

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

237

CRWP-8891-2023(O&M)

Date of Decision : November 23, 2023

Harjinder Kaur @ Jinder Kaur

.....Petitioner

VERSUS

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. R.S.Sidhu, Advocate for the petitioner.
Mr. Karunesh Kaushal, AAG, Punjab.

KULDEEP TIWARI. J.(Oral)

1. The petitioner has approached this Court through the instant petition seeking the release of Amandeep Kaur, the alleged detenue, on the ground that she is her minor daughter and is in the illegal custody of private respondents No.5 to 8, therefore, writ of Habeas Corpus may be issued and she may be recovered from the private respondents and her custody be handed over to her forthwith.

2. This Court vide order dated 11.9.2023 issued notice to the official respondents.

3. Upon notice, a short reply by way of affidavit has been filed by the Deputy Superintendent of Police, PBI-NDPS-cum-Narcotics, Amritsar-Rural before this Court.

4. Upon perusal of the reply, it is unfolded that the alleged detenue, who is stated to be minor by the present petitioner, has solemnized marriage with one Balwinder Singh. In order to enquire into the exact age of the alleged detenue, one ASI Tejinder Singh, got a report from the Principal, Shaheed Jasbir Singh Senior Secondary School,

Bundala. As per the school record, the date of birth of the alleged detainee is 6.4.2005, therefore, it was concluded in the enquiry that the alleged detainee is major. Further, it is mentioned in the enquiry report that both Amandeep Kaur and Balwinder Singh filed a petition bearing No. CRM-2140-2023 before the Court of learned District and Sessions Judge, Amritsar, for seeking protection by alleging that they being adult persons have solemnized love marriage with each other on 9.9.2023 with their own free will and consent. Upon their petition, the learned District and Sessions Judge, Amritsar has passed the following order on 12.9.2023:-

“Petitioners have filed this petition for protection to their lives, liberty and property from respondents No.1 and 2. It be registered as CrI.Misc. Both the petitioners are present with their counsel Sh. Gaurav Vinayak, Advocate Their statements have been recorded separately. I have also heard them personally. The petitioners are major and have legally solemnized their marriage on 9.9.2023. They have stated that they apprehend danger to their lives from the hands of abovesaid persons. Accordingly, Senior Superintendent of Police, Amritsar rural is directed to provide immediate protection to the couple and to ensure the security of lives and liberty of petitioners. A separate letter be written to the Senior Superintendent of Police, Amritsar rural to ensure the same and he is directed to send report to this court for 7.10.2023.

Notice of petition be also issued to the abovesaid respondents for the date fixed. Notice of this petition be also issued to respondent No. 1&2 for said

date."

5. Considering the date of birth, as per the enquiry report and the order passed by the learned District and Sessions Judge, Amritsar, the official respondents concluded that she is not in illegal detention.
6. Learned counsel for the petitioner has filed a separate miscellaneous application i.e. CRM-W-1644-2023, for placing on record one birth certificate issued by the Chief Registrar (Birth and Death), Punjab, which relates to Kiranpreet Kaur, wherein her date of birth is mentioned as 2.11.2007.
7. There is nothing on record to substantiate that Amandeep Kaur, the alleged detainee has ever been called as Kiranpreet Kaur. Therefore, keeping in view the facts and circumstances that the alleged detainee in the enquiry was found to be a major, and she with her own free will and consent, is living with respondent No.8-Balwinder Singh, who is now her husband, and, therefore, cannot be stated to be in his illegal custody.
8. In view of the above, no further interference is required in the present petition. Therefore, the same is, hereby, **dismissed**.
9. All the pending applications, if any, stand disposed of.

(KULDEEP TIWARI)
JUDGE

November 23, 2023
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Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No