



CRWP-2936-2025(O&M)

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

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CRWP-2936-2025(O&M)**Date of Decision :12.03.2026**

Kirandeep Kaur

.....Petitioner

VERSUS

State of Punjab and Others

....Respondents

CORAM : HON'BLE MS. JUSTICE MANDEEP PANNU

Present: Mr. Hardik Ahluwalia, Advocate for the petitioner.

Mr.Hardeep Hans, AAG, Punjab

MANDEEP PANNU J. (Oral)

1. In the present petition, the petitioner has invoked the extraordinary jurisdiction of this Court by way of a writ of habeas corpus seeking custody of the minor child namely Navraj Singh, aged 4 years, who is stated to be the son of petitioner and respondent No.5. The grievance of the petitioner is that the minor child is in the custody of respondent No.5 and such custody is alleged to be illegal.

2. Brief facts of the present case are that the marriage between petitioner and respondent No.5 was solemnized on 16.02.2020 and two children were born from the wedlock i.e. a son, Navraj Singh aged around 4 years and a daughter namely Shagun Preet Kaur, aged about 2 years. After birth of girl child, behaviour of respondent No.5 changed and he started coming home late under influence of liquor and drugs and even stopped giving maintenance and household expenses. Thereafter, petitioner, after waiting for a considerable time, decided to stay separate from him and started

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living in a rented accommodation at Village Jassran, Tehsil Mandi Gogindgarh. Respondent 5 then started giving death threats to the petitioner and she moved a representation to Senior Superintendent of Police, Fatehgarh Sahib, however, no action has been taken thereon till date. Thereafter, a few days back brother of petitioner took son (detenu) of the petitioner to his granny's house from where respondent No.5 kidnapped her son and took away to his own house at Village Soey Majra, Tehsil & District SAS Nagar Mohali. Hence, the present petition.

3. Learned State counsel has already filed a status report in this case.

4. Having considered the pleadings and submissions, this Court is of the view that the custody of a minor child with his natural guardian, the father, 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 without authority of law or 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.

5. 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

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No.5, being his father, cannot *prima facie* be held to be illegal detention so as to warrant issuance of a writ of habeas corpus.

6. The appropriate remedy available to the petitioners is 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.

7. Accordingly, finding no ground to exercise extraordinary writ jurisdiction, the present petition is dismissed, with liberty to the petitioners to avail appropriate alternative remedy in accordance with law.

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

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

March 12, 2026
rekha

(MANDEEP PANNU)
JUDGE

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