



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

**CRWP-5189-2026(O&M)
Date of Decision : 15.05.2026**

Manpreet Kaur

....Petitioner

VERSUS

State of Haryana and Others

....Respondents

CORAM : HON'BLE MS. JUSTICE MANDEEP PANNU

Present: Mr. Kamal Chaudhary, Advocate for the petitioner

Mr. Vaibhav Sharma, AAG, Haryana

Mr. Narinder S Lucky, Advocate for
respondents No.4 & 5

MANDEEP PANNU J. (Oral)

Heard learned counsel for the parties and perused the
record.

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 production of the detenue-minor daughter and
alleging that she was being illegally detained by respondent-father. It
is the case of the petitioner-mother that due to matrimonial discord
between the parties, proceedings under Section 13-B of the Hindu
Marriage Act were initiated before the learned Additional District
Judge. In the said proceedings, statements of both the parties were



recorded and the learned Court observed that the marriage between the parties had broken down irretrievably and only the shell of marriage remained. As per the joint statement suffered by the parties, custody of the minor son was agreed to remain with the father whereas custody of the minor daughter/detenué was agreed to remain with the petitioner-mother. Consequently, decree of divorce by mutual consent was granted and custody of the minor daughter came to the petitioner-mother.

It has further come on record that subsequently minor daughter started residing with respondent-father. Alleging that the detenué had been illegally removed from the custody of the petitioner-mother and was being unlawfully retained by respondent No.4-father, the present petition came to be filed. At the initial stage, learned counsel for the petitioner vehemently argued that though custody of the minor daughter had been granted to the petitioner-mother in the proceedings under Section 13-B of the Hindu Marriage Act, respondent-father had illegally taken away the custody of the child. Considering the said allegations, this Court appointed a Warrant Officer for recovery of the detenué from the alleged illegal custody of respondent No.4 and pursuant thereto, custody of the detenué was taken from respondent-father and temporarily handed over to the petitioner-mother with a direction to produce the child before this Court.

Today, the detenué has been produced before this Court.

The Court interacted with the detenué in chamber in the absence of



both the parents so as to ascertain her wishes independently and without any external influence. During such interaction, the detenue stated that she is comfortable residing with either of the parents and that she is emotionally attached to both of them. She further stated that she shares a close bond with her brother, who is residing with respondent-father. The detenue categorically stated that she had not been forcibly or illegally removed by respondent-father from the custody of the petitioner-mother and that she had been residing with her father pursuant to a mutual arrangement arrived at between her parents. The detenue, who is about 13 years of age, appeared sufficiently mature and capable of understanding the circumstances in which she has been residing.

This Court also deemed it appropriate to have the detenue interact with the Child Counsellor so as to independently assess her emotional condition and ascertain her wishes. Pursuant thereto, Ms. Manvi Arora, Child Counsellor of this Court interacted with the detenue and submitted before this Court that the detenue expressed substantially the same views as stated before this Court, namely, that she is comfortable with either parent and had not been illegally detained by respondent-father. The counsellor further indicated that the child did not express any fear, coercion or discomfort against either parent.

At this stage, it requires to be noticed 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 detinue 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 detinue herself has categorically stated before this Court, as also before the Child Counsellor, that she had not been illegally detained or forcibly removed by respondent-father and that she had been residing with him for the last one year pursuant to a mutual arrangement between the parents, the very substratum of the present habeas corpus petition ceases to survive. The material placed on record does not prima facie establish that respondent-father was keeping the detinue in unlawful confinement or illegal custody so as to warrant continuation of proceedings in the nature of habeas corpus.

Since the custody of the detinue was taken from respondent-father only pursuant to interim directions passed by this Court during pendency of the present proceedings and this Court has now arrived at a conclusion that the custody with respondent-father



cannot be termed illegal, this Court deems it appropriate to restore the custody of the minor child to respondent-father. 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.

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

May 15, 2026
rekha

(MANDEEP PANNU)

JUDGE

Whether speaking/non-speaking : Yes/No

Whether reportable : Yes/No