

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPLICATION NO. 606 OF 2019****IN****ANTICIPATORY BAIL APPLICATION NO. 1561 OF 2018**

MANISH S/O. SUSHSILKUMAR
MODI AND ORS.

.....APPLICANTS

Vs.

THE STATE OF MAHARASHTRA
& ANR.

.....RESPONDENTS

Mr. A.M. Saraogi for the Applicants.

Ms. J.S. Lohokare APP, for the Respondent-State.

Ms. Disha Shetty I/by T.F. Irani for the Respondent No.2.

CORAM : A. S. GADKARI, J.

DATE : 18th APRIL, 2019.

P.C.:-

This is an Application for modification of Order dated 5th April, 2019 with respect to the date and time of visit to Master Shivansh, the son of Applicant No.1 and Respondent No.2. It is stated in paragraph No.6 of the Application that, due to circumstances which were beyond the control of the Applicants they could not visit Master Shivansh on 9th April, 2019 between 3.00 p.m. to 5.00 p.m.

2 The Respondent No.2 has filed affidavit-in-reply dated 18th April, 2019. The learned counsel for Respondent No.2 vehemently

opposed the Application and submitted that, all the issues pertaining to the visitation rights and maintenance are already subjudiced before the Family Court and the other Court of competent jurisdiction and therefore this Court, now, may not further modify the Order dated 5th April, 2019.

3 It is to be noted here that, by Order dated 5th April, 2019, the Applicants were permitted to visit the house of the Respondent No.2 to meet Master Shivansh on 9th April, 2019 upto 9.00 p.m, if any, unavoidable circumstance arises. It is clearly observed in the said Order that, the Order of granting visit to the said child was passed in the interest of justice and the same cannot be construed as a precedent in any other proceedings *inter-se* between the parties.

At the time of hearing of ABA No.1561 of 2018 and passing the Order dated 5th April, 2019, in paragraph 7, it is observed that the Respondent No.2 had made a statement that, the Applicants are welcomed to her house to meet Master Shivansh and Respondent No. 2 has no objection for the same.

4 As noted in the Application, the Applicants could not visit Master Shivansh on 9th April, 2019, between the stipulated period due to unavoidable circumstances, which were beyond their control and

therefore, I am inclined to grant one more opportunity the Applicants to visit Master Shivansh, the son of the Applicant No.1 and Respondent No.2 on 30th April, 2019 between 3.00 to 5.00 p.m.

6 The directions mentioned in para 8 of Order dated 5th April, 2019 shall apply to the visit by the Applicants on 30th April, 2019 as well.

Application is disposed off in aforesaid terms.

(A.S. GADKARI, J.)