



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

131

CRWP-1182-2025

Date of decision: 04.02.2025

Gagandeep Kaur

....Petitioner

Versus

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Gurjant Singh, Advocate
for the petitioner.

Mr. Subhash Godara, Addl. A.G., Punjab.

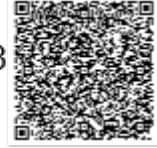
Ms. Manju Goyal, Advocate
for the respondent No.5.

HARPREET SINGH BRAR J. (Oral)

1. Prayer in this criminal writ petition filed under Article 226 of the Constitution of India, is for issuance of a writ in the nature of habeas corpus, for directing official respondents to raid the premises of respondent No.4 and to recover and hand-over the custody of the detenues namely Prabhnoor (son of the petitioner) and Ekampreet Kaur (daughter of the petitioner), being a legal guardian of both the children, from the illegal custody of respondents No.4 to 7.

2. Learned counsel for the petitioner *inter alia* contends that the petitioner is the mother of the detenues namely Prabhnoor aged about 09 years (son of the petitioner) and Ekampreet Kaur aged about 08 years (daughter of the petitioner), and both the children are minor

2025:PHHC:015988



and are in illegal custody of respondents No.4 to 7 since 08.11.2024. He further submits that the petitioner worked as a Data Entry Operator in Punjab Agricultural University, Ludhiana, for the last 04 years and has been falsely implicated in FIR No.94 dated 08.11.2024 registered under Sections 108 and 3(5) of BNS, 2023 at Police Station Maloud, District Khanna (Ludhiana), on the basis of a complaint made by complainant Rajwinder Singh.

3. Learned counsel for the petitioner further contends that both the children are minor and they require emotional support and motherly love as they are undergoing psychological trauma and none other than the mother can provide love and support to them. Learned counsel for the petitioner further submits that respondent No.4 namely Pritam Kaur, who is grandmother of the detenues, is the mother-in-law of the petitioner and respondent No.5 i.e. Rajwinder Singh, who is uncle of the alleged detenues, is the brother-in-law of the petitioner and respondents No.6 and 7 are the aunts of the alleged detenues and sisters-in-law of the petitioner.

4. Learned counsel for the petitioner relies upon the judgment passed by the Division Bench of Rajasthan High Court in “*Kusum Lal vs The State of Rajasthan and others*”, passed in DB Habeas Corpus Petition No.254 of 2024, decided on 21.08.2024, in which the facts of the case cited by the petitioner are identical. Even otherwise, as per the statutory provisions the children’s custody can only be with the parents



and the private respondents are grandparents, uncle and aunts of alleged detenues.

5. *Per contra*, learned counsel appearing for respondent No.5, opposes the prayer made by the petitioner on the ground that the petitioner has never approached the respondents to meet the children and she is accused of abetting the suicide of the father of the minor children and the minor children are living happily with the private respondents.

6. Learned State counsel submits that the petitioner is arrested in aforementioned FIR, registered on the basis of the complaint made by respondent No.5 – Rajwinder Singh and she has already been released on bail by this Court vide order dated 27.01.2025 passed in CRM-M No.3320 of 2025 and as far as the custody of the minor children are concerned, their welfare is the paramount consideration for deciding the issue raised in the instant petition.

7. Having heard learned counsel for the parties and after perusing the record with their able assistance, this Court is prima facie satisfied that the present petition deserves to be allowed as the custody of the minor children during the lifetime of the mother cannot be retained by the grandparents and uncle and further in case the private respondents intend to seek a direction with regard to taking custody of the minor children from their mother, they would be at liberty to invoke appropriate remedy under the Guardians and Wards Act.

8. In view of the above, the instant habeas corpus petition is allowed. The jurisdictional police authorities are directed to hand-over

2025:PHHC:015988



the custody of the alleged detenues (minor children namely Prabhnoor and Ekampreet Kaur), to the petitioner within a period of 03 days from today and the concerned SHO is directed to ensure that no harm is caused to the petitioner and her minor children during the process.

(HARPREET SINGH BRAR)
JUDGE

04.02.2025
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No