



IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE G. S. AHLUWALIA

&

HON'BLE SMT. JUSTICE ANURADHA SHUKLA

ON THE 18th OF AUGUST, 2026

WRIT PETITION No. 31612 of 2026

RADHA PRAJAPATI

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

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Appearance:

Shri Abhinav Bhargav - Advocate for the petitioner.

Shri C.P. Singh - Government Advocate for the State.

Shri Ajit Singh Bhadoria - Advocate for the respondent No.7.
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ORDER

Per. Justice Gurpal Singh Ahluwalia

This writ petition under Article 226 of the Constitution of India has been filed in the nature of habeas corpus alleging that husband of petitioner is missing.

On 14/08/2026, Investigating Officer had shown one video in the camera proceedings, from which it was clear that grandfather of corpus, father of corpus, as well as corpus were sitting together and grandfather of corpus was abusing the informer who had informed the address of the corpus.

Today, corpus has appeared in the Court and, according to police, he has voluntarily come back on the instructions of his *Bua*. It was submitted by



corpus that he has taken away the daughter of *Bua* of his wife, i.e., his *Sali* and went to Bhopal. They stayed in a hotel for a day and then went to Rajkot, and took a separate room in Rajkot., without informing the petitioner and his father, who were already staying in Rajkot in a separate house, which is owned by father of corpus. It was further submitted that from Rajkot, he contacted his mother from the mobile phone of girl and after hearing his voice, his mother started crying. Thereafter, the corpus and girl switched off their mobile phones and went to Panvel, Goa, and came back to Bhopal. The mobile phones were deliberately switched off with an intention to mislead the police so that their location may not be traced.

The video, which was shown by Investigating Officer on 14/08/2026 was shown to corpus. He admitted that in the video, he is visible, his grandfather is visible, and his father is also sitting in the same room, and his grandfather is abusing the informer who had informed the address of corpus. It was further submitted that since a *Gum Insan* report pertaining to missing of girl with whom he had eloped was already under inquiry, therefore, the girl and he were brought back to Bhind.

The girl was lodged in One Stop Centre, and after the statement of girl before the Court of SDM, he was released, and then he went to house of his grandfather, and video is of that time. It is further submitted by corpus that video is most probably of 02/04/2026. Thereafter, he went to Jaipur and took a house on rent situated in Mansarovar, near Vijay Path. He further submitted that he does not know the name of landlord and also informed that neither landlord collected his Aadhaar card and other documents of identification,



nor informed the local police regarding the induction of tenant. At present, he is working as a delivery boy in a hotel known as Sangam Restaurant situated in Mansarovar, near Vijay Path, and girl with whom, he has eloped is doing the stitching work. It is submitted that although, he has developed physical relationship with the girl, but he has not married her so far. It is further submitted that in order to mislead the police, he took a new mobile phone and also obtained a new SIM by using Aadhaar card of somebody else, and he was using that mobile for delivery of food parcels and, from that SIM, he contacted his *Bua*, who informed him that they are in trouble, therefore, he has come back to Gwalior to appear before this Court.

Per contra, it is submitted by counsel for petitioner that it is incorrect to say that corpus has not married the girl who is cousin sister of petitioner. It is submitted that as per his instructions, the corpus has already married the girl.

Now, the only question for consideration is as to whether, for establishing the allegations of bigamy, complainant is required to prove performance of actual rituals of *Saptapadi* or not.

The Supreme Court in the case of **K. Neelaveni vs. State Represented by Inspector of Police and others** reported in (2010) 11 SCC 607, has held that at the time of taking cognizance by the Court, it is not required that the complainant must prove the actual performance of marriage with the second girl during the subsistence of first marriage. If there are allegations that the husband has performed second marriage during the subsistence of first marriage, then it is sufficient to take cognizance for the offence punishable



under Section 494 of IPC/Section 82 of BNS.

It is clear from explanation to Section 2(d) of Cr.P.C./Section 2(h) of BNS, that even if a charge-sheet is filed in respect of non-cognizable offence, the said charge-sheet can be treated as a complaint, and Investigating Officer can be treated as complainant. Furthermore, for registration of FIR in non-cognizable offence, there is no bar. The bar is for the Court to take cognizance.

Be that whatever it may be.

It is the prerogative of police to take action or not to take action. It is also the case of police that all the family members of corpus were aware of his whereabouts, and they were hiding the information. It is further submitted by corpus that he wants to reside with the girl with whom he had eloped and would stay in Jaipur.

Accordingly, corpus is directed to furnish a personal bond in the sum of Rs.1,00,000/- with one surety in the like amount to the satisfaction of Investigating Officer, with an undertaking that he will appear before the Investigating Officer, as and when he is summoned.

It is further submitted by corpus that he does not want to reside with petitioner, but admitted that the child, who was born out of wedlock of petitioner and corpus, is his child and submitted that his monthly income is Rs.13,000/- and the girl with whom he has eloped is also earning by doing stitching work. Since child was brought to the world by corpus, therefore, it is his duty to maintain his minor child.

It was also admitted by corpus that one of his uncles is based in



London, his *Fufa* is a Major in Army, and his another uncle who is a software engineer is based in Bangalore. Thus, it is clear that the corpus belongs to a high-profile family, and if he has deliberately chosen a path of earning a meager amount with an intention to keep another lady with him, then, in the light of judgment passed by the Supreme Court in the case of **Rajnesh Vs. Neha** reported in (2021) 2 SCC 324, according to which an able-bodied person is also required to maintain his child, the corpus cannot run away from his liability to maintain the child.

This Court is of considered opinion that submission made by corpus that his monthly salary is Rs.13,000/- cannot be said to be a decisive factor. It is submitted by corpus that he is voluntarily ready to deposit at least Rs.6,000/- per month in the account of his child.

Accordingly, petitioner is directed to open a bank account in the name of her child and communicate the account number to corpus or any of his family members.

The corpus is directed to supply the mobile number, which he is using, and he is directed to keep the mobile number operational and shall not change the same at any point of time, and he will always respond to calls made by police, as well as the bank account number, which will be supplied by petitioner to corpus.

Accordingly, it is directed that corpus would deposit Rs.6,000/- per month in the account of child by 2nd of every month, and any default will be treated as a contempt of Court, and corpus will be liable to be prosecuted for the same. The child shall have liberty to approach the Court for enhancement



of maintenance amount.

So far as the matrimonial disputes between petitioner and corpus are concerned, petitioner is granted liberty to avail the statutory remedy including maintenance available under civil law.

The police is granted liberty either to proceed with the investigation or to close the investigation.

With aforesaid observation, the writ petition is **dismissed**.

The corpus is free to live his life as per his own wishes, subject to the law of the land.

After personal bond and surety bond of Rs.1,00,000/- submitted by corpus, the Investigating Officer shall allow him to go to a place of his choice.

The case diary, which was produced by Shri Singh, is returned back.

(G. S. AHLUWALIA)
JUDGE

(ANURADHA SHUKLA)
JUDGE

PjS/-