

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.332 of 2020

Arising Out of PS. Case No.- Year-0 Thana- District- Nalanda

=====

KARAN KUMAR KOUSHAL @ KARAN KUMAR Son of Ramchandra Prasad Resident of Village - Veer Kuwar Singh Colony, Road No.11 Gaya, P.S.- Magadh Medical College, Distt.- Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Govt. of Bihar, Patna. Bihar
2. The State of Bihar through the Collector, Nalanda, Biharsharif. Bihar
3. The Superintendent of Police, Nalanda, Biharsharif. Bihar
4. The Station House Officer, Laheri Police Station, Biharsharif, Nalanda. Bihar
5. Priyadarshna Kumari W/o Late Ram Lakhan Prasad Resident of Village - Resident of Ramchandrapur, P.S.- Laheri, Distt.- Nalanda.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Ankur Prakash Sinha Mr. Akash Raj, Advocates
For the Respondent/s	:	Mr. Prabhu Narain Sharma

=====

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
and
HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH)

2 11-06-2020 This matter has been taken up through virtual Court proceeding.

Heard learned counsels for the parties.

The present Criminal Writ application has been filed with the relief as stipulated in paragraph 1 thereof, which reads as follows:

“(i) For issuance of a writ/order/direction of Habeas Corpus, directing the concerned



respondent authorities herein, to produce the baby girl Sakshi Prasad Koushal aged about 3 and half years.

(ii) Further the court may be pleased to grant visitation right to the petitioner (the father of the baby girl) as he has not seen/met/talked her in the last 1 and half years.

(iii) For any other relief/s for which the petitioner is found entitled to.”

It appears from order dated 26.3.2020 passed in Cr.WJC No. 524 of 2019, as contained in Annexure 3 to the writ application, that earlier also the petitioner filed a Criminal Writ application for issuance of a writ of habeas corpus for release of the same girl child when the Division Bench of this Court declined to entertain the writ application and dismissed the same. However, the petitioner was permitted to file appropriate petition before the Court of competent jurisdiction under the Guardianship and Wards Act. The order dated 26.3.2020 reads as follows:

“The contention raised is that the petitioner being the natural guardian of his daughter who is 2½ years old is unlawfully being confined by respondent no. 4 who is the maternal grandmother. The contention is that the mother of the child is dead and that the respondent no.4 had only two daughters, one of the whom was the petitioner’s



wife. The second daughter has an eye on the property of her mother and therefore there is every threat to the life of the child of the petitioner.

These are issues of fact which may have to be investigated and may require further consideration but in view of the fact that the child is a girl child and is only 2½ years old, *prima facie* she needs the company of her maternal grandmother at this stage of life for her rearing. In the event, the petitioner has any threat towards the life of his child from his sister-in-law, it is open to him to take such steps and inform the appropriate authority about the same but so far as the guardianship is concerned, this claim can be set up under the Guardianship and Wards Act before the appropriate Court and therefore we are not inclined to entertain this *habeas corpus* petition.

Dismissed.”

Thereafter, the petitioner filed Guardianship Case No. 4 of 2019, which is pending before the learned Principal Judge, Family Court, Nalanda at Biharsharif.

Learned counsel for the petitioner, after some arguments, seeks permission to withdraw this writ application with a liberty to move the learned Court below for appropriate relief by filing interim application, if any, to which, learned counsel for the respondents has no objection.



Accordingly, this writ application is disposed of as withdrawn. However, it is expected from the learned Principal Judge, Family Court, Nalanda at Biharsharif to dispose of the aforementioned Guardianship Case No. 4 of 2019 or the interlocutory application, if any, filed by the petitioner for the appropriate relief, expeditiously in accordance with law as soon as the physical court proceedings resume.

It is made clear that this order will be effective only if learned counsel for the petitioner removes the defects pointed out by the office within a period of four weeks from today.

(Dinesh Kumar Singh, J)

(Anil Kumar Sinha, J)

anil/-

U			
---	--	--	--

