



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

120

CRWP-10353-2024

DATE OF DECISION: 08.11.2024

MONIKA SHARMA

...PETITIONER

Versus

STATE OF HARYANA AND OTHERS ... RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Munfaid Khan, Advocate for the petitioner(s).
Mr. B.S.Virk, Sr. DAG, Haryana.

SANDEEP MOUDGIL, J (ORAL)

This petition has been filed under Article 226 of the Constitution of India for issuance of writ of Habeas Corpus directing the respondents 2 and 3 or for appointing a warrant officer to get release the detainee/ petitioner's sister namely Hemlata who is student of 12th class and having minor aged 16 years and 3 months from the illegal custody of private respondents especially respondent no. 4 and for producing detainee Hemlata before this Court.

It is submitted by counsel for the petitioner that the petitioner came to know about the alleged detainee having been taken by private respondent No.4 along with respondents No. 5 and 6 forcefully against the wishes of Hem Lata (minor alleged detainee) and having left with no other option, she approached this Court.

It is also put forth on record by the petitioner that an FIR No. 399 dated 19.10.2024 under Section 137 of BNS, 2023 was



registered as well at P.S. Sohana, District Gurugram, though against unknown persons.

Since the police failed to trace the minor girl, the instant petition was filed asserting that on 18.10.2024 at about 12:30 PM, the minor girl Hem Lata, aged about 16 years and 3 months as per matriculation certificate, left the home and since then her whereabouts are not known. The petitioner contacted respondent No.4 being fully aware that alleged detainee might be in custody of respondent No.4- Abhishek Tomar and, therefore, visited the house of respondents No. 4 to 6 but respondent No.4 was also not found at the place and his whereabouts were denied by his parents-respondents No. 5 and 6.

After being heard, learned counsel for the petitioner, this Court vide order dated 24.10.2024 directed the appointment of Warrant Officer who submitted his report which reads as under :-

'Learned counsel for the petitioner told me that the search is to be carried out in District Bulandshahr of UP and asked me go to Gurugram on 25.10.2024, where petitioner will meet me. I left Chandigarh at 06.00 am on 25.10.2024. Petitioner met near Jagannath Ashram, Sector 15, Gurugram and told that she has received a telephonic call from the ashram to the effect that her sister Hemlata is there. Then I alongwith petitioner and her associates reached Civil Lines, Police Station at 11.55 am. Ins./SHO Arvind Kumar met there. After disclosing my identity and purpose of visit, I ask him to provide police protection to search the detainee Hemlata at Jagannath Ashram. I along with petitioner and police party reached Ashram at 12.45 pm. Mrs. Samita Bishnoi, Superintendent, Children's Home, Gurugram situated in Jagannath Ashram met there. After disclosing my identity and purpose of visit, I asked her about detainee Hemlata. Mrs. Sarita



Bishnoi got recorded her statement (Annexure R-1) to the effect that Hemlata is in the Ashram since 23.10.2024 on the verbal orders of Child Welfare Committee, Gurugram and now she has been taken by LHC Sarita for medical, Later on she handed over me the copy of of Form 18 (Annexure R-2) vide which Hemlata was ordered to be kept in Ashram by Child Welfare Committee, Gurugram. Thereafter, ASI Rajbir Singh, Police Station Civil Lines, Gurugram called LHC Sarita, who told that SI Babita is investigation officer of this case and she is going to Police Station Sohna City with Hemlata. I alongwith petitioner and her associates reached police station City Sohna at 3.30 pm. SI Babita alongwith alleged detenue Hemlata met me there. SI told me that FIR No. 399 dated 19.10.2024 u/s 137 BNS has been registered regarding missing of Hemlata and she has come to police station Sohna on 23.10.2024 along with Parmod Kumar, Advocate. Vide application dated 23.10.2024 (Annexure R-3), Hemlata was produced before Child Welfare Committe, Gurugram and she was sent to Jagannath Ashram on the same day. On 24.10.2024, Hemlata was produced before the court of Seema, Sub Divisional Judicial Magistrate, Sohna, who has been pleased to record her statement u/s 183 BNSS (Annexure R-4). Thereafter, I record the statement of Hemlata (Annexure R-5) in which she states that she is residing with her sister Monika, her husband Jitender and grand mother Ramwati in flat No. V 102, Our Home Socity, Sector 6, Sohna District Gurugram. On 18.10.2024 she has gone to Rao PG, Mukherjee Nagar, Delhi alone. On 23.10.2024, she alongwith Parmod Kumar, advocate has come to police station City Sohna. She further states that she has not gone to her village because his brother Aakash used to beat her. She has not gone to her sister Monika's house because Monika's husband Jitender touhes her improperly. She does not want to go her sister's house or village and want to live in Jagannath Ashram, She further states that she got recorded her statement before the Child Welfare Committee, Gurugram and



statement u/s 164 Cr.P.C. on 24.10.2024. After some time, Hemlata verbally said that she is ready to go with her brother Vikas, who was present there. Then, I alongwith Hemlata and SI Babita left for Jagannath Ashram, where belongings of Hemlata are lying.. Petitioner and her brother reached Jagannath Ashram on bike. In the Ashram she verbally refused to go with her brother Vikas and stay in the Ashram. GD entry is at Annexure R 6 and R-7.'

On 28.10.2024, this Court observed after considering the report of Warrant Officer that there are three statements made by minor girl Hem Lata taking different stands and in that eventuality to know the actual reason and truth this Court shifted the minor girl from Jagannath Ashram, Sector 15, Gurugram to Ashiana, Sector-15, Chandigarh to ensure her presence in person in Court on 06.11.2024.

When the matter was taken up on 06.11.2024, Hem Lata- the alleged detainee appeared and chamber proceedings were conducted in the presence of Mr. Munfaid Khan, Advocate counsel for the petitioner, the petitioner-Monika Sharma who is elder sister of detainee and during the course of interaction in the chamber by the Court, it was revealed that Hem Lata is pursuing her studies in B.Sc (Medical) 1st year but is aggrieved on account of mal treatment given by her elder brother namely Aakash as well as brother in law (husband of present petitioner) but do not have any grudge against the petitioner and another elder brother namely Vikas. The detainee-Hem Lata is also in agreement and willing to accompany her brother-Vikas and showing no interest to go back with the petitioner's house or with respondents No.4 to 6 but since Vikas was not a party before this Court, this Court



requested State Counsel to call upon him on the next date of hearing in person to explore further possibility of sending her with her brother-Vikas.

Today, Vikas-elder brother of alleged detainee is present in Court and at the outset is willingly making a statement that he wishes to take her sister along with him and assures this Court that every possible effort would be taken to make her sister feel safe and comfortable and would also facilitate her in pursuing her studies as per her wishes and desire.

Further, this Court has recorded separate statements of Hem Lata (detenue) as well as her brother before this Court which is duly signed and counter signed by the petitioner and her counsel and the statements read as under :-

STATEMENT OF VIKAS S/O BRIJESH SHARMA, AGED 20 YEARS, RESIDENT OF VILLAGE JARTUALI, DISTRICT ALIGARH (UP)

'It is stated that I would like to take my sister, Hem Lata, along-with me and undertakes that she will receive all the love and care that she deserves, which was earlier being provided by me elder sister namely Monika Sharma, who filed the instant petition. It is further stated that she would also be given the opportunity to pursue her education in the way that she desires.

I am making the afore-said statement without any fear, coercion or undue influence.'

STATEMENT OF HEM LATA, AGED 16 ½ YEARS, RESIDENT OF VILLAGE JARTUALI, DISTRICT ALIGARH (UP)

'It is stated that I wish to accompany with my brother namely Vikas Sharma, resident of Village Jartuali, District Aligarh (UP), who is present in Court is also ready to take her and undertakes



to take care of her with love and affection. It is further stated that I have no complaint either with my sister who has filed the present petition or anyone else and I do not want to take any action further. In fact I want to pursue my further studies.

I am making the afore-said statement without any fear, coercion or undue influence.'

The above statements given by Vikas and the alleged detainee-Hem Lata are made part of the record as Document 'A' and Document 'B' respectively.

In light of the above, the alleged detainee-Hem Lata is ordered to be released from Ashiana, Sector-15, Chandigarh forthwith along with all articles whatsoever were got deposited by her at the time of joining and her custody be handed over in the Court itself to her brother-Vikas who is present in Court.

In view of the statement made, nothing survives in the present petition, hence, the same is disposed of accordingly.

(SANDEEP MOUDGIL)
JUDGE

08.11.2024
anuradha

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>