



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

153

**CRWP-4289-2026
Date of decision: 16.04.2026**

SUKHDEV SINGH AND ANOTHERPetitioners

VERSUS

STATE OF PUNJAB AND OTHERSRespondents

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

Present: - Mr. Manpreet Singh Rai, Advocate
for the petitioners.

VINOD S. BHARDWAJ, J. (Oral)

1. The present criminal writ petition in the nature of Habeas Corpus has been filed for directing respondents No.2 and 3 to secure the custody of the detenue who is a minor boy aged 06 years and 07 months, from the illegal custody of respondents No. 4 to 7 i.e. the paternal family.

2. The petitioners herein are maternal grand parents of detenue- Fatehdeep Singh and that their daughter, son-in-law and grand daughter unfortunately passed away in a tragic road accident on 09.03.2026. The petitioners have thus filed the instant petition for Habeas Corpus alleging that the minor has been illegally detained by the paternal grand-parents.

3. Having gone through the averments contained in the petition, it is more of a custody matter of the child aged 06 years and 07 months, who is

the sole surviving grand child and is not a case of an illegal detention. The petitioners are neither lawful guardians nor were they ever appointed as custodian of the said child. Besides, the present custody of the child is stated to be with the paternal grand parents and cannot also be said to be illegal at this point in time. The present petition for Habeas Corpus is thus misconceived and appropriate proceeding, which ought to have been invoked by the petitioners herein, was to approach the Family Court for such a relief including any interim relief/visitation rights. Even though the judgment of the Supreme Court in “*Somprabha Rana and others versus the State of Madhya Pradesh and others*” reported as **2024 INSC 664** holds that Habeas Corpus petition would be maintainable where detention of minor is illegal, however, the said judgment does not operate as by-pass for every statutory remedy available in law. Once an entire hierarchy is prescribed before the Family Court, the petitioner is required to ordinarily exhaust his remedies considering the circumstances to the effect that:-

- i) In the facts and circumstances of the present case, the custody of minor child with his paternal grand parents cannot be held to be illegal per se nor can it be labelled as “detention” in law;
- ii) The parents and siblings of the child have died and he is thus currently with his paternal grand parents since March, 2026.
- iii) The petitioners herein are maternal grand parents who are seeking custody. In such circumstances, a detailed enquiry is required to be conducted by a Family Court into the well being of the child and the proceedings cannot be decided summarily.

4. The present petition is accordingly dismissed at this stage with liberty to the petitioner, if so advised, to approach the Family Court or

competent jurisdiction for seeking custody of the minor child and also for any interim relief. Needless to mention that in the event of such petition being filed alongwith an application for interim relief, such application be decided expeditiously and in any case within a period of 45 days of the appearance of the parties.

APRIL 16, 2026
Vishal Sharma

(VINOD S. BHARDWAJ)
JUDGE

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