

Court No. - 66

Case :- HABEAS CORPUS WRIT PETITION No. - 502 of 2020

Petitioner :- Shikha @ Sheeba

Respondent :- State Of U.P. And 4 Others

Counsel for Petitioner :- Adya Prasad Tewari, Pradeep Kumar Pal

Counsel for Respondent :- G.A.

Hon'ble J.J. Munir, J.

Heard Sri Adya Prasad Tiwari, learned counsel for the petitioner and Sri Vinod Kant, learned Additional Advocate General assisted by Sri Arvind Kumar, learned AGA appearing on behalf the State.

It is submitted by the learned counsel for the petitioner that Shikha @ Sheeba daughter of Mukhtar Ali has married Rohit Rathaur S/o Ram Sewak Rathaur (who has effectively filed this petition on her behalf) according to the Hindu rites on 03.07.2020 at the Arya Samaj Mandir, Rawatpur Gaon, Kanpur Nagar after converting to Hinduism at the same Arya Samaj Mandir on 03.07.2020, earlier in the day. The parties' marriage has been duly registered under the U.P. Marriage Registration Rules, 2017 on 09.07.2020 at the office of the Marriage Registration Office at Serial No. 468, SRO Office- Sadar Fourth, District Kanpur Nagar. A copy of the said certificate of registration is also on record. The FIR has been lodged in this case by the detenu's father, Mukhtar Ali, wherein he has indicated the detenu's age to be 22 years, giving rise to Case Crime No. 293 of 2020 State vs. Rohit Rathaur under Section 366 IPC, P.S. Bilhaur, District Kanpur Nagar. In connection with the said case, the learned counsel for the petitioner has invited the Court's attention to the detenu's stand recorded before the learned Magistrate under Section 164 Cr.P.C. In the said statement,

the detenu has said that she had left home because she was annoyed with her mother. She wants to marry Rohit and stay with him. No one has taken her away by blandishment, and that Rohit has not done anything contrary to her wish by force. It is stated in paragraph no. 14 that the S.H.O., P.S. Bilhaur, Kanpur Nagar by trick and in connivance with the 4th respondent, handed over Shikha @ Sheeba into the hands of her father, after she had spoken exculpatory in favour of Rohit. Since then, she is in illegal confinement of her father and brother. It is also averred in paragraph no. 15 that the detenu called up Rohit over Mobile Nos. 7572053986 and 7523058325, informing him that she is being tortured by respondent nos. 4 & 5, and that she may be murdered at any time. She has requested Rohit to rescue her. It is averred that it is on her instruction received over telephone that Rohit has moved this petition. It is averred in paragraph no. 16 that on account of the religious barrier between parties, the 4th and 5th respondent, who are brother and father of Shikha @ Sheeba are so embarrassed and annoyed that Shikha @ Sheeba is facing a potent threat of being murdered at their hands in consequence of an act of honour killing. Learned counsel for the petitioner states that it is not just about rescuing Shikha @ Sheeba from illegal confinement, but also saving her life and preventing her from becoming a victim of honour killing that this Court must intervene.

Admit.

Issue notice.

Notice be served upon respondent nos. 4 and 5 through all

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urgent means of communication through the learned Chief Metropolitan Magistrate, Kanpur Nagar returnable on 12.10.2020.

The Senior Superintendent of Police, Kanpur Nagar is ordered to cause Shikha @ Sheeba daughter of Mukhtar Ali presently in the custody of Imran Hasan S/o Mukhtar Ali and Mukhtar Ali S/o Maqbool Ali, resident of Ward No. 22, Lal Bahadur Sastri Nagar, Bilhaur, Kanpur Nagar to be produced before this Court on **12.10.2020 at 02:00 p.m., without fail.**

The Senior Superintendent of Police, Kanpur Nagar shall observe all protocol relating to prevailing COVID-19 pandemic proliferation and shall ensure the safety of all concerned while undertaking the aforesaid exercise.

List this matter in the additional cause list on **12.10.2020 at 2:00 p.m.**

Order on Criminal Misc. Stay Application No. 1 of 2020

Issue notice returnable on 12.10.2020.

Since, there is a serious threat of Shikha @ Sheeba becoming a victim of honour killing, it is preferable to err on the side of caution. The Senior Superintendent of Police, Kanpur Nagar is ordered to **forthwith** take out Shikha @ Sheeba from the custody of Imran Hasan S/o Mukhtar Ali and Mukhtar Ali S/o Maqbool Ali, respondent nos. 4 and 5 and house her at the Nari Niketan, Kanpur Nagar in safety and security, until time that she is produced before this Court, in compliance with the *rule nisi*.

Let this order be communicated to the learned Chief Metropolitan Magistrate, Kanpur Nagar, the Senior Superintendent of Police, Kanpur Nagar, the Director General of Police, Lucknow, U.P., the Principal Secretary (Home), Lucknow, U.P. and the In-charge, Nari Niketan, Kanpur Nagar by the Joint Registrar (Compliance), **forthwith.**

Let a copy of this order be also provided to Sri Vinod Kant, learned Additional Advocate General by the Office, **today.**

Order Date :- 8.10.2020
Deepak