



CRWP-4258-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRWP-4258-2024
Decided on: 10.05.2024

Manoj ...Petitioner

Versus

State of Punjab and others ...Respondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. J.S. Thind, Advocate
for the petitioner.

Mr.M.S. Bajwa, DAG, Punjab.

ANOOP CHITKARA, J.

1. Seeking release of detenue-Rajni-petitioner’s wife and also (P) daughter of petitioner, from illegal custody of respondent No.5-Davinder Singh, petitioner has come up before this Court by filing the present Criminal Writ petition in the nature of habeas corpus.
2. When the matter was taken up on 08.05.2024, this Court had directed the State to get instructions. On 09.05.2024, State sought more time to get instructions. Thereafter, when the matter was taken up today, State counsel submits that they had enquired into the matter and they are unable to trace the detenue as of date. In the writ petition, petitioner had pleaded that he was married to Rajni in the year 2005 and they have two kids i.e. boy-J(aged 14 years) and girl P(8 years). The petitioner claims to be a carpenter and states that on 03.03.2024 when he returned from his work, at that time he did not find his wife at home and then he asked his in-laws and they told him that Rajni is with them. To this, petitioner did not raise any objection. Thereafter on 22.03.2024, when he returned from work, he found that his daughter (P) was missing. Then he enquired from the neighbours but could neither find his wife nor his daughter. He also confirmed from relatives but could not trace any of them and consequently filed an application dated 23.03.2024 before the SHO, Police Station City Kurali.
3. It would be appropriate to reproduce the said letter (translated copy is at Annexure P-1) made by the petitioner, which reads as under:-

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"It is submitted that I was not present at my home my wife Rajni took my daughter Palak from home by stepping out from wall on dated 22.02.2024 at 03.49 PM. That cameas are installed at my house. She has gone to village Tesambli, District Mohali. Before coming to home she call to my daughter from phone No.78076-2160, 98076-2160. Therefore, it is request that my daughter Palak may kindly be recovered and handed over to me."

4. In the letter, it is explicitly mentioned that as per the petitioner, his wife Rajni had taken his daughter by stepping out of the wall and the petitioner refers to cameras installed in his house. After waiting for a month on 24.04.2024, petitioner filed an another complaint to SHO, Kurali, in which, he stated that he could not trace both of them and he has come to know that they have been illegally detained by one Davinder Singh S/o Malkiat Singh R/o Mani Majra, Tehsil Chamkaur Sahib, District Roopnagar, Punjab.
5. Counsel for the State submits that they had enquired that place but they could neither trace the detainue nor petitioner's wife.
6. Perusal of the earlier complaint dated 22.03.2024 (Annexure P-1) as well as P-2, shows that that his wife had taken away their daughter.
7. According to the petitioner, he and Rajni-detenuue are parents of minor son and daughter. According to the petition, age of girl is 8 years. Thus, if the mother has taken away the child, it is not appropriate case to entertain the petition for habeas corpus and the petitioner has statutory remedies to pursue in accordance with law. Thus, this Court cannot pass any order regarding handing over custody of minor child to the petitioner. However, regarding allegations of illegal detention by respondent No.5, the concerned SP to conduct enquiry and if they find that Rajni and her daughter (P) are in illegal detention of respondent No.5, they would be rescued without any delay.
8. Petition is dismissed in the observations mentioned above. Petitioner is at liberty to adjudicate other legal remedies and statutory rights in accordance with law. Pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

10.05.2024
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Whether speaking/reasoned: Yes
Whether reportable: No.