



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

CRWP-11509-2025 (O&M)

Reserved on:-18.02.2026

Pronounced on:- 23.02.2026

Uploaded on:-

*Whether only operative part of the judgment is
Pronounced or the full judgment is pronounced: operative part/full judgment*

GURDEEP SINGH

...Petitioner

Versus

STATE OF PUNJAB AND ORS.

...Respondents

CORAM: HON'BLE MS. JUSTICE MANDEEP PANNU

Present:- Mr. Pardeep K. Bajaj, Advocate with
Mr. Kuljeet Singh and Mr. Ankit Sharma, Advocates
for the petitioner.

Mr. H.S. Wadhwa, DAG, Punjab.

Mr. Dhiraj Jindal, Advocate
for respondents No. 5 to 7.

MANDEEP PANNU, J.

1. Criminal Writ Petition under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of Habeas Corpus directing official respondents No. 1 to 4 to produce the minor child/detenué namely Gursher Singh, aged about 4 years, who has been illegally detained by private respondents No. 5 to 7 or any of their relatives, as the said minor/detenué has been illegally removed from the lawful custody of the petitioner from Denmark and in violation of Orders (Annexure P-4) passed by the Agency of Family Law, Denmark, by Respondent No. 7-Rekha, and has been brought to District Patiala, Punjab, India, and further to transfer his custody to the petitioner–father.



2. The petitioner–father, Gurdeep Singh, is a law-abiding citizen originally from District Patiala and presently a permanent resident of Denmark, who has approached this Hon’ble Court through his Special Power of Attorney holder seeking issuance of a writ of habeas corpus for production and custody of his minor son, Gursheer Singh, aged about 4 years. The minor, a Danish citizen by birth, was residing in Denmark and was under the lawful custody of the petitioner pursuant to an order dated 12.03.2025 passed by the Agency of Family Law, Denmark granting temporary custody to him. It is alleged that respondent no. 7–mother removed the child from Denmark in violation of the said order, fled from a Crisis Centre along with the minor, and brought him to District Patiala, where he is presently being kept in the custody of private respondents no. 5 and 6. Despite representation dated 31.03.2025 to the SSP, Patiala and subsequent proceedings, no effective action was taken for restoration of custody, compelling the petitioner to invoke the extraordinary writ jurisdiction of this Hon’ble Court for recovery of the minor child from alleged illegal detention and for securing his welfare and safety. It is well settled that a writ of habeas corpus in matters relating to custody of a minor child is maintainable and the paramount consideration is the welfare of the child. Reliance is placed upon *Mandeep Kaur vs. State of Punjab, 2021 (1) RCR (Civil) 152*, wherein it was observed that exercise of writ jurisdiction in habeas corpus matters involving custody of a minor is guided primarily by the welfare of the child and is not confined merely to the question of legality of detention and *Neha vs. State of Haryana, 2020 (4) RCR (Civil) 643*, wherein it was held that the availability of an alternative



remedy does not bar the High Court from exercising its extraordinary writ jurisdiction in matters concerning custody of a minor child.

3. Learned counsel appearing for respondents No. 5, 6 and 7 contended that the present writ petition under Articles 226/227 of the Constitution of India seeking issuance of a writ in the nature of habeas corpus is wholly misconceived and not maintainable in law. It is submitted that the minor child is neither in illegal detention nor in unlawful custody, but is residing with his natural mother i.e. respondent No. 7 and is being looked after by his maternal grandparents, respondents No. 5 and 6, in a safe and familiar environment. It is further argued that disputes relating to custody of a minor child cannot ordinarily be adjudicated in habeas corpus jurisdiction, particularly when complicated questions of fact and matrimonial discord are involved, which require adjudication by a competent civil court under the Guardians and Wards Act, 1890. It is also urged that the petitioner has suppressed material facts from this Court, including the fact that proceedings regarding custody are already pending before the competent Family Court, Patiala, wherein the petitioner has appeared through counsel and the matter is sub judice. Learned counsel further submits that the alleged foreign orders relied upon by the petitioner are neither binding nor directly enforceable in India, particularly when the minor is presently residing within Indian jurisdiction. Reliance has been placed upon *Tulika Arora vs. State of Punjab and others, Criminal Writ Petition No. 3877 of 2020 (O&M), decided on 19.06.2020 (Punjab & Haryana High Court)*, wherein it was held that a writ petition for habeas corpus seeking custody of a minor child ought not to be entertained when the



petitioner has already availed an effective alternative remedy under statutory provisions such as the Protection of Women from Domestic Violence Act, 2005 or the Guardians and Wards Act, 1890, and where adjudication would involve disputed questions of fact requiring detailed evidence. The Court in the said judgment observed that writ jurisdiction should not be converted into a forum for determination of complex custody disputes and that the proper course is to relegate the parties to the competent court already seized of the matter.

4. Having heard learned counsel for the parties and after perusal of the pleadings, documents placed on record and the judgments relied upon, this Court is of the considered view that the present petition does not merit acceptance.

5. At the outset, it is trite that habeas corpus jurisdiction in child custody matters is extraordinary, discretionary and equitable in nature. The primary consideration is the welfare of the minor child and not merely the legal rights of the contesting parents. However, such jurisdiction is ordinarily invoked only where the detention of a minor is shown to be *prima facie*, illegal or without authority of law. Where the child is residing with a natural guardian and the issue essentially pertains to competing claims of custody, the matter falls within the domain of the civil court exercising jurisdiction under the Guardians and Wards Act.

6. In the present case, it is not disputed that proceedings concerning custody of the minor child are already pending before the competent Family Court at Patiala. Record further indicates that notice has been issued therein and the petitioner has already appeared through counsel.



Thus, the competent forum is seized of the issue relating to custody and guardianship. Once such statutory remedy has been invoked and is actively pending adjudication, this Court would be slow in exercising its extraordinary writ jurisdiction, lest parallel proceedings result in conflicting findings.

7. The judgment in *Tulika Arora vs. State of Punjab and others (supra)* squarely applies to the facts of the present case. In that case also, the High Court declined to entertain a habeas corpus petition seeing that the petitioner had already availed alternative statutory remedies and that adjudication of custody required appreciation of evidence and determination of disputed facts. The Court held that such issues cannot appropriately be decided in summary writ proceedings and that the proper course is to allow the competent court to adjudicate the matter. The ratio of the said judgment is that availability and invocation of an efficacious alternative remedy, especially one already pending adjudication, is a relevant and weighty consideration for declining interference in writ jurisdiction in child custody disputes.

8. The judgments relied upon by the petitioner do not advance his case in the peculiar facts of the present matter. Those precedents lay down general propositions regarding maintainability of habeas corpus petitions in custody matters and the paramountcy of welfare of the child. However, none of them deals with a situation where (i) custody proceedings are already pending before a competent forum, (ii) the child is residing with a natural parent, and (iii) adjudication requires examination of contested factual



allegations. Therefore, those authorities are distinguishable on facts and cannot override the binding principle applicable here.

9. So far as, reliance upon foreign orders is concerned, it is settled that orders of foreign courts relating to custody are only one of the relevant factors to be considered and are not automatically enforceable in India, especially where the child is presently within Indian jurisdiction and the issue of custody is pending before a competent Indian court. Such orders cannot override statutory remedies or the jurisdiction of Indian courts to independently assess the welfare of the child.

10. It is also a settled proposition that writ jurisdiction is not meant to short-circuit statutory adjudicatory mechanisms or to bypass forums specifically constituted for determination of guardianship and custody disputes. Entertaining the present petition would, in effect, amount to converting writ proceedings into a parallel custody trial, which is impermissible.

11. Accordingly, this Court finds no ground to exercise extraordinary writ jurisdiction. The present petition is therefore dismissed, with liberty to the parties to pursue their remedies before the competent court already seized of the matter, which shall decide the issue of custody strictly in accordance with law and uninfluenced by any observation made herein.

(MANDEEP PANNU)
JUDGE

23.02.2026
Anu

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