CNR No: PHHC010031472026
2026:PHHC:191944

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

159 **CRWP-279-2026**

Amandeep Kaur

....Petitioner

V/s

State of Punjab and others

....Respondents

Date of decision: 15.10.2026

Date of Uploading : 16.10.2026

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Vipin Mahajan, Senior Advocate with
Ms. Gaganbir Kaur, Advocate for the petitioner.

Mr. Adhiraj Singh Thind, AAG Punjab.

Mr. Aman Sapiah, Advocate for
Mr. Anosh Samson, Advocate for respondent Nos.6 to 10.

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SUMEET GOEL, J. (Oral)

1. The *petition in hand,* filed under Article 226 of the Constitution of India read with Section 528 of Bhartiya Nagrik Suraksha Sanhita, 2023, is for issuance of a writ in the nature of habeas corpus seeking direction to the respondent Nos.2 to 5 to release the detenue, namely, Navrosedeep Kaur, daughter of the petitioner, (hereinafter referred to as '*child in question'*) from the illegal detention of respondent Nos.6 to 10 and to produce her before this Court and to grant her custody to the petitioner, which is in the interest and well being of the child in question as she is of tender age.

2. Shorn of non-essential details, the relevant factual matrix of the *lis* in hand is adumbrated, thus:

(i) The case of the petitioner, as set out in the petition, is that she was married to Kulbir Singh on 22.12.2014 and a female child, namely

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Navrosedeep Kaur (*child in question*), was born out of the wedlock on 16.03.2020.

(ii) The husband of the petitioner had allegedly gone to Kuwait for employment and was residing there, leaving the petitioner at the matrimonial home with her in-laws (respondent Nos. 6 to 10 herein). It has been further averred that, during the absence of husband of the petitioner, son of respondent No.8, namely, Gurlovepreet Singh, allegedly sent inappropriate messages and made unwanted advances. As per the petitioner, on one occasion, he also attempted to molest her. When she brought the matter to the notice of her in-laws, they allegedly asked her to remain silent and assured her that he would behave properly.

(iii) It is the further the case of the petitioner that, in these circumstances, she left the matrimonial house on 04.10.2025 along with her minor daughter (*child in question)*. However, on the way, respondent Nos. 6 to 10 allegedly snatched the *child in question* from her, compelling the petitioner to proceed to her parental home without her minor daughter.

(iv) Thereafter, the petitioner had submitted a complaint against the private respondents to the concerned Police Station. However, no effective action was taken on her complaint. The petitioner has also averred that her parents convened a panchayat in an effort to resolve the matter and secure the return of the child, but respondent Nos. 6 to 10 did not hand over the custody of *child in question* to her.

(v) The petitioner has specifically asserted that respondent No. 9, Gurwinder Kaur, has effectively taken the custody of the *child in question*, although she is married and has also adopted the child of her brother. According to the petitioner, the *child in question* continues to reside in her

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matrimonial house and has been wrongfully retained by private respondents. Since then, the petitioner has been denied access to her minor daughter.

(vi) During the pendency of the present petition before this Court, the parties were referred to Mediation and Conciliation Centre of this Court, but the same did not fructify.

It is in the above backdrop that the instant petition has come up for hearing before this Court.

3. Learned senior counsel for the petitioner-mother has iterated that the *child in question* is of tender age and, at this stage of growth, she in utmost need of the love, care and affection of her mother. However, the *child in question* has been forcibly and unlawfully snatched away from the petitioner thereby depriving her of the motherly care. Furthermore the petitioner, being the mother of the *child in question*, is concerned about her safety, upbringing and overall welfare. Learned senior counsel has emphasized that the continued retention of the *child in question* by respondent Nos.6 to 10, particularly when the petitioner alleges that the child was taken away from her against her wishes, warrants the intervention of this Court in the exercise of its extraordinary jurisdiction. Moreover, the conduct of the private respondents amounts to a blatant violation of the Hindu Minority and Guardianship Act, 1956 which gives preferential right to the mother for the custody of the minor child. According to learned counsel, the forcible deprivation of custody of the *child in question* by the private respondents is illegal, arbitrary and contrary to settled principles of law. On the strength of these submissions, it is prayed that the official respondents be directed to secure the production of the *child in question*

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before this Court and her custody be restored to the petitioner in the interest of her welfare.

4. In *oppugnation,* learned counsel appearing for the respondent Nos.6 to 10 has submitted that the present petition is misconceived and filed only to harass the private respondents. The allegations levelled by the petitioner are false, exaggerated and an afterthought aimed at maligning the reputation of the private respondents. According to learned counsel, the petitioner has voluntarily abandoned her matrimonial home on her own accord. Furthermore, the custody of the *child in question* is with her grandparents where she is being properly cared for and the same cannot by any stretch of imagination be termed as illegal detention. Learned counsel has further iterated that in the matters pertaining to custody, the welfare of the child is the paramount consideration which, in the present case, requires that the custody remains with the private respondents. Learned counsel has further submitted that the husband of the petitioner, namely, Kulbir Singh had gone to Kuwait for earning the livelihood and has been regularly visiting India. Learned counsel has emphasized that during the course of enquiry conducted by the police authorities, the allegations levelled by the petitioner against Gurlovepreet Singh, son of respondent No.8 were found to be false and unsubstantiated. Moreover, the *child in question* is being properly looked after with utmost care & affection by the private respondents. On the basis of aforesaid submissions, the dismissal of the instant petition is prayed for.

4.1. Learned counsel appearing for the State of Punjab has contended that the State is not actually a contesting party as far as the

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custody of the *child in question* is concerned and has raised submission(s) accordingly.

5. I have heard learned counsel for the rival parties and have perused the available record.

6. The seminal issue that arises for consideration in the present petition is as to whether a writ ought to be granted, vesting the custody of the *child in question*, in favour of the petitioner-mother.

7. Before delving into the merits of the *lis,* it would be apposite to refer herein to a judgment passed by this Court in ***Veerpal Kaur vs. State of Punjab and others = 2025:PHHC:113490,*** wherein, after relying upon the judgments of the Hon'ble Supreme Court titled as *Dr. Mrs. Veena Kapoor vs. Varinder Kumar Kapoor, 1982 AIR Supreme Court 792; Syed Saleemuddin vs. Dr. Rukhsana, 2001(2) RCR(Criminal) 591; Nithya Anand Raghavan vs. State of NCT of Delhi & Anr., 2017(3) RCR (Civil) 798; Tejaswini Gaud and Ors. vs. Shekhar Jagdish Prasad Tewari and others, 2017 (3) RCR (Civil) 104; Jose Antonio Zalba Diez Del Corral alias Jose Antonio Zalba vs. The State of West Bengal & Ors., 2021 SCC Online SC 3434; Rajeshwari Chandrasekar Ganesh vs. State of Tamil Nadu & Ors., 2023 (12) SCC 472; Nirmala vs. Kulwant Singh & Ors. 2024 AIR Supreme Court 2344* and *Gautam Kumar Das Vs. NCT of Delhi and others, 2024(4) RCR (Civil) 98* and *Somprabha Rana & Ors. vs. The State of Madhya Pradesh & Ors. 2024 (9) SCC 382*, has held as under:

> *"16. As a sequitur to the above rumination, the following postulates emerge:*
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> *I. The High Court's jurisdiction to issue a writ of Habeas Corpus in minor child custody matter is predicated on the basic jurisdictional fact, namely, the minor child's custody is demonstrably illegal/unlawful. In*

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appropriate cases, the High Court may relax this jurisdictional prerequisite, in the interest of welfare of minor child.

II. The writ of Habeas Corpus is not a substitute for the comprehensive and evidence based procedures available under applicable guardianship statutes (such as Hindu Minority and Guardianship Act, 1956; Guardians and Wards Act, 1890 etc.). As a matter of general judicial principle, the writ Court ought to ordinarily exercise restraint and defer dispute(s) to statutory forums unless accentuating circumstances necessitate such intervention by High Court

III. In all matters relating to the custody of minor child, the paramount consideration is the welfare of such child. In exercise of its parens patriae jurisdiction; the High Court may, in appropriate cases, upon a holistic examination of facts, take an inquisitional role to ensure that the custodial arrangement serves the best interest of the child, superseding the adversarial claims of the parties.

IV. In furtherance of a minor child's welfare, the writ Court may issue interim order(s) concerning custody and other incidental aspects as warranted by exigencies of the situation, ensuring that the minor child's well being remains the ultimate determinant of justice and thereafter refer parties to remedy(s) before statutory forum(s) for final/further determination of the lis.

V. The High Court, in its writ jurisdiction has unbridled, unfettered and plenary powers. No inflexible and comprehensive guidelines can conceivably be enumerated governing the exercise of these intrinsic powers. There is no gainsaying that the nature, mode and extent of such exercise of this jurisdiction by the High Court shall depend upon the judicial discretion exercised by the High Court in the facts and circumstances of a given case."

8. Indubitably, in matters pertaining to custody of a minor child, the paramount consideration for Court is the welfare of the minor child. The custody of a minor child, who is of tender age, should ordinarily rest with the mother as it is a well settled principle that children of such a tender age stand in need of maternal affection, nurture and care, which are indispensible for their holistic development. It is not in dispute that the birth certificate placed on record, *prima facie,* establishes the relationship of the petitioner with the minor child. The petitioner has asserted that she was

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residing in the matrimonial home in the absence of her husband and that the child was taken away from her when she left the matrimonial home on 04.10.2025. She has further alleged that her subsequent efforts to secure the return of the *child in question*, including approaching the police and convening a panchayat, did not yield any result. At this stage, the allegations regarding the circumstances in which the child was separated from the petitioner have to be examined in the backdrop of the limited relief sought in the present proceedings. The allegations with regard to the conduct of the private respondents, though not being treated as established, as also the facts/circumstances of the case in hand when examined in light of the separation of the *child in question* from her mother, raises a concern which cannot be brushed aside at this stage.

9. A dispute with regard to custody of a minor child cannot be decided solely on the basis of the status of either parent or relative. The safety of the minor child, the nature of the relationship between the child and the claimant(s) and the ability of the proposed custodian to provide a stable and nurturing environment are all relevant considerations. In the case in hand, the petitioner, Amandeep Kaur, has approached this Court by way of the present writ petition seeking the custody of her minor daughter, namely, Navrosedeep Kaur, aged about six years. The case set up by the petitioner is that on 04.10.2025, when she left her matrimonial home along with the minor child, respondent Nos. 6 to 10 allegedly took the child away from her. The petitioner has alleged that the minor child was forcibly taken away from her when she left the matrimonial home and that the private respondents have thereafter refused to restore custody despite her repeated requests. The material available on record also indicates that the petitioner

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has sought the assistance of the police authorities but has failed to obtain the custody of her minor daughter. It is trite law that the question of permanent custody of a minor child requires a more comprehensive assessment by the competent Court in an appropriate case. However, the existence of an alternative remedy does not, by itself, foreclose the exercise of the extraordinary jurisdiction of this Court where the facts and circumstances justify intervention.

10. From the material brought forth, the petitioner-mother does not appear to be suffering from any economic deprivation. The father of the minor child, Kulbir Singh, as per the petition, went to Kuwait for employment in 2017 and subsequently settled there. Indubitably, the welfare of the *child in question* is the paramount consideration for delving into the issue of her custody which in present case is in favour of petitioner-mother. From the totality of the factual *milieu* of the case in hand; especially in view of the *child in question* being 6½ years of age, the petitioner-mother not suffering from any economic deprivation, nothing having brought forth at the end of the private respondents that the petitioner-mother will not be able to take good care of the *child in question*; this Court deems it appropriate that custody of *child in question* ought to be with the mother, for the *nonce.*

11. In view of the prevenient ratiocination, the *petition in hand* is disposed off in the following terms:

(i) The petitioner-mother is held entitled to custody of the *child in question.*

(ii) The petitioner-mother and the private respondents shall appear before the Chief Judicial Magistrate, Gurdaspur on 28.10.2026 wherein the private respondents shall hand-over the custody of the minor child to the

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petitioner-mother. In case the private respondents do not do so, the concerned Chief Judicial Magistrate is directed to take steps for handing-over the custody of the *child in question* to the petitioner-mother. Senior Superintendent of Police, Gurdaspur is directed to render all assistance to the said Chief Judicial Magistrate in this regard.

(iii) Pending application(s), if any, shall also stand disposed off.

(SUMEET GOEL)
JUDGE

October 15, 2026
Ajay

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No

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