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MONU RAJPUT VS STATE OF HARYANA AND ORS

Present: Monu Rajput (Petitioner) in person.

Detenue namely Manish @ Neeshu
Vinod-respondents No.5 and
Saroj-respondent No. 6
present in person.

Monu Rajput claims to be in live in relationship with the alleged detenue namely Manish @ Neeshu daughter of Ashok (respondent No.4) and prayed for her release from the custody of her father where she is presently residing.

Notice of motion in this petition was issued on 17.07.2019 for 05.08.2019. On the said date, as per office report, notices issued to the private respondents were not received back served or otherwise and the matter was adjourned for today.

Detenue namely Manish @ Neeshu has stated that she came to the Court to attend the hearing along with her father, however, the father was not allowed the entry as the lawyers are on strike upon a call given by Punjab and Haryana High Court Bar Association. She has also produced the entry pass issued by the Pass Counter of this Court which contains the photograph of respondent No.4 as well.

She has expressed her willingness to live with the petitioner, however, respondents No.5 and 6 namely Vinod (uncle) and Saroj (Bua) respectively stated that they are living separately from detenue, who is presently residing with her father.

To a Court query, she has not disputed the fact that on 29.06.2019 she had left the house of her father at her own will and was later on recovered on 07.07.2019 from Mehrauli by the police officials of Police Station, Hansi, upon a complaint given by her father. She is unable to give the particulars

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about the proceedings pending in respect of the said FIR got registered by her father. Detenue has prayed that the petition be allowed and she be allowed to accompany the petitioner.

This Court cannot ignore the conduct of the striking lawyers who have aggressively implemented their call for strike to paralyze the working of this Court, and violated the fundamental right of the citizens (including litigants) by denying them access to the Court.

Licence to practice as a Lawyer is an effective weapon meant for use on behalf of an aggrieved litigant or to bring reforms in the society, through Courts of law. An Advocate who is well equipped with the knowledge of law becomes extra-ordinary citizen and carries an honour by nobility of the legal profession. Patience, prudence and wisdom are supposed to be the best companions of a meaningful lawyer and these essentials are displayed in the behaviour and conduct of a person as an Advocate or otherwise. Therefore, it is never expected that an Advocate can be insensitive to the rights of the litigants.

At times, lawyers as a collective may have a grievance which seldom leads to strike by them and it not only brings the Court working to a standstill, but also puts the interest of the helpless litigants at lurch. The issue of strike by lawyers has already been dealt with by the Hon'ble Supreme Court on a number of occasions and a reference can be made to the two pronouncements, in the cases of and *Ex.-Capt. Harish Uppal vs. Union of India, 2003 AIR (SC) 739* and *Krishnakant Tamrakar vs. State of Madhya Pradesh, 2018 AIR (SC) 3635*.

This Court is presently experiencing this unpleasant situation as the lawyers have gone on strike w.e.f. 26.07.2019. This kind of agitation by Advocates, who have refrained from putting in appearance before the Court may be one of the modes of expressing their own grievance for whatever

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reason, but the same cannot be construed to be unfettered and absolute, who have wrongfully restrained litigants from approaching the Court. This Court takes judicial notice of this fact from media reports that on different occasions the striking lawyers have manhandled the litigants, staff of this Court and other citizens, while denying them the entry to the Court premises.

In the absence of respondent No.4, the adjudication of the controversy raised in this petition for *habeas corpus* is not possible and the Court is compelled to adjourn this case, in the interest of justice. At the same time, it would be in the interest of justice, if a costs of Rs.50,000/- is imposed upon the Punjab & Haryana High Court Bar Association, which is spearheading the strike. The costs shall be paid to the father of detenu (respondent No.4), on or before the next date of hearing.

Here the detenu has again insisted that she is not willing to accompany her father and has prayed that she be sent to Nari Niketan, Chandigarh till the next date of hearing. Her statement in this regard has been recorded separately.

The prayer is accepted and it is ordered that the detenu be sent to Nari Niketan, Chandigarh till the next date of hearing. She be produced in Court on the next date of hearing.

List the matter on 26.08.2019 for further hearing.

A copy of this order be given under the signatures of the Bench Secretary of this Court to the concerned police officials.

13.08.2019
sheetal

(MANOJ BAJAJ)
JUDGE