place and with the person of her choice and none including the State has any right or business to interfere in her personal life.

7. **The petition is disposed of with the aforesaid observations**, and with liberty reserved to the petitioner to raise all the remaining issues either by filing separate 'Direction petition' before this Court or/and by approaching Human Rights Commission, or/and appropriate Court(s) in accordance with law, within a reasonable time, i.e., within ninety days from today. All pending applications, if any, stand disposed.

8. *There would be no need for a certified copy of this order, and any Advocate for the Petitioner and State can download this order and other relevant particulars from the official web page of this court and attest it to be a true copy. The concerned officer can also verify its authenticity and may download and use the downloaded copy for immediate use.*

(ANOOP CHITKARA)
JUDGE

20.08.2023
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Whether speaking/reasoned: Yes/No
Whether reportable: No