

**CRWP-5064-2026(O&M)****1****233 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRWP-5064-2026(O&M)****Date of Decision : 18.05.2026**

Baljit Kaur

....Petitioner

VERSUS

State of Punjab and Others

....Respondents

CORAM : HON'BLE MS. JUSTICE MANDEEP PANNU

Present: Mr. Chetan Bansal, Advocate for the petitioner
Mr. Hardeep Singh Wadhwa, DAG, Punjab
Mr. Prateek Sodhi, Advocate for respondents No.4 to 7

MANDEEP PANNU J. (Oral)

The present petition has been filed under Article 226 of the Constitution of India seeking issuance of a writ in the nature of habeas corpus for release of the detenue-minor son (Jujhar Singh) of the petitioner aged 2 years and 3 months, alleging that he was being illegally detained by respondents-grandparents.

It is the case of the petitioner-mother that she is married to respondent No.3 and they went to United Kingdom and their son, Jujhar Singh, (alleged detenue) was born to them in United Kingdom. Thereafter, matrimonial dispute arose between petitioner and her husband. When petitioner visited India alongwith her son in April 2025, private respondents No. 5 and 6 requested her to let minor son remain with them and they promised that when she will return, they will hand over the child to her. Petitioner was in regular contact with her son through video calls, however, in August, 2025, private



respondents flatly refused her to have any contact with minor child.

Hence, the present petition has been filed.

Notice of motion was issued by this Court on 30.04.2026 and in pursuance thereto, minor child has been produced in the Court today by his grandparents, whereas notice issued to respondent No.3 (father of detainee) has been received back with the report that he is residing abroad.

Learned counsel for private respondents no.4 to 7 submits that petitioner herself has handed over the alleged detainee to his grandparents and he has been residing with them for the last one year and one month. He further submits that custody of grandchild with his grandparents cannot be termed to be illegal.

Heard.

After going through the facts and submissions of the parties, this Court is of the considered view that the scope of jurisdiction in a petition seeking habeas corpus in matters relating to custody of a minor child is limited. The primary consideration before the Court in such proceedings is to examine whether the custody of the detainee can be termed illegal or without authority of law. The writ of habeas corpus is essentially a prerogative remedy aimed at securing release from unlawful detention. While exercising jurisdiction under Article 226 of the Constitution of India in a habeas corpus petition concerning custody of a minor, this Court is not expected to adjudicate finally upon disputed questions relating to permanent custody or guardianship of the child, which fall within the exclusive



domain of the competent Guardian Court under the relevant statutory framework. The jurisdiction of the habeas corpus Court is confined to examining the legality or otherwise of the custody complained of.

In the present case, once the petitioner herself has left India while allowing minor child to stay with his grandparents, where he is residing for the last one year, the very substratum of the present habeas corpus petition ceases to survive. The material placed on record does not prima facie establish that private respondents-grandparents are keeping the detinue in unlawful confinement or illegal custody so as to warrant continuation of proceedings in the nature of habeas corpus.

Therefore, this Court deems it appropriate to allow the custody of the minor child to continue with his grandparents/private respondents. However, it is clarified that the present order shall not amount to an adjudication of final custody rights of either party and the petitioner-mother shall remain at liberty to avail appropriate remedy before the competent Guardian Court for seeking custody, visitation rights or any other appropriate relief in accordance with law.

Accordingly, the present habeas corpus petition stands disposed of in the aforestated terms.

All pending application(s), if any, shall stand disposed of.

May 18, 2026
rekha

(MANDEEP PANNU)
JUDGE

Whether speaking/non-speaking : Yes/No

Whether reportable : Yes/No