276 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRWP-4778-2026(O&M)
Date of Decision :28.04.2026

Pooja

....Petitioner

VERSUS

State of Haryana and Others

....Respondents

CORAM : HON'BLE MS. JUSTICE MANDEEP PANNU

Present: Mr. Naveen Bawa, Advocate for the petitioner

Mr. Sushil Bhardwaj, Addl. AG, Haryana

Ms. Komal Bidhan, Advocate for respondents No.4 to 7

MANDEEP PANNU J. (Oral)

The present petition has been filed by the petitioner under Article 226/227 of the Constitution of India praying for issuance of a writ in the nature of habeas corpus directing the official respondents No.2 and 3 to release/produce her minor son Aryan, aged 4 years and 9 months, who is stated to be in alleged illegal custody of the private respondents.

On 24.04.2026, this Court, while issuing notice of motion, had directed the official respondents as well as respondents No.4 to 7 to produce the detenue namely Aryan before this Court on the date fixed.

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Today, in compliance with the aforesaid order, detenue namely Aryan (minor child) has been produced in the Court. He is accompanied by his grandmother and ASI Manisha and Constable Usha. This Court has an occasion of interacting with the child and he has expressed his desire to stay with his grandmother-respondent No.4. He further states that he does not want to go with his mother (petitioner).

Learned State counsel, on instructions, from the aforesaid police officials, submits that petitioner, at present, is residing with some person in a 'live-in relationship' and granting custody to her will not be in the interest of the child.

Having considered the pleadings and submissions, this Court is of the view that the custody of a minor child with his grandmother, cannot ordinarily be termed as illegal or unlawful so as to invoke the extraordinary writ jurisdiction of habeas corpus, unless it is shown that such custody is demonstrably harmful to the welfare of the child. The present petition essentially raises disputed questions relating to custody and guardianship of a minor, which require adjudication on evidence and cannot be appropriately determined in summary proceedings under Article 226/227 of the Constitution.

The writ of habeas corpus is primarily maintainable only where detention is shown to be illegal or without lawful authority. In the facts of the present case, the custody of the minor with respondent No.4, being his grandmother, cannot *prima facie* be held to be illegal detention so as to warrant issuance of a writ of habeas corpus.

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Accordingly, this Court grants interim custody of the minor child (alleged detenue Aryan) to his grandmother-respondent No.4 and petitioner shall be at liberty to approach the competent civil court/Guardian Court under the provisions of the Guardians and Wards Act or other applicable law for seeking custody or visitation rights, where all issues relating to welfare of the minor can be properly adjudicated after appreciation of evidence.

Hence, the present petition stands disposed of in abovesaid terms.

Nothing stated herein shall be construed as an expression on the merits of the custody claim of either party.

All pending miscellaneous application(s), if any, stands disposed of.

April 28, 2026 **(MANDEEP PANNU)**
rekha **JUDGE**

Whether speaking/non-speaking : Yes/No
Whether reportable : Yes/No

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