

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

112

CRWP-9949-2025

Decided on : 11.09.2025

COLONEL ABHISHEK MAMGAIN (RETIRED) .....PETITIONER

Versus

STATE OF HARYANA AND OTHERS

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SUBHAS MEHLA

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

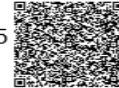
Mr. Aditya Pal Singla, AAG, Haryana.

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SUBHAS MEHLA, J.

The prayer in the instant criminal writ petition filed under Article 226/227 of the Constitution of India is for issuance of a writ in the nature of *habeas corpus* for directing respondent Nos. 1 and 2 to get the child Dhruv Mamgain, released from unlawful/improper custody of respondent Nos. 3 to 5.

2. Learned counsel for the petitioner contends that petitioner solemnized marriage with Akansha Gupta on 23.05.2005 and out of this wedlock, a male child was also born on 26.08.2010. The petitioner was posted to Averi, Himachal Pradesh upon his promotion as Colonel, which was a family station. The petitioner's wife whose family was staying at Panchkula did not accompany the petitioner at his place of posting. It is further contended that wife of the petitioner and his son are residing separately from petitioner since so many years. The petitioner has also availed legal remedy to take the custody of his minor son, but respondent Nos. 3 to 5 have refused to do so. In support of his contention, he has also



relied upon the judgement of Hon'ble Supreme Court in case titled as ***'Yashita Sahu Vs. State of Rajasthan & Others', 2020 AIR Supreme Court 577 decided on 20.01.2020.***

3. This Court has heard learned counsel for the petitioner and perused the record.

4. Perusal of the record shows that petitioner has filed petition for custody of his minor son Dhruv Mamgain and visiting rights have been given to him and the petition regarding custody of child is still pending, but during the pendency of the petition, respondent No.4 who is mother of the detenue and wife of the petitioner has expired and detenue is now residing with his maternal grandfather. So, custody of the detenue is not considered as an illegal custody. Secondly, there is petition already pending before the Family Court regarding the custody of child. So his efficacious remedy is to move application to that Court for his legal remedy.

5. This Court finds no merit in the petition. The present petition is hereby dismissed.

**(SUBHAS MEHLA)**  
**JUDGE**

11.09.2025

pry

Whether speaking/reasoned  
Whether reportable

Yes/No  
Yes/No