

**CRWP-6990-2024**

-1-

233

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRWP-6990-2024**

Date of Decision:- 21.08.2024

Renu Bala

...Petitioner

Vs.

State of Haryana and Ors.

...Respondents

CORAM:-HON'BLE MRS. JUSTICE AMARJOT BHATTI

Present:- Mr. Satbir Singh Gill, Advocate for petitioner.

Mr. Kanwar Sanjiv Kumar, AAG, Haryana.

AMARJOT BHATTI, J.

1. Petitioner – Renu Bala has filed petition under Article 226 of the Constitution of India for issuance of a writ in the nature of Habeas Corpus seeking release of her minor daughter detenue aged about 01 year 11 months from the illegal detention of respondents No.4 to 6 who is completely depending on her mother's breast feed, for nourishment and love and affection of her mother or any other order which the Court may deem fit and proper in the given facts and circumstances of the case.

2. Learned counsel for petitioner argued that petitioner Renu Bala got married with respondent No.4-Mohit Kumar and out of this wedlock one girl child namely Kridha was born on 23.08.2022. Respondents No.4 to 6 were expecting a male child. Due to maltreatment she got registered FIR No.583 dated 19.07.2023, under Sections 323, 406, 498-A, 506, 34 of IPC against respondents No.4 to 6 and others. Later on the matter was compromised and she was taken back in the matrimonial home. There was no change in their



CRWP-6990-2024

-2-

behaviour. In fact said compromise was effected to escape the legal action. A Panchayat was to be convened on 04.02.2024, however, on the night of 03.02.2024, there was a quarrel and she was beaten up. On the next day her family members came, she was insulted by respondents No.4 and 5. At the instance of respondent No.4, her minor child was snatched by his friends and they fled away from there. A complaint was made to Superintendent of Police, Sirsa on 06.02.2024 which is Annexure P-1. She also filed application under Section 97 of Cr.P.C. before Sub Divisional Magistrate, Hisar. Thereafter, she filed a petition under Section 25 of Guardians and Wards Act and under Section 6 (a) of the Hindu Minority and Guardianship Act, 1956 to recover the custody of minor daughter. Copy of petition along with application is Annexure P-2.

3. Learned counsel for petitioner pointed out that petitioner being mother of detinue, who is 01 year and 11 months old, is entitled to the custody of her daughter. He has relied upon the order dated 02.07.2024 passed in CRWP-5367-2024 titled "***Kamaldeep Kaur alias Kamaldeep vs. State of Haryana and Ors.***" passed by Coordinate Bench (Annexure P-3). It is submitted that interim custody of minor be handed over to petitioner during the pendency of case filed under Guardians and Wards Act.

4. Status report is already filed. It is confirmed that FIR No.583 dated 19.07.2023 was registered under Sections 323, 406, 498-A, 506, 34 of IPC at Police Station Civil Line, Sirsa which was ultimately compromised. Statement and affidavit of petitioner Renu Bala dated 13.09.2023 are Annexure R-1 and R-2. Now application has been filed to reopen the investigation in the aforesaid FIR. Petitioner also moved application before Sub Divisional Magistrate, Hisar which was dismissed vide order dated

**CRWP-6990-2024****-3-**

18.03.2024. Respondent No.4 is the father of minor daughter. The dispute is regarding custody of child between the parents which can be adjudicated only by the Court of competent jurisdiction.

5. I have considered the arguments and have carefully gone through the record. As per the facts, minor child was allegedly snatched forcibly on 04.02.2024. She filed complaint to Superintendent of Police, Sirsa on 06.02.2024 which is Annexure P-1. As per status report, application filed by petitioner before Sub Divisional Magistrate, Hisar has been declined. The matter in dispute regarding custody of minor daughter who is 01 year and 11 months old. It is matter of record that petitioner has already filed a petition under Section 25 of Guardians and Wards Act and under Section 6(a) of Hindu Minority and Guardianship Act, 1956 along with application for grant of interim custody which are Annexure P-2. Judgment of Coordinate Bench in CRWP-5367-2024 decided on 02.07.2024 (Annexure P-3) is not applicable to the facts of the present case. In that case mother was seeking custody of her minor children from respondents No.5 to 7 i.e. members of her in-laws family whereas husband of petitioner had already expired. However, in the case in hand respondent No.4-Mohit Kumar is father of minor daughter. Petitioner has already filed petition seeking custody of minor child. There is no doubt that welfare of minor child is paramount consideration. The petition will be decided on merits after recording of evidence of both parties by the Court of competent jurisdiction. It is also matter of record that application for interim custody is also pending before Principal Judge, Family Court, Hisar.

6. Under these circumstances, it will not be appropriate to pass any direction for handing over the custody of minor child in the present writ of Habeas Corpus. Principal Judge, Family Court, Hisar is directed to dispose of

CRWP-6990-2024

-4-

application for interim custody of minor child after procuring service of respondent, expeditiously as per law.

With this direction present petition is accordingly disposed of.

7. Pending miscellaneous application(s), if any, stand disposed of accordingly as well.

21.08.2024

Sunil Devi

(AMARJOT BHATTI)

JUDGE

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