



IN THE PUNJAB AND HARYANA HIGH COURT
AT CHANDIGARH

132

CRWP-7761-2025
DECIDED ON: 18.07.2025

GURBAX KAUR

.....PETITIONER

VERSUS

STATE OF PUNJAB AND ANOTHER

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. G.S. Bawa, Advocate
for the petitioner.

SANDEEP MOUDGIL, J

1. The present petition has been filed under Article 226 of the Constitution of India for issuance of direction of a writ in the nature of Habeas Corpus with a roving writ to search for the detainee namely Harpreet Kaur at the premises of respondent No.4 and 5 and get the detainee released from the illegal custody of the respondents forthwith.

2. Background of the case

The present habeas corpus petition has been filed by the petitioner, who is the maternal grandmother of the alleged detainee, Harpreet Kaur. It has been alleged by the petitioner that her grand-daughter has eloped with respondent No.4, Gurpreet Singh, and that there exists a genuine apprehension with respect to her safety and well-being. The petitioner claims that Harpreet Kaur is currently in the illegal custody of respondents No.4



and 5 and seeks her release through issuance of a writ in the nature of habeas corpus under Article 226 of the Constitution of India.

3. **Analysis**

Upon careful consideration of the submissions made and the material placed on record, this Court finds that the detainee, Harpreet Kaur, is a major, aged about 24 years, and has voluntarily entered into a marital relationship with respondent No.4, Gurpreet Singh, who is her legally wedded husband. The petitioner has failed to place any credible material or evidence before this Court to substantiate her claim that the detainee is under illegal confinement or wrongful restraint by respondents No.4 or 5. Moreover, the uncle and aunt of the detainee have submitted a statement before the Sessions Judge that they do not have any objection to the marriage of the detainee with respondent No. 4.

It is a well-settled and foundational principle of constitutional jurisprudence that the writ of habeas corpus is an extraordinary remedy, invoked for securing the liberty of a person who is alleged to be illegally or unlawfully detained. The remedy is not automatic and is maintainable only when there is clear, cogent, and credible evidence to demonstrate that the person in question is under illegal restraint or unlawful confinement, contrary to their will and in violation of their fundamental rights.

The extraordinary jurisdiction of the High Court under Article 226 of the Constitution of India, although wide and plenary in nature, is not meant to be exercised in a routine manner, especially in the absence of substantial justification or material to support the allegations of illegal



detention. The Court must be satisfied that the person whose liberty is sought to be protected is indeed being unlawfully confined or is not in a position to exercise her free will due to coercion or undue influence.

The Supreme Court of India, in the landmark judgment of '*Smt. Lata Singh v. State of U.P.* [(2006) 5 SCC 475]', has emphasized that an individual who has attained the age of majority is entitled to make decisions relating to his or her personal life, including the choice of a life partner. The Court unequivocally held that no third party, including family members or relatives, can interfere with the personal liberty of an adult who voluntarily enters into a marriage or a live-in relationship. The right to personal liberty is enshrined under Article 21 of the Constitution of India, and it includes the freedom to choose a partner, reside at a place of one's choice, and lead a life according to one's own wishes.

Therefore, in the absence of any evidence that the detainee is being wrongfully confined or that her free will is being subverted, the issuance of a writ of habeas corpus is not warranted. Mere disagreement with the detainee's marital or personal choices by her relatives does not amount to illegal detention. The constitutional courts are duty-bound to uphold the liberty of adult individuals and prevent misuse of habeas corpus jurisdiction in such circumstances.

4. Conclusion

In the present case, the detainee being a major and having married of her own volition, cannot be said to be in illegal custody. Mere



apprehension or disapproval of the relationship by family members does not give rise to a cause of action for issuance of a writ of habeas corpus.

Accordingly, in view of the facts and legal position, this Court is of the considered opinion that no case for issuance of a writ of habeas corpus is made out. The petition, being devoid of merit and substance, is hereby dismissed.

18.07.2025
anuradha (a)

(SANDEEP MOUDGIL)
JUDGE

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