

Court No. - 16

Case :- HABEAS CORPUS WRIT PETITION No. - 210 of 2024

Petitioner :- [REDACTED]

Respondent :- State Of U.P. Thru. Secy. Home Lko. And 3 Others

Counsel for Petitioner :- Sunil Kumar

Counsel for Respondent :- G.A.

Hon'ble Shamim Ahmed,J.

Heard Shri Sunil Kumar, learned Counsel for the petitioner, Shri V.K. Sahi, learned Additional Advocate General assisted by Shri Ashok Kumar Singh, A.G.A-I and Shri Hari Shankar Bajpai, learned A.G.A-I for the State-respondent Nos.1 to 3 and perused the material placed on record.

On 23.07.2024, this Court passed the following order:-

"Heard Sri Sunil Kumar, learned counsel for the petitioner and Sri Vinod Kumar Shahi, learned Additional Advocate General alongwith Sri Hari Shanker Bajpai, learned A.G.A.-I for the State as well as perused the record.

The instant writ petition has been filed seeking following main relief:-

"(i) Issue a writ, order or direction in the nature of Habeas Corpus directing to the opposite party no.4 to produce the petitioner/detenué before this Hon'ble Court and set her free at her liberty."

Learned counsel for the petitioner submits that the mother of the detenué has moved this petition with the allegation that her daughter, namely, [REDACTED] had been illegally kept by the respondent no.4, namely, [REDACTED]. He further submits that there is apprehension that the respondent no.4 may take advantage and harm the detenué, who is an innocent girl and had just attained the age of majority.

He further submits that in this regard, the mother of the detenué has moved an application before the Commissioner of Police, Lucknow dated 15.07.2024, copy of the same is filed as annexure no.1 to the affidavit filed in support of this writ petition, however, no action has been taken till date. He further submits that the petitioner's next friend mother has also contacted the Station House Officer, Police Station Jankipuram, Lucknow but he did not accept the application for lodging of the first information report. Thus, it is prayed that the detenué be produced before this Court alongwith the respondent no.4.

On the other hand, learned A.A.G. for the State opposes the arguments as advanced by learned counsel for the petitioner and submits that it appears to be a case of kidnapping against the respondent no.4 and in this regard, the application has already been moved before the Commissioner of Police, Lucknow on 15.07.2024 for lodging of the first information report and if the Commissioner of Police, Lucknow or Station House Officer, Police Station Jankipuram, District Lucknow are not lodging the first information report then it is a serious matter.

After considering the arguments as advanced by learned counsel for the respective parties as well as after perusal of record, it is crystal clear that the detinue was taken forcibly by the respondent no.4 and the whereabouts of the detinue, namely, [REDACTED] is not known yet and whether she is alive or any mis-happening has been done with the detinue is also not known. In this regard, the application has also been filed before the Commissioner of Police, Lucknow but the Commissioner of Police, Lucknow is sitting tightly over the matter and even the Station House Officer, Police Station Jankipuram, Lucknow is not taking any heed on the application and request made by the petitioner for lodging of the first information report, which is a very serious matter as we are living in a welfare state and the police is custodian of every citizen of the country and if a citizen is aggrieved by any illegal act and is approaching the police authorities for lodging of the case or regarding complaint or grievances then it is a duty of the police authority as they are the public servant to entertain the complaint and give a solution for the same. However, in the present case the Commissioner of Police, Lucknow, who is the authority of the district and a responsible officer, is taking the matter very lightly, that shows the conduct of the police who is deployed in the district and the city to safeguard the interest and life of the common man. Thus, this Court feels it proper to call the Commissioner of Police, Lucknow and the Station House Officer, Police Station Jankipuram, Lucknow tomorrow i.e. on 24.07.2024 at 02:30 P.M. to explain as to why the first information report has not been lodged yet inspite of application which had already been moved before him apprising with the conditions of the case and even though the officers who are working in his supervision and are subordinate to him are also not taking heed of any complaint or grievances which are being made by the common man before them and are not discharging their duties as public servant.

Accordingly, this Court directs the Commissioner of Police, Lucknow to appear in-person before this Court tomorrow i.e. on 24.07.2024 at 02:30 P.M. alongwith the Station House Officer, Police Station Jankipuram, Lucknow to explain why the first information report has not been lodged and the whereabouts of the detinue, [REDACTED] is not known yet.

Let a copy of this order be provided to Sri Vinod Kumar Shahi, learned Additional Advocate General and Sri Hari Shanker Bajpai, learned A.G.A.-I for the State to communicate the same today itself to the Commissioner of Police, Lucknow as well as to the Station House Officer, Police Station Jankipuram, Lucknow and also to inform by mobile phone or any other mode of fastest

communication to ensure their presence before this Court in person.

Put up this case tomorrow i.e. on 24.07.2024 before this Court for further orders."

In compliance of the aforesaid order dated 23.07.2024 passed by this Court, the Commissioner of Police, Lucknow, namely-Shri Amrendra Kumar Sengar alongwith Station House Officer, Police Station-Jankipuram, Lucknow, namely-Upendra Singh are present before this Court in person. The petitioner, namely- [REDACTED] alongwith detenue, namely-[REDACTED] and respondent No.4, namely-[REDACTED] are also present before this Court in person. The written instructions produced by Commissioner of Police, Lucknow and Station House Officer, Police Station-Jankipuram, Lucknow are taken on record.

On query made by this Court to Commissioner of Police, Lucknow about the inaction on the part of his subordinates in lodging the FIR and carrying out proper investigation on which the Commissioner of Police stated before this Court that there is some laxity on the part of Station House Officer, Jankipuram, Lucknow in lodging the FIR or missing report on the complaint/request made by the petitioner regarding her missing daughter i.e. detenue, namely-[REDACTED] and tendered his unconditional apology before this Court about the inaction on the part of his subordinates and he further assured this Court that from now on he will monitor these types of matter at his own level and will issue a direction to all the Station House Officers in District-Lucknow to be active and vigilant in performing their duties.

The Station House Officer, Jankipuram, Lucknow, namely-Upendra Singh stated before this Court that when the matter came to his knowledge he acted in a very vigilant manner and was trying to pacify the matter between the parties so that the matter may be settled amicably and when the matter was taken up for investigation, it came to the knowledge of the police that the detenue was in a relationship with the respondent No.4 and some marriage agreement has been entered into between the respondent No.4 and the detenue. He further stated that the marriage agreement dated 16.01.2024 was not a valid certificate and the family members of both the parties were called at the Police Station-Jankipuram, Lucknow to pacify the matter but the detenue wants to go with the respondent No.4. It was further stated by the Station House Officer, Jankipuram, Lucknow that as there was no valid marriage proof nor there is any document of school regarding the age of the detenue or any certificate from Municipal Corporation or medical board that she is major,

thus, he did not allow the detenue to go with the respondent No.4 and both the parties are produced before this Court in person.

This Court further made a query with the detenue and her mother i.e. the petitioner about the facts and circumstances of the case on which the mother i.e. the petitioner stated before this Court that the age of the detenue has been forged by the respondent No.4 in the alleged marriage agreement dated 16.01.2024 as her marriage had been solemnized in the year 2002 but the date of birth of her daughter i.e. the detenue has been mentioned as 01.01.2000 in the alleged marriage agreement dated 16.01.2024, which is not possible, how can her daughter be born before her marriage, thus, it is clear that the respondent No.4 has forged the date of birth of her daughter and the said marriage agreement cannot be said to be a valid proof of the marriage, thus, action may be taken against the respondent No.4.

The mother of the detenue i.e. the petitioner also stated before this Court that her daughter has studied only upto Second Standard from a Primary School in Tiwaripur, Lucknow but there is no certificate regarding her age proof from the school and also stated before this Court that as per her knowledge her daughter is minor and has been fooled by the respondent No.4 with false promises, thus, she submits that the custody of her daughter be given to her as she has an apprehension that the respondent No.4 and his family members may harm her daughter.

The detenue, namely [REDACTED] stated before this Court that she wants to go with the respondent No.4 and is ready to live with him or either she will go to the Nari Niketan, Lucknow to live there.

Shri V.K. Sahi, learned Additional Advocate General submits that the marriage agreement dated 16.01.2024 appears to be forged and fabricated as the age of the detenue has been wrongly shown in the alleged agreement dated 16.01.2024 and there is no certificate to testify the age of the detenue either educational or biological, thus, in these circumstances, the marriage cannot be deemed to be a valid marriage and as the mother of the detenue has an apprehension about the threat to her daughter from the respondent No.4 and his family members, it is not safe to send the detenue with the respondent No.4, thus, this Court may direct the police to send the detenue to Nari Niketan, Lucknow as she does not want to go with her mother.

After considering the submissions advanced by learned Counsel

for the parties, statements of the parties, who are present before this Court in person and after perusal of record, this Court is satisfied with the assistance and assurances given by the Commissioner of Police, Lucknow and Station House Officer, Police Station-Jankipuram, Lucknow and the suggestions given by Shri V.K. Sahi, learned Additional Advocate General and is of the opinion that it would not be proper to send the detenue with respondent No.4, namely- [REDACTED] as they both are neither husband and wife nor they have any kind of relationship and there is nothing on record to demonstrate this fact the marriage agreement is valid, which is not acceptable in the society and we are not living in a western country, where this type of relationship is very popular and common among the citizens, We live in country, where people believe in culture and traditions, which is the crown of our country and we are proud of it, therefore, we have to respect the traditions and culture of our country.

Thus, in order to prevent any unprecedented circumstance and any unwarranted mishappening, this Court deems it appropriate to send the detnue to Nari Niketan, Lucknow.

Further, direct the Station House Officer, Police Station-Jankipuram, Lucknow to take appropriate action against the respondent No.4, namely- [REDACTED] who has forged the documents of the detenue and committed other forgeries just to prove the detenue major.

The Station House Officer, Police Station-Jankipuram, Lucknow is directed to take the detenue, namely- [REDACTED] to Nari Niketan, Lucknow and hand her over to the Superintendent of Nari Niketan, Lucknow and obtain a certificate from the Superintendent of Nari Niketan, Lucknow today itself and file the said certificate in the Registry of this Court on or before 26.07.2024 i.e. Wednesday.

It is further directed that the Superintendent of Nari Niketan, Lucknow may take the detenue to King George's Medical University, Lucknow for her radiological examination for determination of her age and submit its report before this Court on the next date fixed.

The personal appearance of Commissioner of Police, Lucknow is exempted till further orders of this Court.

Accordingly, list/put up this case on 16.08.2024 for further orders before this Court.

On the next date of listing, the detenue, namely- [REDACTED] shall

be presented before this Court in person by the Superintendent of Nari Niketan, Lucknow through Station House Officer, Police Station-Jankipuram, Lucknow.

Let a copy of this order be transmitted to Shri V.K. Sahi, learned Additional Advocate General, Shri Ashok Kumar Singh, learned A.G.A-I for the State-respondent Nos.1 to 3, Superintendent of Nari Niketan, Lucknow and to the Station House Officer, Police Station-Jankipuram, Lucknow for necessary compliance, forthwith.

The Station House Officer, Police Station-Jankipuram, Lucknow may produce a computerized copy of this order to Superintendent of Nari Niketan, Lucknow who shall comply with this order today and shall accept the computerized copy of this order.

Order Date :- 24.7.2024

Piyush/-