IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr.WP No. 32 of 2026
Decided on : 14.05.2026

Soyab ...Petitioner

Versus

State of H.P. and others …Respondents.

Coram

Hon'ble Mr. Justice G.S. Sandhawalia, Chief Justice.

Hon'ble Mr. Justice Bipin Chander Negi, Judge.

Whether approved for reporting?[1]

For the petitioner: Mr. Ankit Dhiman and Mr. Hemant Kumar Thakur, Advocates.

For the respondents : Mr. Rakesh Dhaulta, Additional Advocate General.

G.S. Sandhawalia, Chief Justice *(Oral)*

The present petition has been filed under Article 226 of the Constitution of India for seeking the custody of Smt. Heena, who is admittedly married to respondent No. 5, Mohd. Samim, and they also have a child from the said marriage. The petitioner claims to be a close friend of the detenue and, on that basis, has filed the present habeas corpus petition praying that the detenue be set free on account of the fact that he has received various messages from her and that she apprehends a threat from her husband and mother-in-law. During the course of arguments, when a query was

[1] *Whether the reporters of the local papers may be allowed to see the Judgment?* Yes

High Court of H.P.

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put to the petitioner as to whether he was in a physical relationship with the detenue, it has come forth that there is also a live-in relationship, and an alleged agreement dated 17th December, 2025 has been placed on record.

2. We are of the considered opinion that the petition is not maintainable in the present form, as admittedly the detenue is living with her husband, and it is not for this Court, as such, to intervene in matrimonial issues inter se the detenue and her husband. Judicial sanctity cannot be given to an adulterous relationship which is apparently existing between the petitioner and the detenue. Though counsel has placed reliance upon the judgment of the Apex Court in ***Special Leave Petition (Criminal) No. 1891 of 2023 titled as Devu G. Nair vs. State of Kerala and others***, decided on 11.03.2024. A perusal of the said judgment of the Apex Court would go on to show that it was not a case where the detenue was married and living with her husband. The issue therein was only regarding the relationship as such, and the detenue was with her parents. In such circumstances, the guidelines, as such, had been laid down to maintain the dignity of intimate partners and members of the LGBTQ communities in cases of illegal detention. Therefore, the said judgment is of no avail to the petitioner.

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3. In such circumstances, we dismiss the petition in limine on account of lack of maintainability, as such. Pending miscellaneous applications, if any, also stand disposed of.

(G.S. Sandhawalia)
Chief Justice

(Bipin Chander Negi)
Judge

14th May, 2026
(Tarun Singh)

High Court of H.P.

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