

In the High Court of Punjab and Haryana at Chandigarh

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Criminal W.P. No.922 of 2007

.....

Date of decision:31.8.2007

Krishna

.....Petitioner

v.

State of Haryana and others

.....Respondents

....

Present: None for the petitioner.

Mr. Narender Sura, Assistant Advocate General, Haryana for  
the respondent-State.

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**S.S. Saron, J.**

The petitioner Smt. Krishna filed the present petition under Articles 226/227 of the Constitution of India seeking issuance of a writ in the nature of Habeas Corpus for directing respondents No.2 to 4 to release or produce the detenu who is her son and is in the illegal custody of respondents No.2 to 4. A further prayer was made for issuance of a writ by appointing a Warrant Officer to search for the detenu Satya Narain.

The petitioner alleged that her son Satya Narain had been taken in illegal custody on 7.8.2007 at about 10.00 a.m. from the Bus Stand at Badambha by the SHO, Police Station Sadar, Bhiwani Urban (respondent No.3). In this regard the petitioner is stated to have made a written application on 13.8.2007 (Annexure-P.1) to the SSP, Bhiwani (respondent No.2). However, no action was taken.

At the time of motion hearing, a Warrant Officer to be nominated by the Registry was ordered to be appointed with the direction to him to search the precincts of Police Station Sadar, Bhiwani and CIA Staff,

Bhiwani or any other place pointed out by the petitioner. In case Satya Narain, the son of the petitioner was found in illegal custody, the Warrant Officer was to set him free forthwith. Besides, the report of the Warrant Officer was also to be submitted.

The Warrant Officer has submitted his report dated 29.8.2007, according to which a search of the premises of CIA Staff, Bhiwani was made along with the petitioner. The petitioner shouted the name of her son Satya Narain but he was not found there. Shri Ram Mehar, Sub Inspector informed the Warrant Officer that the detenu was arrested on 14.8.2007 in case FIR No.133 dated 17.10.2005 for the offences under Sections 457 and 380 IPC. At present he was in the lock-up at Police Station Sadar, Bhiwani. A copy of the arrest of detenu on 14.8.2007 at 5.00 p.m. in the aforesaid FIR was also supplied which is Annexure-A with the report. The Warrant Officer then went to Police Station Sadar, Bhiwani. Jagbir Singh, M.H.C. informed that the detenu was in the lock-up and on Police remand till 18.8.2007. A copy of DDR No.23 dated 15.8.2007 vide which remand of the detenu was taken from the Court at Safidon was supplied which is Annexure-B with the report.

Reply has been filed by Ram Avtar, In-charge CIA-2<sup>nd</sup>, Bhiwani on behalf of respondents No.1 to 4. It is stated that the son of the petitioner was arrested on 14.8.2007 by ASI Partap Singh of CIA Staff from Village Balambha, Police Station Meham in case FIR No.133 dated 17.10.2005 registered at Police Station Pillu Khera, District Jind for the offences under Sections 457 and 380 IPC. It is submitted that the investigation of the case was handed over to Ram Avtar, In-charge CIA-2<sup>nd</sup>, Bhiwani by the Inspector General of Police, Hisar Range, Hisar. The case

was registered regarding theft of jewellery, Nokia cell phone, one cycle and other utensils, clothes, household articles. Initially an untraced report was prepared on 11.3.2006. However, later evidence regarding involvement of the son of the petitioner was collected through the Nokia cell phone which had been stolen. The accused has been absconding and on 9.12.2006 proceedings under Sections 82 and 83 Cr.P.C. were initiated by the learned Court of SDJM, Safidon. Later the son of the petitioner was arrested on 14.8.2007. He was produced in the Court of learned ACJM, Safidon on 15.8.2007 and Police remand upto 18.8.2007 was obtained. Besides, it is submitted that the son of the petitioner is involved in five other cases, a detail of which has been mentioned in para 2 in the reply of the preliminary objections.

No one has put in appearance on behalf of the petitioner. After hearing learned counsel for the State and perusing the record it may be noticed that at the time of raid by the Warrant Officer in the precincts of CIA Staff, Bhiwani and also at the precincts of Police Station Sadar, Bhiwani, the son of the petitioner was in custody in pursuance of a valid order of remand granted by the Court of learned SDJM, Safidon. Therefore, it cannot be said that the son of the petitioner was in illegal custody. As such a writ in the nature of Habeas Corpus is not liable to be issued.

The criminal writ petition is dismissed.

August 31, 2007.

**(S.S. Saron)**  
**Judge**

\*hsp\*