

2025:PHHC:058859



111.

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRWP-4478-2025

Date of decision: 02.05.2025

Pinki Rani

.... Petitioner

Versus

State of Haryana and others

.... Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Hemant Hans, Advocate, for the petitioner.

MANJARI NEHRU KAUL, J. (ORAL)

1. Prayer in this criminal writ petition filed under Article 226 of the Constitution of India read with Section 528 of BNSS is for issuance of a writ in the nature of habeas corpus directing the official respondents to get release the minor child, daughter of the petitioner, from the illegal detention of respondents No.4 to 10.

2. Learned counsel for the petitioner submits that the petitioner is the biological mother and natural guardian of the minor child, xxx (hereinafter referred to as alleged detainee), aged approximately 3 years. It is contended that ever since her marriage with respondent No.4, the petitioner has been subjected to continuous harassment and cruelty by the private respondents, particularly on account of illegal demands for dowry.

3. It is further submitted that on 23.02.2025, the petitioner was allegedly threatened by respondent No.4 (her husband) and her brother-in-

law, during a meeting convened by a panchayat, following which, the private respondents forcibly took away the alleged detainee, from the venue without the consent of the petitioner and under coercive circumstances.

4. Learned counsel further submits that the petitioner has grave apprehensions regarding the safety and well-being of her minor child i.e. alleged detainee, as the private respondents, particularly the in-laws of the petitioner, are allegedly involved in criminal activities and have criminal antecedents.

5. It is also submitted that despite several bona fide efforts made by the petitioner and her family members to secure the custody of the alleged detainee through the intervention of the panchayat and other acquaintances, the private respondents have categorically refused to return the alleged detainee to the petitioner. A formal police complaint was lodged by the petitioner on 30.04.2025 against respondents No.4 to 10, specifically alleging illegally taking away her minor child/alleged detainee, persistent dowry-related harassment, and physical as well as mental abuse. In support, attention of this Court has been drawn to the complaint, annexed as Annexure P-2.

6. I have heard learned counsel for the parties and perused the material placed on record.

7. At the outset, it is pertinent to note that the writ of habeas corpus is a prerogative remedy invoked to secure the release of a person who is alleged to be illegally or unlawfully detained. The object of such a writ is to ensure the protection of the fundamental right of an individual to

personal liberty, as guaranteed under Article 21 of the Constitution of India. However, in the context of minor children, the writ jurisdiction is exercised sparingly and only in extraordinary circumstances, where the detention of the child is patently illegal or unlawful, and not merely as a substitute for remedies available under ordinary civil/family law proceedings.

8. In the present case, it is an admitted position that the minor child/alleged detainee is currently in the custody of respondent No.4, who is her biological father. Such custody, *per se*, cannot be termed illegal so as to warrant interference under the extraordinary remedy of habeas corpus. A writ of this nature does not lie merely because one parent alleges wrongful retention of the child by the other, unless there is a demonstrable case of illegal detention, threat to life or liberty, or the custody being wholly contrary to the welfare of the child.

9. Furthermore, from a plain reading of the pleadings, it is evident that the present case arises from an ongoing matrimonial dispute between the petitioner and respondent No.4. The allegations of dowry harassment, coercion and forceful removal of the child, although serious in nature, are matters that necessitate detailed factual inquiry and adjudication, which lies within the domain of the competent civil or family Court.

10. The writ jurisdiction of this Court under Article 226 of the Constitution of India would not be the appropriate forum to adjudicate upon disputed questions of custody where both the parents have a claim over the child/alleged detainee.

11. In such circumstances and keeping in mind the scope of habeas corpus jurisdiction, this Court does not find any ground to entertain the present petition and issue a writ in the nature of habeas corpus, as prayed for.

12. However, it is clarified that the petitioner shall remain at liberty to seek appropriate remedies or any other relief before the competent court or forum, if so advised, in accordance with law.

13. Accordingly, the present petition is dismissed.

14. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

May 02, 2025
sanjeev

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No