

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Through Video Conferencing
Camp Office

CRWP No.3023 of 2020.
DATE OF DECISION: 29.04.2020.

Mustak Hussain and another

...Petitioners.

VERSUS

State of Haryana and others

...Respondents.

CORAM: HON'BLE MR. JUSTICE LALIT BATRA

Present: Mr. Rajesh Lamba, Advocate for the petitioners.

LALIT BATRA, J.

This is a petition under Article 226 of the Constitution of India for issuance of writ in the nature of Habeas Corpus directing respondents No.1 and 2 to produce and release petitioners (detenues) from illegal custody/detention at “Mewat Model School, Hathin”, by respondents No.3 and 4 despite grant of bail to petitioners by Court concerned.

Though it has been specifically mentioned at the footnote of petition that advance copy of complete paperbook has been supplied to the State of Haryana through the designated e-mail ID i.e. Deepak.sabherwal. legal@gmail.com but on asking of Court as nobody had put in appearance on behalf of respondent-State, learned counsel for the petitioners replied that actually no advance copy of complete

paperbook has been supplied to State of Haryana and as a matter of fact above said footnote was typed as a matter of routine and further submitted that in a petition for Habeas Corpus no advance copy of paperbook is required to be sent to the State concerned.

In view of above and state of affairs as detailed in the petition, respondent-State is required to be heard as assistance of State counsel is necessary for proper adjudication of instant petition.

Notice of motion.

On asking of Court, during the course of hearing, learned counsel for petitioners has sent copy of complete paperbook to the designated e-mail ID i.e. Deepak.sabherwal.legal@gmail.com and after having conveyed the matter to learned State counsel (Mr. Deepak Sabherwal, Additional Advocate General, Haryana), hearing of this petition was resumed after half an hour.

Learned counsel for the petitioners while substantiating the cause of petitioners has specifically urged that once petitioners have already been granted bail by Court concerned vide order dated 26.04.2020 in case FIR No.95 dated 02.04.2020 under Sections 188 and 269 IPC, Sections 14(b) and 14(c) of Foreigners Act, 1946, Section 51 of The Disaster Management Act, 2005 and Section 3 of Epidemic Diseases Act, 1897, registered at Police Station Hathin, District Palwal and further the fact that they were found Coronavirus Disease (Covid-19) negative, their confinement in Quarantine Centre “Mewat Model School, Hathin”

amounts to illegal custody/detention and as such they are entitled to be released forthwith.

On the other hand, learned State counsel submits that though petitioners are residents of Assam and Bihar States respectively but on 31.03.2020 they alongwith several Bangladeshi Nationals belonging to Tablighi Jammats were found in Mosque of Village Huchpuri, Police Station Hathin, District Palwal despite the fact that nationwide lockdown had already been promulgated due to Covid-19. He further submits that petitioners were quarantined and are being kept at “Mewat Model School, Hathin” and their entire boarding, lodging and medical facilities are being taken care of by the authorities concerned i.e. Nodal Officer, local Sub-Divisional Magistrate and that too at the expense of State Exchequer. He further urges that though vide order dated 26.04.2020 passed by Court concerned, petitioners have been granted and released on bail in case FIR No.95 dated 02.04.2020, as detailed above, but after having sought the opinion of Medical Authorities, they are being quarantined in “Mewat Model School, Hathin” till date as petitioners being residents of Assam and Bihar States respectively cannot move out of Hotspot Zone (District Palwal) as there is no transport facility now-a-days on account of strict guidelines issued by Government of India. He further urges that State of Haryana has created Quarantine Centres at different places so as to restrict the movement of persons of outer States and meanwhile Haryana State is taking every responsibility of well being

of those persons who have been quarantined and this aspect is basically meant to avoid spread of Covid-19 impact. He further submits that once petitioners have already been released on bail, they being residents of outer States (Assam and Bihar), quarantining them for the time being cannot be termed to be illegal confinement/detention at any stretch of imagination and as such instant petition is not maintainable.

I have heard learned counsel for the parties.

While having due regard to the contentions of learned counsel for the parties, it is observed that petitioners have been arrayed as accused in case FIR No.95 dated 02.04.2020, as detailed above, and from the very inception of registration of said FIR, they are being quarantined at “Mewat Model School, Hathin”. In the abovesaid case FIR petitioners have already been granted and released on bail vide order dated 26.04.2020 as is evident from Police Report dated 27.04.2020 (Annexure P/4). However, after having sought report from Medical Authorities and especially the fact that petitioners are residents of States of Assam and Bihar, the fact that due to impact of Covid-19, entire country is under lockdown and there is no transport facility and further the fact that Quarantine Centre “Mewat Model School, Hathin” is one of the hotspots (Red Zone), therefore, in view of safety and health aspects of petitioners and to avoid spread of Covid-19 impact, lodging of petitioners for the time being in Quarantine Centre cannot be said to be illegal confinement/detention so as to bring the instant matter within the ambit of writ of

Habeas Corpus. It will not be out of place to mention here that in order to avoid spread of Covid-19 impact, respective State Governments have restricted the movements of persons of outer States in the area where they were residing at the time of promulgation of nationwide lockdown. It is pertinent to mention here that State Governments are taking care of boarding, lodging and medical facilities of all those persons at Quarantine Centres and that too at the expense of State Exchequer. The main object of above said venture at the instance of Government of India as well as State Governments is to protect the life of each and every persons living in this Country from the impact of Covid-19. Basic steps initiated by the Government of India and State Governments to curb the impact of Covid-19 are meant for service to the humanity and as such petitioners though released on bail in case FIR No.95 dated 02.04.2020, as detailed above, being residents of outer States (Assam and Bihar) have been rightly kept in Quarantine Centre “Mewat Model School, Hathin” during nationwide lockdown with facilities of boarding, lodging and medical and that too at the expense of State Exchequer.

As a sequel to above, instant petition though given the nomenclature of Habeas Corpus, is not maintainable and is dismissed as such.

(LALIT BATRA)
JUDGE

29.04.2020

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Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No