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

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Jyotsna Goel

...Petitioner

V/s

State of Haryana and others

...Respondents

**Date of decision: 24.03.2026****Date of uploading: 25.03.2026****CORAM: HON'BLE MR. JUSTICE SUMEET GOEL**

Present: Petitioner in person.

Mr. Gurmeet Singh, AAG Haryana.

Mr. Faizal Zafar, Advocate for the respondent Nos. 4 to 6  
alongwith respondent No.4 in person.

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**SUMEET GOEL, J. (Oral)**

1. The present petition has been filed under Article 226 of the Constitution of India seeking issuance of a writ in the nature of *habeas corpus* for production of the minor child, namely \_\_\_\_\_, aged about 9 years and for her release from the alleged illegal custody of respondent Nos.4 to 6. In addition thereto, ancillary reliefs, including appointment of a Warrant Officer and grant of interim custody have also been sought.

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

(i) The present petition arises out of a matrimonial dispute between the petitioner–mother and respondent No. 4–father concerning the custody and welfare of their minor daughter namely \_\_\_\_\_, aged about 9 years. It has been stated in the petition that the parties were married



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on 22.01.2014 and out of the said wedlock; a girl child namely was born on 06.12.2016. After the marriage, the parties resided together in Gurugram along with the paternal grandparents of the detinue until August 2024.

(ii) In August 2024, dispute(s) arose between the spouses, as a result of which the petitioner started residing separately from respondent No. 4 and his family. Since then, the minor child has been primarily residing with respondent No. 4-father and her paternal grandparents. It is not in dispute that no formal custody order has been passed by any competent Court, although multiple matrimonial and criminal proceedings are stated to be pending between the parties before the Courts at Gurugram and Delhi.

(iii) The petitioner has averred that despite separation, she maintained contact with the child and initially refrained from initiating formal custody proceedings in order to safeguard the emotional well-being of the child. However, she alleges that her access to the child was gradually curtailed and more subject to the discretion of respondent No. 4.

(iv) The grievance of the petitioner and the immediate cause for filing the present petition is stated to have arisen on 30.12.2025, when respondent No. 4 allegedly travelled abroad without informing the petitioner. On the same day, the minor child was allegedly picked up from the school bus stop by respondent No. 6, a business associate of respondent No. 4, in the presence of respondent No. 5 (paternal grandfather). The petitioner objected to the same and sought information regarding the whereabouts of the child and respondent No. 4. However, she allegedly did not receive satisfactory response(s). It has been further alleged that the child



was thereafter kept away from her without consent and at an undisclosed location which give rise to apprehension regarding the safety and the possibility of being taken out of the country.

It is in this factual backdrop, the petitioner has invoked the writ jurisdiction of this Court seeking issuance of a writ of habeas corpus for production of the minor child and for grant of custody, alleging illegal and unlawful detention by respondent Nos.4 to 6.

3. The petitioner, who appears in person, has iterated that the present petition has been filed due to the illegal and unlawful custody of the minor child i.e. by respondent Nos.4 to 6. It has been contended that the petitioner, being the natural mother, has an inherent and indefeasible right to the care, custody and companionship of the minor child and the action(s) of the respondent Nos.4 to 6 in depriving her of such access are arbitrary and unlawful and against the welfare of the child. It has been further contended that respondent No. 4, without informing the petitioner, left the country on 30.12.2025, thereby allegedly leaving the minor child in the custody of respondent No. 6, who is neither a natural guardian nor a lawful custodian. She has further submitted that entrusting the custody of a minor child to a third party, particularly in the absence of the father and without the consent of the mother, is *per se* illegal and contrary to the welfare of the child. The petitioner has further submitted that on 30.12.2025, the minor child was forcibly taken from the school bus stop by respondent No. 6 in the presence of respondent No. 5, despite her objection and thereafter the whereabouts have not been disclosed to her. It has also been alleged that there exists prior animosity and ongoing litigation

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between the petitioner and respondent No. 6 which raising serious apprehensions regarding the safety and well-being of the minor child while in his custody. Furthermore, the possibility of the child being used as a tool in the *inter se* disputes or being exposed to a hostile environment, thus, cannot be ruled out. She has been further submitted that her access to the minor child has been deliberately restricted and regulated at the discretion of respondent No. 4, which is detrimental to the emotional and psychological welfare of the child. It has been argued that such conduct reflects an attempt to alienate the child from the mother. Moreover, there is a genuine apprehension that the minor child may be taken out of the country without the knowledge or consent of the petitioner, especially in light of the alleged attempts by respondent No. 4 to secure a passport for the child and his sudden foreign travel. On the basis of aforesaid submissions, the petitioner has prayed that this Court may issue a writ of habeas corpus directing the respondent Nos. 4 to 6 to produce the minor child, appoint a Warrant Officer to trace and secure her presence and grant interim custody to the petitioner.

4. Referring to status report by way of an affidavit dated 16.01.2026 on behalf of respondent Nos. 1 to 3, learned State counsel has submitted that petitioner and respondent No. 4 has an ongoing matrimonial dispute and the minor daughter is currently living with her father i.e. respondent No. 4. Learned State counsel has raised submissions in tandem with the said status report, relevant whereof reads thus:

*“4. That pursuant to the receipt of the notice of the instant petition, the local police had associated the petitioner in the inquiry on 13.01.2026 with a view to verify the assertions so made and her statement was recorded wherein she stated that on 30.12.2025, her husband was seen at Delhi Airport and subsequently went to Indonesia, while his father and*



*business partner took her 9 years old daughter, the alleged detenué, without informing her of her location. She further stated that she and her husband had an ongoing matrimonial dispute and her daughter was currently living with her husband i.e. the respondent no.4. The true translated reproduction of the petitioner is being appended to along with the present affidavit for the kind perusal of the Hon'ble Court as Annexure R1*

5. *That further, in compliance of directions issued by this Hon'ble Court in terms of order dated 09.01.2026, the whereabouts of the detenué child were traced out and she found to be living with her father/respondent no.4. The respondent no.4 and 5 were contacted. The respondent no.5 is the father of the respondent no.4 and they apprised the local police that the alleged detenué Nitara is daughter of respondent no.4 and is living with them at her own free will and they assured the local police that they would produce the detenué before this Hon'ble Court on the date fixed i.e. 19.01.2026. xxxxx”*

5. Learned counsel appearing on behalf of respondent Nos.4 to 6 has vehemently opposed the present petition by arguing that the same is wholly misconceived, not maintainable and an abuse of the process of law. Learned counsel has iterated that the minor child has at all times been in the lawful custody of her father i.e. respondent No. 4, who is her natural guardian and therefore no case for issuance of a writ of *habeas corpus* is made out. Learned counsel has further iterated that the custody of a minor with a natural guardian can, by no stretch of imagination, be termed as illegal or unlawful detention so as to invoke the extraordinary writ jurisdiction of this Court. According to learned counsel, the petitioner has deliberately suppressed the material facts from this Court. Furthermore, the petitioner was fully aware of the whereabouts of the minor child and is in regular contact with her through video calls and physical meetings. It has been further contended that the allegation regarding illegal custody by respondent No.6 is baseless and misleading. Learned counsel has



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emphasized that the present petition is nothing but an extension of the ongoing matrimonial discord between the parties and the present petition has been filed with a malafide intention to harass and pressurize the respondent Nos.4 to 6. It has been further contended that the petitioner has herself left the matrimonial home in August 2024, after which the minor child continued to reside with respondent No.4 and her grandparents and respondent No. 4 has been taking care of all the needs of the child, including her education and overall well-being. Accordingly, it has been prayed that the present petition needs to be dismissed as no case of illegal detention is made out and the petitioner be relegated to avail appropriate remedies before the competent forum.

6. I have heard the petitioner and learned counsel for the respondents and have perused the available record.

7. It would be apposite to refer herein to a judgment passed by this Court titled as ***Veerpal Kaur vs. State of Punjab and others*** = ***2025:PHHC:113490***, relevant whereof reads as under:

*“16. As a sequitur to the above ruminations, the following postulates emerge:*

*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 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 inquisitorial 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. The present petition under Article 226 of the Constitution of India has been filed seeking issuance of a writ in the nature of *habeas corpus* for production of the minor child namely \_\_\_\_\_, aged about 9 years, alleging that she has been in the illegal custody of respondent Nos.4 to 6. The brief factual matrix, as emerging from the record, is that the petitioner–mother and respondent No. 4–father are estranged spouses. The minor child was born out of the wedlock and has been residing with both parents and paternal grandparents till August 2024. Thereafter, due to matrimonial discord, the petitioner started living separately while the minor child continued to reside with respondent No.4-father and paternal grandparents. Admittedly, no formal custody order has been passed by any competent Court, though multiple litigations are stated to be pending



between the parties. The grievance raised by the petitioner primarily arises from an incident dated 30.12.2025, when respondent No. 4 allegedly travelled abroad without informing her and the minor child was taken from the school bus stop by respondent No.6. Apprehending that the child was being unlawfully detained and kept at an undisclosed location, the present petition came to be filed.

9. Upon consideration of the pleadings and material on record, this Court finds that the minor child has been residing with respondent No.4, her father, who is her natural guardian. There is no material on record, at this stage to *prima facie* indicate that the custody of the minor child is illegal or that she is under any form of unlawful confinement. The record further reflects that the petitioner has been having access to the minor child through video calls and periodic interactions/meetings. It is well settled that a writ of habeas corpus in child custody matters is maintainable only where the detention is shown to be illegal or without authority of law. When the child is in the custody of a natural guardian, such custody cannot ordinarily be termed as illegal so as to justify issuance of a writ; unless there are exceptional or compelling circumstances demonstrating immediate threat to the welfare of the child. In the present case, the dispute between the parties appears to be a fallout of matrimonial discord which has given rise to the custody of the minor child. In the considered opinion of this Court, such issues necessarily require adjudication on the touchstone of paramount consideration of the welfare of the child, upon appreciation of evidence, which falls within the domain of the competent Court exercising jurisdiction under the relevant guardianship/family laws. The allegation regarding

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temporary custody of the child with respondent No. 6, in the absence of respondent No. 4, by itself does not establish illegal detention particularly when the custody of the child remains with the father and the paternal family. The documents placed on record and the submissions made by the petitioner raise disputed questions of fact, which cannot be adjudicated in exercise of extraordinary writ jurisdiction under Article 226 of the Constitution of India. This Court is conscious of the fact that a writ of habeas corpus, in a factual matrix such as the present one, is essentially invoked to secure the life and personal liberty of an individual. In the case in hand, the said objective stands substantially achieved in view of the interim orders passed by this Court from time to time, pursuant to which the safety and liberty of the petitioner have been duly safeguarded. However, the main grievance raised by the petitioner pertains to the custody of the minor child born out of the wedlock of the parties, which is essentially within the domain of the Family Court. Undoubtedly, the right to life and personal liberty under Article 21 of the Constitution of India is sacrosanct and inviolable. However, mere apprehension and without *prima facie* material of imminent threat, cannot be the sole basis for issuance of directions for appointment of a Warrant Officer. From the material brought/placed on record, this Court does not find sufficient ground to conclude that there exists an imminent or extraordinary threat perception warranting interference by this Court in exercise of writ jurisdiction. The allegations made are yet to be tested before the competent forum and cannot be accepted at face value in writ proceedings.



10. It is trite law that in matters concerning a minor child, the welfare and best interest of the child is the paramount consideration, which overrides the legal rights of the parties. The concept of welfare is of wide amplitude and includes not only the physical well-being of the child but also her emotional, psychological, educational and overall developmental needs. However, such an assessment necessarily requires appreciation of evidence, interaction with the child, expert inputs, and a holistic evaluation of all attending circumstances, which can be effectively undertaken only by the competent Family Court and not in exercise of writ jurisdiction under Article 226 of the Constitution of India.

10.1 The present petition involves disputed questions of fact which are not amenable to adjudication in writ proceedings. In the considered opinion of this Court, the petitioner has efficacious alternative remedies available under the relevant provisions of law, including the Code of Criminal Procedure as well as before the competent Family Court, where all issues relating to custody and visitation can be comprehensively adjudicated on the touchstone of the welfare of the minor child.

11. In view of the prevenient ratiocination, it is ordained thus:

(i) The writ petition is dismissed as not maintainable. However, it is made clear that the petitioner is at liberty to avail/raise appropriate remedy(s) in accordance with law before the competent forum/Court.

(ii) It is further clarified that any observations made herein are confined only to the adjudication of the present writ petition and shall not prejudice the rights or contentions of either party in any other proceedings.



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

**(SUMEET GOEL)**  
**JUDGE**

March 24, 2026

*Ajay*

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No