

CRWP-12105-2022

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

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Decided on : 11.05.2023

Rani

... Petitioner(s)

Versus

State of Punjab and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: None for the petitioner(s).

Mr. Anmol Singh Sandhu, AAG, Punjab.

Mr. Arvvinder Ahluwalia, Advocate
for respondents No.4 & 5.

SANJAY VASHISTH, J. (Oral)

1. Present petition had been filed by the petitioners for issuance of a writ in the nature of *Habeas Corpus* for releasing the detainee namely; Priti d/o Baneshwar s/o Chaman Lal, r/o Village Paragpur, PS Chilkana, District Saharanpur (UP). In fact, it was submitted that the detainee and son of the petitioner namely; Darshan Singh @ Sukhwinder Singh, were in a relationship, and thereafter, married with each other against the wishes of the parents of alleged detainee i.e. respondents No.4 & 5.

2. Vide order dated 27.12.2022, notice of motion was issued, and thereafter, by noticing the report of the Warrant Officer, following order was passed on 12.01.2023:-

*“Present: Mr. JS Moudgill, Advocate
for the petitioner(s).*

Mr. Anmol Singh Sandhu, AAG, Punjab.

In compliance of the order dated 27.12.2022,

report dated 09.01.2023, prepared and submitted by the Warrant Officer along with statement of the alleged detainee, are taken out from the sealed cover in Court today. Registry is directed to tag the same at appropriate place with case file. Relevant extracted part of the said report says as under:-

“Then, accompanied by the SI along with aforesaid two officials, I reached at the house of Respondent Nos.4 & 5 in village Paragpur at about 7:00 PM. Respondent Nos.4 & 5 along with the alleged detainee were found present at the house. SI introduced me to them as Warrant Officer in the case i.e. CrI.W.P.No. 12105 of 2022 filed in the Hon'ble Punjab & Haryana High Court at Chandigarh. Taking Priti aside, I asked to make a specific statement free from any sort of fear or pressure as to whether she was being detained by Respondent Nos.4 & 5 against her wishes. In her statement at Annexure-'A', Priti stated that she has studied up to 8th class; as per T.C. she is about 16 years old; Darshan @ Sukhwinder s/o Amrik Singh R/o Raipur Bet, P.S. Koom Kalan, District Ludhiana (Pb.) had enticed her and got married at one Gurudwara, we maintained physical relations as husband and wife; he kept me in his house; in relationship, Sukhwinder is the son of her Bua (father's sister); now, she wishes to live with her parents and she is much happy with them; she has no difficulty at all and in any case don't want to go to the house of Sukhwinder because he has outraged her modesty. Statement of Priti was recorded by LC1430-Charu in my presence and screen-short of the statement was taken by the SI in his mobile for the reason that the statement is also required to be placed in their record.

On my return to Police Station Chilkana, I required copy of Roznamcha Report in connection with deputing police officials to accompany me to village Paragpur. In response, Computer Operator-Mr. Amit Pal told me that it was not possible for him to issue the same then and there and informed me that copy of the report could be obtained from him at 11.00 AM on the following day. For this reason, I have received copy of the

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Roznamcha Report-G.D. No.041 dated 28.12.2022 registered at 17:45 PM(Annexure-'B') on my whatsapp on the next day. Perusal of Roznamcha Report issued under the signatures of Inspector of P.S. Chilkana, clearly shows that there is no mention of SI who accompanied me to village Paragpur besides the two police officials. However, it may be worth mentioning here that later on petitioner-Rani has told me the name of the SI concealing his identity as Rohan Singh since he has been the Investigation Officer in Case-FIR No.0241 dated 04.09.2022, P.S. Chilkana registered against her son Darshan Singh @ Sukhwinder Singh presently confined in the jail at Saharanpur.

Notices issued to Respondent Nos.4 & 5 have been duly served upon them.

Here, the fact needs to be highlighted that at the time of recording statement, alleged detainee Priti was found to be under acute pressure and tutoring from the side of some else.

Accordingly, report is submitted for kind perusal of the Hon'ble Court, please.

Dated:-09.01.2023

*Sd/-
(Tarlochan Singh)
Warrant Officer
Punjab & Haryana High Court”*

There is no representation on behalf of respondents No.4 & 5.

In the interest of justice, adjourned to 24.01.2023.

Counsel will also assist the Court whether in the present case, this Court can direct the respondents, who are residents of Uttar Pradesh to produce the detainee before this Court.”

3. On 13.04.2023, there was no representation on behalf of the petitioner, and Registry was directed to inform the learned counsel for the petitioner about the next date of hearing fixed before this Court i.e. today

(11.05.2023).

4. As per office report, Mr. J.S. Moudgill, Advocate, for the petitioner was informed on his mobile phone about the today's date fixed before this Court. However, again there is no representation on behalf of the petitioner.

5. Status report dated 11.05.2023, by way of affidavit of ACP, Industrial Area 'A', District Police Commissionerate, Ludhiana, on behalf of respondents No.1 to 3, has been filed by learned State counsel, in Court today, which is taken on record, subject to all just exceptions. Office to tag the same at appropriate place.

6. Learned State counsel points out that petitioner is mother of one Sukhwinder Singh, who is facing proceedings in a criminal case i.e. FIR No.241, dated 04.12.2022, under Sections 363, 376 of IPC and Sections 3 & 4 of the POCSO Act, registered at Police Station Chilkana, District Saharanpur, Uttar Pradesh. In the said FIR, allegations regarding defilement of the victim/alleged detainee 'Priti', has been levelled against said Sukhwinder Singh (son of the petitioner).

7. From the reply filed by the State, learned State counsel further refers that presently the alleged detainee 'Priti' is a minor and is staying with her parents i.e. respondents No.4 & 5, respectively,, thus, such a custody of the minor girl cannot be termed as 'illegal custody or illegal detention'.

8. I have heard the submissions made by learned State counsel as well as counsel appearing for respondents No.4 & 5, and also gone through the reply filed by the State today in Court.

9. It is noticed that for the last two consecutive dates of hearing, petitioner has also not shown any interest in the present petition, and thus,

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kept himself absent in proceedings of the present case. All the more, alleged detainee is a minor and in custody of her parents, and as revealed out from the report of the warrant officer that as per the statement of the alleged detainee ‘Priti’, the said Sukhwinder Singh is the son of detainee’s Bua.

Moreover, charges against the said Sukhwinder Singh are subject matter of its decision before the concerned Court in the State of Uttar Pradesh.

10. Therefore, I do not find any merit/substance in the present petition, thus, **same stands dismissed.**

(SANJAY VASHISTH)
JUDGE

May 11, 2023
J.Ram

Whether speaking/reasoned: *Yes/No*
Whether Reportable: *Yes/No*