

ITEM NO.15

COURT NO.3

SECTION IV-A

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 27948/2023

(Arising out of impugned judgment and order dated 29-11-2023 in WPHC No. 96/2023 passed by the High Court of Karnataka at Bengaluru)

Petitioner(s)

VERSUS

THE STATE OF KARNATAKA & ORS.

Respondent(s)

(IA No.262112/2023-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT [TO BE TAKEN UP AT 2.00 P.M.] )

Date : 17-01-2024 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.R. GAVAI  
HON'BLE MR. JUSTICE SANDEEP MEHTA

For Petitioner(s) Mr. M. Gireesh Kumar, Adv.  
Mr. Ankur S. Kulkarni, AOR  
Mr. Ajit Ankalekar, Adv.  
Ms. Shalaka Srivastava, Adv.  
Ms. Priya S. Bhalerao, Adv.  
Mr. Varun Kanwal, Adv.

For Respondent(s) Mr. Vinay Navare, Sr. Adv.  
Mr. Charudatta Vijayrao Mahindrakar, AOR  
Ms. Rucha Pravin Mandalik, Adv.

Mr. V.N. Raghupathy, Adv.  
Mr. Manendra Pal Gupta, Adv.

UPON hearing the counsel the Court made the following  
O R D E R

1. The present petition has been filed by the petitioner  
praying for ad interim ex parte stay of the interim  
order dated 29.11.2023 passed by the High Court of Karnataka at  
Bengaluru in W.P. No.HC 96 of 2023.
2. The petition arises out of peculiar facts and circumstances.

The petitioner- \_\_\_\_\_ is in relationship with one \_\_\_\_\_, respondent No.7 herein, who is the daughter of \_\_\_\_\_ and \_\_\_\_\_, who are respondent Nos.4 and 5 respectively in this petition.

3. It is the case of the petitioner- \_\_\_\_\_ that he and Ms. \_\_\_\_\_-respondent No.7 were studying together at Dubai, they knew each other for the last nine years and were in relationship since 2022. It is the contention of the petitioner that respondent Nos.4 and 5, after coming to know about the relationship of the petitioner with respondent no.7, forcibly took respondent no.7 from Dubai and are illegally detaining her in Bengaluru at her uncle's house. It is contended that her devices, passport, belongings and other articles have been taken away from her to prevent her from pursuing her career at Dubai.

4. It is the case of the petitioner that with some difficulty, respondent No.7- \_\_\_\_\_ could get in touch with the petitioner and informed him about her illegal detention by respondent Nos.4 and 5.

5. In the background of these facts, a habeas corpus petition came to be filed by the petitioner herein in the High Court of Karnataka praying for production of the detinue-

6. The High Court vide order dated 26.09.2023 issued notice upon the respondents and directed the State Authorities to obtain a status report in this regard.

7. On 27.09.2023, the statement of detinue- \_\_\_\_\_ was recorded, in which she categorically stated that she was forcibly taken away from Dubai on the pretext of her grandfather's sickness and that she is being forced to enter into an arranged marriage.

8. Vide order dated 05.10.2023, the High Court held that the production of detinue- \_\_\_\_\_ was necessary and it directed the Police Authorities to ensure the detinue's presence in Court on 10.10.2023. On 10.10.2023, Chamber hearing was held by the High Court with the detinue and the family members. It appears that subsequently the matter came to be adjourned from time to time, in total fourteen occasions. However, by the impugned order

dated 29.11.2023 the matter was adjourned to 11.12.2023. In this background, the present petition came to be filed. We are now informed that the tentative date shown against the matter is for 10.04.2025.

9. Taking into consideration the glaring facts, this Court had passed the following order on 03.01.2024:-

"1. Taking into consideration the fact that even in a serious matter like habeas corpus the High Court is dealing at a snail's pace, we are inclined to entertain the present petition.

2. Issue notice, returnable on 17.01.2024 at 2.00 p.m.

3. Dasti service, in addition, is permitted.

4. In addition to the usual mode, liberty is granted to the petitioner(s) to serve notice through the Standing Counsel for the respondent(s)/State.

5. Mr. Charudatta Vijayrao Mahindrakar, learned counsel, appears and accepts notice for the caveator/Respondent No.5.

6. Respondents No. 1 to 3 are directed to ensure that Respondent No.7 is present before this Court on 17.01.2024 at 2.00 p.m.

7. The expenses for traveling of Respondent No.7 from Bengaluru to Delhi would be borne by the petitioner."

10. Today the detenué \_\_\_\_\_ as well as her parents \_\_\_\_\_ and \_\_\_\_\_, who are respondent Nos.4 and 5 respectively and the parents of the petitioner, namely, \_\_\_\_\_ and \_\_\_\_\_ are present in the Court. Taking into consideration the sensitivity involved in the matter we interacted with \_\_\_\_\_ -respondent No.7 herein as well as her parents and the

parents of the petitioner independently in Chambers.

11. emphatically stated that though she has all the love, respect and affection for her parents, she would like to go back to Dubai and pursue her career. She further stated that though on three occasions she had got interview calls from Dubai for different jobs, she could not attend the same, as she was under detention of her parents. She further submitted that since all important documents including the passport are in the custody of her parents, her position is almost like house arrest.

12. She categorically expressed that she would like to go along with the parents of the petitioner. We are informed that the petitioner could not attend the proceedings today since on account of his professional engagement he was required to be at Dubai. Hence he is represented by his parents.

13. Respondent Nos.4 and 5, parents of respondent No.7.

stated that they are not opposed to the wishes of their daughter. However, they further stated that taking into consideration the present day scenario in the society, they desire that their daughter should be financially stable before she takes a decision about her life. They stated that once Ms.

is financially stable, she is free to take whatever decisions she desires. They further stated that they are concerned about the security of their only child.

14. Ms. is a grown up girl aged about 25 years. We have personally interacted with her in chambers on three occasions. In the intervals we had interactions with her parents as well as the parents of the petitioner.

is highly qualified. Interaction with her showed that she is mature enough to understand as to what is right and what is wrong for her in her life. In any case a major girl cannot be compelled to do something against her wishes.

15. Before we decide the present petition, we must place on record our anguish at the manner in which the High Court of Karnataka has dealt with the present matter. When in a habeas corpus petition the detenu had in unequivocal terms expressed before

the High Court that she desired to go back to Dubai to pursue her career, the High Court ought to have passed the order setting her at liberty with immediate effect. Adjourning the matter on fourteen occasions and now postponing it indefinitely and posting it in the year 2025 depicts a total lack of sensitivity on the part of the High Court in such a matter. As a matter of fact, not passing appropriate orders at appropriate stage has contributed to further illegal detention of the detenu. Because of such lackadaisical approach, the petitioner and his parents have been compelled to make frequent trips from Dubai to Bengaluru just to ensure the well being of the detenu. . When the question of liberty of a person is involved even a day's delay counts.

16. Taking into consideration the fact the respondent no.7-

being a mature major girl, desires to go with the parents of the petitioner- , namely, Mr.

and , we issue following directions:-

i) We hold that the continued detention of respondent No.7- by respondent Nos.4 and 5 is illegal. Hence respondent Nos.4 and 5 shall set her at liberty forthwith and she is permitted to proceed further as per her own wishes.

ii) It is informed that the passport, other important documents and personal belongings of respondent No.7- are with respondent Nos.4 and 5. Tthe said respondent Nos.4 and 5 are directed to return the said passport/documents/belongings to respondent No.7- within a period of 48 hours from now.

iii) Respondent Nos.4 and 5 shall handover the said

passport/documents/belongings of Ms.  
to the Inspector of Police, J.P. Nagar  
Police Station, Bengaluru, Karnataka, who is  
respondent No.3 in this petition on or before 3.00  
p.m. of 19.01.2024.

iv) On such documents being received, the same  
shall be handed over forthwith by the Respondent  
No.3 herein i.e. Inspector of Police, J.P. Nagar  
Police Station, Bengaluru, Karnataka, to the  
respondent No.7-

v) Respondent Nos.2 and 3 shall ensure that the  
aforesaid directions are complied with by Respondent  
Nos.4 and 5, within the time limit stipulated by  
this Court.

17. Needless to state that disobedience of any of the aforesaid  
directions by respondent Nos.4 and 5 would entail initiation of suo  
motu contempt proceedings against them.

18. Though we dispose of this petition, it is directed to be kept  
for reporting compliance on 22.01.2023 at S. No.1.

19. Pending application(s), if any, shall stand disposed of.

(NARENDRA PRASAD)  
ASTT. REGISTRAR-cum-PS

(ANJU KAPOOR)  
COURT MASTER (NSH)