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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

CNR No. DLHC010268642026

+ **W.P.(CRL) 1823/2026**

RUKSHAR

.....Petitioner

Through: Ms. Shama and Ms. Kavita,
Advocates with petitioner in
person.

versus

THE STATE GOVT OF NCT OF DELHI & ORS.

.....Respondents

Through: Mr. Sanjay Lao, Senior
Advocate, with Mr. Aman
Usman, APP, Mr. Abhinav
Kumar Arya, Mr. Aryan
Sachdeva, Advocates and SI
Dharamveer, SI Puran Singh,
PS Dabri, for the State.
Ms. Neeru Gaur, Advocate for
Respondent no. 5 to 8 with R-5
in person.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

01.09.2026

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1. This petition has been filed under Article 226 of the Constitution of India read with Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), praying for issuance of a Writ of *Habeas Corpus* for production of the minor daughter of the petitioner, Ms. F aged about three and a half years, who is alleged to have been illegally detained by the respondent nos. 5 to 8; respondent no. 5 being the husband of the petitioner and father of Ms. F.

2. In the petition it is alleged that the petitioner and the respondent



no. 5 entered into a matrimonial alliance on 23.12.2020 according to Muslim rites and ceremonies. The minor child was born out of the wedlock on 08.02.2023.

3. The present petition also narrates various reasons for the matrimonial discord, primarily arising due to respondent nos. 6 to 8, that is, the parents and the brother of the respondent no. 5. However, we are not concerned with such matrimonial disputes as enunciated in the present petition.

4. Similarly, the respondent no. 5 in his counter affidavit dated 21.07.2026, has raised various allegations against the petitioner, including that the petitioner is not willing to stay with the respondent nos. 6 to 8 in the matrimonial home, however, we reiterate that we are not concerned with the same in the present petition, as these are the matters which the petitioner and the respondent no. 5 would have to agitate in proper proceedings before an appropriate Court.

5. This petition merely concerns the welfare of the minor child Ms. F, who is aged around three and a half years. It is admitted in the counter affidavit filed by the respondent no. 5, that the minor child was living with the petitioner and the respondent no. 5 till 01.06.2026, when the respondent no. 5 took the minor child to the house of respondent nos. 6 to 8.

6. The respondent no. 5 alleges that the petitioner did not like the above act and created a ruckus including breaking the window pane of the respondent no. 5's car. There is also an allegation made that the petitioner is presently staying with her maternal *mausi/khala* who is running a prostitution racket. It is alleged that the cousins of the



petitioner are notorious and habitual criminals and they have been arrested in multiple criminal cases.

7. We may note that, apart from making bald assertions to against the *Mausi* and cousins of the petitioner, there is no document placed on record to substantiate these grave allegations.

8. The fact remains that the child is only three and a half years old and had remained in the custody of the petitioner till 01.06.2026, when admittedly the respondent no. 5 took her away and placed her in the custody of respondent nos. 6 to 8.

9. Under the Muslim law, the custody of the minor girl child, until she attains puberty, should be with the mother. Even otherwise, the welfare of a minor girl child aged around three and a half years, would require her to be in the custody of the mother, until and unless there are certain reasons which would disentitle the mother from such custody. In the present case, we do not find any such reason to have been made out by the respondent no. 5. As noted hereinabove, we are not concerned with the reasons underlying the matrimonial disputes between the petitioner and the respondent no. 5. We had, in fact, referred the parties to mediation and even thereafter, interacted with them during which they expressed their desire to amicably settle their disputes and live together. Unfortunately, they could not do so. We can only advise them to continue making efforts in this direction.

10. As far as the welfare of the minor child is concerned, we are of the firm opinion that the custody of the minor child should be with the mother.

11. We, accordingly, direct the respondent no. 5 to hand over the



custody of the minor child to the petitioner forthwith. The respondent no. 5 shall, however, be entitled to meet the child, and in case the respondent no. 5 wishes to interact with the minor child virtually on a daily basis, the same shall be allowed by the petitioner.

12. The parties shall be at liberty to approach the Competent Court for any modification in the above arrangement or for enforcement of the same, if the need so arises.

13. The petition is disposed of in the above terms.

NAVIN CHAWLA, J

RAVINDER DUDEJA, J

SEPTEMBER 1, 2026/lks/na/pb