



2026:AHC:208227

**HIGH COURT OF JUDICATURE AT ALLAHABAD
HABEAS CORPUS WRIT PETITION No. - 835 of 2026**

Baby Kiara Ahlawat And 2 Others

.....Petitioner(s)

Versus

State Of Uttar Pradesh And 3 Others

.....Respondent(s)

Counsel for Petitioner(s)	: Sanjay Prakash Tiwari, Sharad Sharma, Shivanshu Gupta, Vimlendu Tripathi
Counsel for Respondent(s)	: G.A., Rajneesh Pratap Singh

Judgment reserved on 29.09.2026
Judgment delivered on 06.10.2026

Court No. - 78

HON'BLE SANDEEP JAIN, J.

1. By order dated 15.07.2026, the custody of the minor corpus, Baby Kiara Ahlawat, was handed over to the petitioner, Smt. Swati Rastogi, from Thursday to Sunday of every week, whereas for the remaining days, her custody was directed to remain with respondent No. 4, Manjeet Choudhary, who is the estranged husband of the petitioner.

2. As regards the other corpus, Master Kabir Ahlawat, who is the minor son of the petitioner, Smt. Swati Rastogi, this Court directed that his custody shall remain with respondent No. 4, Manjeet Choudhary, from Monday to Friday of every week, whereas on Saturdays, Sundays, public holidays and during school vacations, his custody shall remain with the petitioner, Smt. Swati Rastogi.

3. This Court interacted with the petitioner, Smt. Swati Rastogi, who submits that she is not satisfied with the aforesaid arrangement made by this Court vide order dated 15.07.2026, as her minor daughter is suffering on account of the said arrangement. She submits that the corpus, Baby Kiara Ahlawat, is only three years old and, being her mother, she is entitled to have her custody. She further submits that she has admitted the minor corpus in pre-nursery in Sunbeam school, which is situated near her residence.

4. She further submits that the custody of the minor corpus is not being handed over to her smoothly by respondent No. 4, who frequently creates unnecessary obstruction in the transportation of the minor corpus. She

further submits that respondent No. 4 has also resorted to physical violence, and in one such incident, her father sustained injuries, regarding which an FIR was registered on 26.08.2026 as Case Crime No. 213 of 2026, under Sections 131, 115(2), 352 and 351(3) of the BNS, at Police Station Civil Lines, District Meerut.

5. She further submitted that she wants the custody of both the corpus to be handed over to her. She submits that she has sufficient financial capacity to maintain the corpus and has also placed her income-tax return on record. She further submitted that visitation rights may be granted to her husband.

6. This Court also interacted with respondent No. 4, Manjeet Choudhary, who submitted that he is a businessman earning approximately Rs.1.25 lakhs per month. The respondent has filed his counter-affidavit disclosing his income and expenses, according to which his monthly income is Rs.1,24,239/-, whereas his monthly expenses are Rs.1,43,000/-. It is thus apparent that the respondent is incurring expenditure in excess of his income.

7. He further submitted that he has admitted the corpus, Master Kabir Ahlawat, to Dayawati Modi Academy, Meerut, in Class I. He further submitted that he has also admitted the corpus, Baby Kiara Ahlawat, to Dayawati Modi Academy, Meerut, and that, being their father, he is entitled to their custody. He, however, refused to reside with his wife in their matrimonial home.

8. He further submits that he has also lodged an F.I.R. on 19.09.2026 being Case Crime No.233 of 2026, under Section 109(1), 115(2), 352, 351(3) and 61(2) B.N.S. at P.S. Civil Lines, Meerut against the petitioner Smt. Swati Rastogi and her relatives for assaulting him and his relatives, regarding an incident which took place during exchange of the custody of the minor corpus in compliance of the order of this Court.

9. This Court made its best endeavour to bring about reconciliation between the spouses, but unfortunately, the effort did not yield any result. There appear to be serious differences between the parties, and the wife has alleged that she was subjected to physical assault by her husband at the matrimonial home. In view of these circumstances, the parties are not residing together.

10. This Court also interacted with Master Kabir Ahlawat, who disclosed

that he is about seven years old and is studying in Class I at Dayawati Modi Academy, Meerut. He stated that he is comfortable in the company of his father. He did not express his willingness to reside with his mother. From his conduct and demeanour during the interaction, it appeared that he was comfortable in the company of his father and his paternal relatives.

11. This Court could not meaningfully interact with the minor corpus, Baby Kiara Ahlawat, who is about three years old. However, from her demeanor and conduct, it appeared that she was comfortable in the company of her mother.

12. Upon interaction with the parties, it is apparent that there are irreconcilable differences between the spouses and that they are not in a position to reside together in their matrimonial home. In such circumstances, this Court is constrained to determine the custody of the minor corpus keeping in view their welfare and the circumstances brought on record.

13. It is apparent that the petitioner, Smt. Swati Rastogi, is a working woman and has filed her income-tax return for the assessment year 2026-27, wherein she has disclosed her annual income as Rs.11,79,770/-. She has further stated that she can get the minor corpus, Baby Kiara Ahlawat, admitted to Dayawati Modi Academy, Meerut, so that she may receive proper education. It is worthwhile to mention that the other corpus, Master Kabir Ahlawat, is presently studying in the same school, namely, Dayawati Modi Academy, Meerut in Class-I. The petitioner is also supported by her parents and when she is on job, they will take care of the minor corpus.

14. It is further apparent that, at this stage, the petitioner Smt. Swati Rastogi has better financial capacity than the respondent and is competent to take care of the minor corpus. However, Master Kabir Ahlawat, who is about seven years old, is not willing to reside with his mother, and during interaction with the Court, he expressed comfort in the company of his father.

15. Keeping in view the tender age of the minor corpus, Baby Kiara Ahlawat, who is only about three years old, who also shares strong emotional bonding with her mother and considering her welfare, this Court deems it appropriate to hand over her custody to her mother, Smt. Swati Rastogi. However, so far as the custody of the other corpus, Master Kabir Ahlawat, is concerned, his custody shall remain with his father, respondent

No. 4, Manjeet Choudhary.

16. In order to maintain and strengthen the emotional bond between the minor children and both their parents, appropriate visitation rights are required to be granted to the parent who does not have their day-to-day custody.

17. Accordingly, the petitioner Smt. Swati Rastogi shall be entitled to have the temporary custody of Master Kabir Ahlawat after school hours on first, third and fifth Saturday of every month from respondent no.4, Manjeet Chaudhary, till the following Monday morning. She will drop both the children to their school on Monday morning.

18. Similarly, the respondent no.4, Manjeet Choudhary shall be entitled to have the temporary custody of Baby Kiara Ahlawat after school hours on second and fourth Saturday of every month from petitioner Smt. Swati Rastogi, till the following Monday morning. He will drop both the children to their school on Monday morning.

19. With these observations and directions, the instant habeas corpus petition is disposed of. The order dated 15.07.2026 is modified to the above extent.

October 6, 2026
Jitendra

(Sandeep Jain,J.)