



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

251

**CRWP-10234-2025
Date of decision: 25.09.2025**

REENA RANI

....Petitioner

Versus

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM:- HON'BLE MS. JUSTICE RUPINDERJIT CHAHAL

Present:- Mr. Ram Kumar Chauhan, Advocate for the petitioner.

Mr. Ravinder Singh, DAG Punjab.

RUPINDERJIT CHAHAL, J. (ORAL)

1. By filing the instant petition under Articles 226 of the Constitution of India, the petitioner seeks issuance of a writ in the nature of habeas corpus for directing the official respondents to trace out the detenue i.e. minor daughter of petitioner namely Bhavjot Kaur aged about 3 years and 8 months who has been illegally and unlawfully detained by private respondents Nos.4 to 7.

2. Mr. Bikramjit Singh Baath, Advocate has put in appearance on behalf of respondent Nos. 4 to 7 and has filed his vakalatnama in Court today, which is taken on record.

3. Learned State counsel has filed status report/reply by way of affidavit of Jatinder Pal Singh, PPS, Assistant Commissioner of Police, West, Ludhiana on behalf of respondent-State in Court today, which is taken



on record. Copy of the same has been supplied to learned counsel for the petitioner.

4. The case of the petitioner, as set out in the petition, is that she was married with Parkashdeep son of respondent Nos. 4 and 5 on 07.02.2021 and out of the said wedlock, Bhavjot Kaur (detenue) was born on 06.12.2021. However, the marriage of the petitioner could not go well and she was forced to work day and night. Her husband went abroad and respondent Nos.4 to 7 used to give beatings to the petitioner and even used to talk ill about her character. On 18.02.2025, the petitioner was thrown out from her matrimonial home and her daughter was snatched by respondent Nos.4 to 7. The petitioner approached the Sarpanch of the village and the matter was compromised to the effect that the custody of the minor child will be given to the petitioner. The said compromise was not adhered to and the petitioner filed a petition under the Guardians and Wards Act, 1890 seeking custody of the minor child. With these allegations, release of Bhavjot Kaur (alleged detenue) is sought from the custody of private respondents, who are grand-parents and uncle-aunt of the minor child and in-laws of the petitioner while the husband of the petitioner is stated to be residing abroad (Canada).

5. On the other hand, case of the private respondents, who are present in court with the alleged detenue, is that the minor child was left by the petitioner on her own when she left her matrimonial home. He further submits that the matter pertaining to the custody of the minor is already pending before the Family Court and prays for dismissal of the present petition. To buttress his arguments, he relies upon the judgment of the



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Coordinate Bench in CRWP-6232-2025 titled as ***Veerpal Kaur vs. State of Punjab and others*** and contends that where the matter is already pending under the Guardians and Wards Act, 1890 for seeking custody of child, a writ petition is not maintainable. The custody of the minor is with her grandparents (respondents Nos.4 and 5) and uncle-aunt (respondent Nos.6 and 7) as such, the well-being of the minor is sufficiently taken care of. However, it is not disputed that the husband of the petitioner is residing abroad.

6. Learned counsel for the State has submitted that the detainee has been produced before this Court in compliance of order dated 19.09.2025. He further submits that the detainee is with her grandparents and uncle-aunt and the father is living abroad.

7. Arguments heard and papers perused with the assistance of learned counsel for the parties.

8. The issue of raising the question of custody of child in a habeas corpus is not *res integra*. This Court while exercise writ jurisdiction cannot go into the legal question of custody of a minor child, but the only consideration must be welfare of the minor. Of Course, interference by this Court can be made, but only when a child is being illegally detained or unlawfully kept by someone who is not entitled to their custody, and the child's best interests are compromised. The habeas corpus petition is an extraordinary remedy for situations where the child is not in the custody of a lawful guardian and the court's inherent equitable powers are needed to protect his interests, rather than to adjudicate upon a completely custody dispute, for which the statutory remedies can be availed before the appropriate forum.



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9. After hearing learned counsel for the respective parties and carefully reviewing the record, this Court is *prima facie* satisfied that the present petition merits allowance. The judgment relied upon by the counsel for respondent Nos.4 to 7 in ***Veerpal Kaur (supra)*** will not cut the ice in the facts of present case as in ***Veerpal Kaur's (supra)*** case the custody of the minor was with the father, which is not in this case. The custody of the minor child cannot remain with his grandparents or uncle-aunt during the lifetime of the mother especially when the father is stated to be residing abroad. Should the private respondents wish to seek custody from the mother, they are at liberty to pursue the appropriate legal remedy under the appropriate forum.

10. In view of the foregoing, the instant habeas corpus petition is hereby allowed. The respondent Nos. 2 and 3 are directed to hand over the custody of the minor children Bhavjot Kaur to the petitioner within three (03) days from the date of this order. Respondent No.3/SHO concerned shall ensure that no harm befalls the petitioner or the minor child during the handover process.

11. Petition stands disposed of accordingly.

(RUPINDERJIT CHAHAL)
JUDGE

25.09.2025

Mohit Bishnoi

i)	Whether speaking/reasoned?	Yes/No
ii)	Whether reportable?	Yes/No