



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

135

CRWP-4163-2026
Date of decision: 10.04.2026

NEHA KHURMI

.....Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS

.....Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: - Mr. Charanpreet Singh, Advocate
for the petitioner.

VINOD S. BHARDWAJ, J. (Oral)

1. The instant petition has been filed seeking issuance of writ in the nature of Habeas Corpus for restoring custody of the detenue namely Hari Singh Khurmi, aged 10 years (son of the petitioner) to the petitioner, who is in illegal and unlawful custody of respondents No.4 and 5.

2. Learned Counsel appearing on behalf of the petitioner has been confronted that since the case has been styled as petition for seeking restoration of the custody, whether any order of vesting custody of the minor in favour of the petitioner herein had been passed by the competent Court or not.

3. In response thereto, Counsel for the petitioner fairly submits that no order has been passed by any competent Court appointing the petitioner as custodian of the minor.

4. In view of the aforesaid, the question of restoration of custody would not arise. By styling the petition as one for seeking restoration of

custody, what the petitioner in fact seeks is for grant of custody. A further question has been put to the Counsel for the petitioner as to why the petitioner cannot take recourse to proceedings before the Family Court for seeking custody and also for interim relief/visitation rights, he is not in a position to offer any valid explanation or whether the petition for Habeas Corpus would be maintainable or not. While the issue of maintainability of petition for Habeas Corpus is not in dispute, however, the route of the Habeas Corpus is not to be adopted so as to circumvent the statutory remedy and the procedure established by law. Once the dispute pertains to grant of custody to any of the parents of a child, the same requires detailed enquiry to be conducted by the Family Court. Such proceedings should not be ordinarily decided in such manner.

5. Faced with the above, Counsel for the petitioner does not press the instant petition so as to take recourse to approaching the competent Court for the relief claimed for herein and also for seeking interim relief.

6. The present petition is disposed of as not pressed with liberty as aforesaid.

7. Needless to mention that in the event of the petitioner moving such petition as well as an interim application for interim custody/visitation rights, the same be decided expeditiously by the Family Court and in any case within a period of three months of the service being effected upon the contesting parties.

(VINOD S. BHARDWAJ)
JUDGE

APRIL 10, 2026
Vishal Sharma

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No