

Order Sheet
IN THE HIGH COURT OF SINDH, KARACHI

C.P. No.S-929 of 2025

[*Muhammad Hammad Ali v. The Provincial Govt. of Sindh & others*]

22.09.2025.

Mr. Khuda Bux Mahar, advocate for the petitioner.

ARSHAD HUSSAIN KHAN, J. Through the present petition, the petitioner seeks directions against respondents No.2 to 4 to recover the detainees namely, Mst. Urooj and Baby Anaya, with the assistance and coordination of respondents No.5 to 7, from the alleged illegal detention of respondents No.8 and 9, and to hand over their lawful custody to him.

2. Briefly, the facts narrated in the memo of petition are that the petitioner married with alleged detainee No.1 on 14.09.2017, but she soon obtained *Khullah* in Multan on 11.12.2018. She later remarried with one Muhammad Yousaf, from whom she again obtained *Khullah* in Lahore. Subsequently, she remarried with the petitioner in Karachi on 08.01.2024, and a child (detainee No.2) was born. The petitioner claims that he provided full support, but respondents No.8 and 9 influenced detainee No.1 against him for monetary gain. On the pretext of a visit, they took both detainees, along with valuables and documents, to Lahore. They allegedly threatened the petitioner and demanded money for their release, leading to this petition.

3. At the time of its filing, the office raised objections regarding the maintainability of this petition, particularly on the question of jurisdiction of this Court as admittedly respondents and alleged detainees are residing in Lahore, Punjab. The petitioner's counsel, however, did not satisfactorily address these objections and instead requested that the matter be placed before the Court for adjudication.

4. Learned counsel for the petitioner contends that the unlawful detention of the petitioner's wife and daughter constitutes a direct infringement of the fundamental rights guaranteed under the

Constitution of the Islamic Republic of Pakistan, 1973, particularly the right to life and personal liberty. He submits that although the detainees are fully willing and desirous of residing with the petitioner, they are being unlawfully restrained through coercion and undue influence exercised by respondents No.8 and 9. It is further argued that the writ of habeas corpus lies whenever any person is deprived of liberty through unlawful custody, and since the detainees are confined within the territorial jurisdiction of respondent No.7, this petition merits acceptance as prayed.

5. Heard learned counsel for the petitioner and perused the record carefully.

A perusal of the record reveals that respondents No.5 to 9 are residents of Lahore, Punjab. The petitioner, as per his CNIC, is also a permanent resident of Faisalabad (Punjab), and has not produced any document to establish his temporary residence in Karachi, as required under the Temporary Residence Act. It is alleged that the detainees are in the custody of respondents No.8 and 9, yet the petitioner has failed to disclose the nature of the relationship, if any, between the said respondents and detainee No.1. Furthermore, no document has been filed to substantiate the claim that detainee No.2 was born out of wedlock with detainee No.1. The petition also omits to mention the date on which the custody of the alleged detainees was purportedly removed from the jurisdiction of this Court. Additionally, the petitioner alleges that respondents No.8 and 9 took away gold ornaments, cash, and other valuables along with the alleged detainees, but offers no explanation as to why no FIR was lodged in this regard. In light of these deficiencies, the maintainability of the petition was put to learned counsel, who has failed to respond satisfactorily or to justify the filing of the present petition.

6. In my view, a writ of habeas corpus can be issued only where it is established that the person, in respect of whose liberty the petition has been filed, is being illegally detained by the respondents within the territorial jurisdiction of this Court. In the present case, it is an admitted position that both the respondents and the alleged detainees are residents of Lahore, Punjab. Article 199(b)(i) of the Constitution, under

which a writ of habeas corpus may be sought, envisages the production of a person in custody **within the territorial jurisdiction of this Court.**

7. In light of the foregoing discussion, I am of the considered view that the instant petition is not maintainable before this Court. Consequently, the petition, along with all pending applications, is hereby dismissed in *limine* alongwith pending applications.

JUDGE

Naveed