



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

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CRWP-6724-2026 (O&M)

Date of Decision: 04.06.2026

Satinder Kaur**.....Petitioner****Versus****State of Punjab and others****..... Respondents****CORAM: HON'BLE MR.JUSTICE SURYA PARTAP SINGH**

Present : Mr. A.P.Kaushal, Advocate for the petitioner.

SURYA PARTAP SINGH, J. (Oral):

This petition under Article 226 of the Constitution of India has been filed by the petitioner for issuance a writ in the nature of 'Habeas Corpus'. By virtue of this petition a direction for releasing of two detenues namely 'Manmeet Kaur 'aged 13 years and 'Lakhdeep Singh 'aged 2 ½ years has been sought.

2. Heard.

3. It has been contended by learned counsel for the petitioner that marriage of petitioner was solemnized with the respondent No.4 on 31.12.2012 and out of above mentioned wed-lock both the detenues were born on 14.12.2013 and 09.10.2023, respectively. As per learned counsel for the petitioner with the help of respondent No.5, and in active connivance with police officials, the respondent No.4 has taken over the custody of both the minor detenues in an illegal manner. It has been further contended that both the minor detenues have very strong emotional bonding with the petitioner, and that the respondent No.4 is short tempered, aggressive and violent by nature. As per learned counsel for the petitioner the upbringing of minor detenues in



such an environment will have a very negative impact on their personal development.

4. In view of above mentioned contention the learned counsel for the petitioner has sought a direction to the respondents No.1 to 3 to recover the detainees from illegal custody of respondents No.4 and 5, and produce them in the Court for restoration of custody of minor detainees to the petitioner. In support of his arguments, learned counsel for the petitioner has referred to the principles of law propounded by the Hon'ble Supreme Court of India in the case 'Vivek Kumar Chaturvedi & Anr. Vs. State of U.P. & Ors.', 2025 (4) SCC 342, 'Rajeswari Chandrasekar Ganesh Vs. State of Tamil Nadu & Ors.', 2023(12) SCC 472 and 'Mrs. Elizabeth Dinshaw Vs. Arvand M. Dinshaw and another', 1987(1) SCC 42.

5 The record has been perused carefully.

6 In the present case at the very outset, it is pertinent to mention here that there is no denial of the fact that both the detainees are minor, and that respondent No.4 in whose illegal custody, minors are, is their natural father. The above mentioned facts and circumstances of the present case shows that the dispute between the petitioner and respondent No.4 (in whose custody the detainees are) is primarily a dispute of custody of children between the parents. As per settled principles of law the father as well as mother both are natural guardian of the minors, and therefore, in the present petition an intricate question of fact is involved. It has to be determined by the Court in whose custody the minor detainees will grow better.

7 In order to determine the above mentioned question of fact there will be requirement of recording evidence, to be adduced by the parties, one of the most important part of the abovementioned evidence would be the cross-



examination of petitioner as well as respondent No.4. Thus, in my considered opinion in the present petition for 'Habeas Corpus' the above mentioned intricate question of facts cannot be determined. In fact, the appropriate remedy available to the petitioner is to approach the Family Court by filing a petition for custody of child. There the parties can produce the relevant evidence with regard to all relevant aspects and get their rights decided accordingly.

8 As far as the principles of law laid down in the case of 'Vivek Kumar Chaturvedi & Anr. (supra)' is concerned the same is not applicable to the factual aspect of the present case as in the abovesaid case the dispute was between the natural father and grand-parents of the minor child and the mother of minor child had already been expired. Thus, the dispute in 'Vivek Kumar's case (supra)' was not a dispute between natural parents/guardians of the minor detainee.

9 As far as the principles laid down in the case of 'Rajeswari Chandrasekar Ganesh (supra)' and 'Mrs. Elizabeth Dinshaw (supra)' are concerned, the same, too, are not applicable to the factual matrix of the present case, as in both the above mentioned cases there were adjudication by the foreign courts with regard to custody of the minor. The petitioners in those cases were authorized to take over custody of minor in both the cases. In the present case there is no such adjudication between the petitioner and the respondent No.4 at all. Thus, the factual matrix of the present case is altogether different from the factual matrix of 'Rajeswari Chandrasekar Ganesh (supra)' and 'Mrs. Elizabeth Dinshaw (supra)'. Therefore, it is hereby observed that the above mentioned principles are not applicable to the present case.



10 As a sequel to above mentioned observations it is hereby observed that since the minor detenues are in custody of their natural guardian (father), it is hereby held that the appropriate remedy available to the petitioner is to approach the family Court and seek custody of the child as per law. In my considered opinion the present petition in the present form is not maintainable and deserves dismissal. Hence, the same is hereby **dismissed** accordingly.

 Obvious to record here that in view of urgency in the present matter, it is expected from the Family Court that if a petition is filed by the petitioner, the Family Court shall decide the petition expeditiously.

(SURYA PARTAP SINGH)
JUDGE

04.06.2026
Manoj Bhutani

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No