


**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

D.B. Habeas Corpus Petition No. 85/2026

Prem Kumar S/o Kailash Chand, R/o Plot No. 40, Laxmi Nagar,
Avasiya Colony, Ward No. 4, Byepas Road, Shrimadhapur,
District Sikar, Rajasthan.

-----Petitioner

Versus

1. State Of Rajasthan, Through Home Secretary, Govt. Secretariat, Jaipur.
2. Superintendent Of Police, Sikar.
3. Station House Officer, Police Station Jajod, District Sikar.
4. Sunil Kumar S/o Satveer Singh, R/o Bhiwani Road Maham, District Rohtak (Haryana).
5. The Additional Director General Of Police, Anti Human Trafficking, Jaipur.

-----Respondents

For Petitioner(s)	:	Mr. Chandra Shekhar
For Respondent(s)	:	Mr. Rajesh Choudhary, GA-cum-AAG with Mr. Aman Agarwal Ms. Neha Goyal Mr. Naresh Kumar Gupta, PP

**HON'BLE MR. JUSTICE MAHENDAR KUMAR GOYAL
HON'BLE MR. JUSTICE BHUWAN GOYAL**

Order

15/04/2026

This habeas corpus petition is filed seeking a direction to the respondents to produce the petitioner's minor daughters as also to handover custody of his wife and minor daughters to him being husband and father.

The relevant facts in brief, as revealed from the memo of petition, are that the petitioner lodged a Missing Person Report (for brevity, 'MPR') dated 27.10.2025 stating therein that since the

night of 25.11.2025, his wife along with his two daughters was missing from home. Thereafter, she, along with the two minor daughters, returned to matrimonial home on her own and lodged a complaint dated 06.12.2025 at Police Station Jajod, District Sikar alleging therein that she was taken away by the respondent no.4 on 25.10.2025 forcibly luring her from where she was brought by her husband. It was also alleged that her mark-sheets of 10th and 12th as also certain jewellery items were with the respondent no.4 which he was not returning and was asking to take away the same visiting him. It was also averred in the complaint that she was brainwashed by the respondent no.4. It is averred that thereafter, on 18.12.2025, the respondent no.4 again took away his wife and daughters luring them.

Reiterating the averments made in the habeas corpus petition, learned counsel for the petitioner contended that since, his wife and minor daughters are in illegal custody of the respondent no.4, the respondents be directed to produce them and their custody may be handed over to him. He, in support of his submissions, relied upon a judgement of the Hon'ble Supreme Court of India in the case of **Tejaswini Gaud and Others Vs. Shekhar Jagdish Prasad Tewari and Others: (2019) 7 Supreme Court Cases 42.**

Heard. Considered.

Although, in para no.2 of the petition, it is alleged that the respondent no.4 has earlier kidnapped his wife and two minor daughters whereupon, he lodged the MPR on 27.10.2025 (Annexure 1); however, a perusal of the MPR does not reflect a whisper of allegation therein that they were kidnapped by the

respondent no.4. Rather, it was stated therein that his mother found them missing in the morning on 26.10.2025. Further, although, in para no.3 of the petition, it is stated that thereafter, his wife along with minor daughters came back to the matrimonial home and submitted a complaint dated 06.12.2025; but, in the complaint (Annexure 2) lodged by his wife, she has stated that she, along with minor daughters, was brought back by the petitioner himself on 07.11.2025. It is also stated therein that her mark-sheets of 10th and 12th as also some jewellery was kept by the respondent no.4. In these circumstances, it is apparent that the wife of the petitioner had gone on her own with their minor daughters to the respondent no.4 otherwise, there was no occasion for her to have taken away her mark-sheets and jewellery on 25.10.2025 while eloping with him. Although, it is alleged in the petition that thereafter, the respondent no.4 again forcibly lured his wife to go with him on 18.12.2025 but, conspicuously, the petitioner has not lodged any complaint/FIR. Although, two representations dated 06.03.2026 addressed to the SHO, Police Station Jajod, District Sikar as also Superintendent of Police, District Sikar have been placed on record as Annexure 3 but, neither it is averred in the memo of petition in what manner the same were given to the authorities nor, any receipt of speed post/courier service is appended with the representations. In the conspectus of aforesaid circumstances, this Court is not convinced that the wife and the daughters of the petitioner are in illegal detention of the respondent no.4 rather, she appears to have gone with the children out of her volition.

Their Lordships have, in the case of **Tejaswini Gaud and Others** (supra), held that a writ of habeas corpus is maintainable to restore custody of the minor child to his guardian if, it is established that detention of such minor is by a person who is not entitled to his legal custody which is treated as equivalent to illegal detention. However, in the instant case, as is apparent, the minor daughters are with their mother and in view thereof, they cannot be held to be in illegal detention of her mother or the respondent no.4.

Resultantly, we do not find any merit in this habeas corpus petition.

Accordingly, this habeas corpus petition is dismissed.

Pending application(s), if any, also stands disposed of accordingly.

(BHUWAN GOYAL),J

(MAHENDAR KUMAR GOYAL),J