

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

CM (M) No. 290/2025
CM No. 6662/2025
CM No. 6663/2025

Vanika Choudhary

.....Appellant(s)/petitioner(s)

Through: Mr. Pranav Kohli, Sr. Advocate with
Mr. Aftab Malik, Advocate

Vs

Dhaval Jitendra Sanghavi

..... Respondents

Through: Mrs. Monika Kohli, Advocate with
Mr. Nitin Verma, Advocate

CORAM: HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE

ORDER
15.10.2025

1. The petitioner, through the medium of present petition, has challenged order dated 14.10.2025 passed by learned Additional Principal Judge (Family Court), Jammu (hereinafter to be referred to as **"the trial court"**) whereby the said court has allowed the application of respondent-father to take interim custody of son, namely, Master Agastya with effect from 14.10.2025 (evening) to 20.10.2025 (evening) for celebration of Dhanteras Poojan and Pre-Diwali festivities at the residence of the respondent at Mumbai. Liberty has also been given to the petitioner-(mother) to contact Master Agastya on video call twice a day at 10 AM and at 6 P.M. till the ward is with respondent-father.
2. Issue notice to the respondent. Mrs. Monika Kohli, Advocate accepts notice on behalf of the respondent.
3. Heard and considered.

4. The main ground taken by the petitioner for challenging the order impugned is that the same has been passed without hearing the petitioner. It has been submitted by learned Senior counsel appearing for the petitioner that notice of the application filed by the respondent in connection with the aforesaid prayer was never served upon the petitioner or his counsel and in fact the notice was endorsed by SO Tamilat, District Court, Jammu only on 14th of October, 2025, the day on which the application of the respondent was posted for hearing before the learned trial court.

5. There appears to be prima facie merit in the submission of learned Senior counsel appearing for the petitioner inasmuch as the record does suggest that notice was endorsed by the SO Tamilat on 14th October itself when the case was listed before the learned trial court and the process server could not trace out the counsel for the petitioner for delivering the notice to him.

6. In the normal course, this Court would have remanded the case to learned trial court to take a fresh look at the impugned order after hearing both the parties, but having regard to the urgency involved in the prayer made by the respondent in his application, the same would not be feasible. The grievance of the petitioner that she has not been heard before passing the impugned order has been redressed by according proper hearing by this Court to learned Senior counsel appearing on her behalf.

7. If we have a look at the application filed by the respondent before the learned trial court, it has been submitted, in the said application that as per the family tradition, it is imperative that Master Agastya spends the day of Dhanteras with respondent/applicant and his family and therefore his presence in the family at Mumbai between 14.10.2025 to 20.10.2025 is absolutely necessary. On this ground, it has been submitted that interim custody of Master Agastya may be handed over to the respondent, who happens to be his father so that the child spends the aforesaid festivities with his father.

8. The prayer made by respondent in the application appears to be reasonable. The petitioner, who is present in the Court, submits that she is not averse to handing over the interim custody of the child to the respondent in the facts and circumstances of the case but having regard to the fact that the child is deeply attached to her, it may not be feasible to prolong his interim custody with the respondent for a period extending to as many as six days. She has further submitted that she also intends to spend the Diwali Festival which is falling on 20th or 21st of October with the child. Therefore, the child needs to be back with her well before the aforesaid date.

9. The interests and apprehensions of both the parties can be taken care of by permitting the interim custody of the minor child

to be transferred to the respondent(father) for a period of four days with effect from 16th October to 20th October, 2025.

10. Accordingly, the petition is disposed of by providing that the petitioner mother shall hand over the interim custody of the minor child to the respondent- father at Jammu Airport tomorrow at 7.30 AM. The respondent after spending the festival at Mumbai with the child, shall hand over the custody of the child back to the petitioner at Jammu Airport on 20.10.2025 by flying back on the first available flight. The flight details in this regard shall be exchanged by respondent-father with petitioner-mother today itself.

11. The petition is, accordingly, disposed of.

JAMMU
15.10.2025
Mahavir

