

#S-45

**IN THE HIGH COURT OF DELHI AT NEW DELHI**

*Judgment Delivered On: 24.05.2023*

**W.P.(CRL) 1510/2023**

**HIMANSHU**

..... Petitioner

versus

**THE STATE OF NCT OF DELHI & ORS.** .... Respondents

Advocates who appeared in this case:

For the petitioner : Mr. Harish Kumar, Advocate.  
For the respondents : Mr. Sanjay Lao, Standing Counsel (Criminal) for the State with Ms. Priyam Agarwal & Mr. Abhinav Kumar Arya, Advocates with Inspector Daljeet Kumar, P.S.: Najafgarh.

**CORAM:**

**HON'BLE MR. JUSTICE SIDDHARTH MRIDUL**

**HON'BLE MR. JUSTICE TALWANT SINGH**

**J U D G M E N T**

**SIDDHARTH MRIDUL, J. (OPEN COURT)**

1. The present writ petition under Article 226 of the Constitution of India, read with Section 482 of the Code of Criminal Procedure, 1973, has been instituted on behalf of the petitioner, praying as follows:

*'It is, therefore, most respectfully prayed that this Hon'ble Court may kindly be pleased:*

*A) to issue a writ for habeas-corpus against the*

*respondents in favour of the petitioner;*

*B) to direct the respondent No.1,3 and 4 make release the wife of the petitioner from the clutches of the respondent No.2 or from any other person in whose custody the wife of the petitioner is detained and to entrust the wife of the petitioner to the petitioner safely;*

*c) to direct the respondent No.3 and 4 to make safe and secure the life of the wife of the petitioner produce before the Hon'ble court from the custody of the respondent No.2.*

*D) Pass any other or further orders which this Hon'ble court may deem fit and proper in favour of the appellant, in the interest of justice.'*

2. The Delhi Police has facilitated the presence of Ms. 'M', the purported wife of the petitioner, before this Court; from the care and custody of the former's mother Ms. Usha.

3. The Child Welfare Committee (CWC) - Hari Nagar, before whom Ms. 'M' - who is admittedly a minor- was produced, has already *vide* order dated 08.05.2023 restored the care and custody of Ms. 'M' to her biological mother.

4. It is further an admitted position that Ms. 'M''s date of birth has been verified as 23.02.2010. A copy of the Birth Certificate of Ms. 'M', issued by the Government of National Capital Territory of Delhi, (Date of issue- 09.04.2010); as well as the Identity Card issued by the Arya Kumar Convent School, Durga Vihar-1, Roshan Pur, Najafgarh, New-Delhi-10043, which is the school first attended by Ms. 'M', also

clearly and unequivocally reflects her Date of Birth as 23.02.2010.

5. Ms. 'M' was also escorted by the Delhi Police for the recording of her statement under Section 164 of the Code of Criminal Procedure, 1973, before the concerned Metropolitan Magistrate, South-West District, Dwarka Courts, New Delhi, which was duly recorded on 08.05.2023, by the latter.

6. In view of the foregoing, learned counsel appearing on behalf of the petitioner states that relief of *habeas corpus* stands satisfied.

7. The writ petition is disposed of accordingly.

8. However, the SHO, P.S.: Najafgarh, is directed, in relation to FIR No. 0479/2021, P.S.: Najafgarh, under Section 363 of the Indian Penal Code, 1860 and Section 6 of the The Protection of Children from Sexual Offences (POCSO) Act, 2012, to investigate the circumstances in which Ms. 'M', who is admittedly a minor, was permitted to be wed to Himanshu, the petitioner *herein*, by the Arya Samaj Sewa Trust, 106, Rajindra Market, Tis Hazari Court, Delhi-110054; and file a status report in this behalf, within six weeks from today, before the Court of competent jurisdiction, in accordance with law.

9. We also consider it necessary to issue a direction in the present writ petition, to the SHO, P.S.: Najafgarh, to provide

adequate security to Ms. 'M' and her immediate family, in view of the threat and apprehension expressed by them before this Court today. The Delhi Police is further directed to furnish to the mother of Ms. 'M', with the cell-phone number of the SHO, Najafgarh (Contact No.- 8750871027) as also cell-phone number of the concerned beat constable (Mr. Bhagirath, Contact No.- 9811296321) and of the lady constable (Ms. Anita, Contact No.- 8383992141), who may be available to Ms. 'M' and her immediate family, in the case of any eventuality.

10. *Dasti.*

11. Copy of the Judgment be uploaded on the website of the Court, *forthwith.*

**SIDDHARTH MRIDUL  
(JUDGE)**

**TALWANT SINGH  
(JUDGE)**

**MAY 24, 2023/Aanchal**

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