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

**CRWP-5226-2025
DECIDED ON: 22.05.2025**

MANISHA**.....PETITIONER****VERSUS****STATE OF PUNJAB AND OTHERS****.....RESPONDENTS****CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL**

Present: Ms. Ritu Manohar, Advocate
for the petitioner.

Mr. Jastej Singh, Addl. AG Punjab

Mr. Parampreet Singh Bajwa, Advocate
for respondents No.4 to 6.

SANDEEP MOUDGIL, J (ORAL)

The jurisdiction of this Court has been invoked under Article 226 of the Constitution of India for issuance of writ in the nature of Habeas Corpus seeking direction to official respondents No.1 to 3 to get release the detainee Master Shivansh aged 3 years, son of the petitioner from the illegal custody of private respondents no.5 & 6.

In compliance with the order dated 19.05.2025, a report of warrant office has been produced, which is taken on record.

Perusal of the report shows that the custody of detainee namely Master Shivansh is handed over to the petitioner.

The relevant extract of report read as under:-

“I along with petitioner and police party reached the premises of respondent Nos 4 to 6. Respondent Nos. 5 and 6 were present there. Petitioner pointed out towards a boy and said he is her son Shivansh (detenue). Thereafter, we came back to police station along with Shivansh. In the police station, Shivansh came towards his mother and hugged her. He was looking happy with her mother. On my asking he said that he is happy with her mother and will accompany her and thereafter he had not left the hands of her mother. Detenue was handed over to petitioner. It is pertinent to mention here that respondent No. 5 and 6 opposed aggressively handing over of+ detenue to her mother at their residence as well as in police station. Statement of petitioner (Annexure R-1) was recorded in which she stated that she is going at her father's house along with his son and will appear in Hon'ble Court on 22.05.2025 along with him. DD Entry made by the concerned police station are at Annexure R-2. I left for Chandigarh at 01.00 pm on 20.05.2025.”

Reply filed on behalf of the respondent No.4 to 6 is taken on record.

As far as the stand of the private respondents is concerned, this Court is of the view that, in light of the biological mother being alive, there can be no better natural guardian for a minor detenue than the mother herself. Since the private respondents have no legal right to the custody of the detenue, granting them custody would be unlawful and cannot be permitted.

The petition stands disposed of having been rendered infructuous.

(SANDEEP MOUDGIL)
JUDGE

22.05.2025
Meenu

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