

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

**128**

**CR No.3997 of 2017**

**Date of decision: 01.06.2017**

Rajan Kumar

....Petitioner

Versus

Niranjan Dass Bhatia & another

...Respondents

**CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA**

Present: Mr.Deepak Arora, Advocate, for the petitioner.

**G.S. SANDHAWALIA, J. (Oral)**

The petitioner challenges the order dated 21.03.2017, passed by the Addl.Civil Judge, (Sr.Divn.) Phagwara under Article 227 of Constitution of India whereby the interim custody of the minor son, namely, Pratham Jakhu, born on 02.08.2014, has been denied.

The reasoning which prevailed with the Court was that the custody of the child was with the mother, who unfortunately expired and the grandparents were thereafter looking after the child. While keeping in mind the paramount consideration of the minor and deciding the dispute, it was held that the interim custody could not be granted to the applicant even if, he was the natural guardian and had a preferential right to the custody of the minor child.

It is not disputed that the child has been looked after by the mother and the maternal grandparents from the time of separation. At this point of time, to drag the child away from the well settled environment, will not be in the paramount consideration of the child. The petitioner can get his application decided expeditiously and on the basis of the evidence which comes on record, regarding his ability to maintain the child and the paramount consideration of the child, which will be taken into consideration by the Court on the basis of the evidence which will come on record.

Accordingly, in the opinion of this court, the impugned order does not warrant any interference by this Court under Article 227 of the Constitution of India and consequently, the present revision petition is, hereby, dismissed. It is made clear that anything said herein shall not prejudice the Court below at the time of final decision.

01.06.2017

*Sailesh*

**(G.S. SANDHAWALIA)**  
**JUDGE**

*Whether speaking/reasoned:*                      *Yes/No*

*Whether Reportable:*                              *Yes/No*