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

+ **MAT.APP.(F.C.) 40/2020**

VHARUN SHARMA

..... Appellant

Through Mr. Sanjay Goswami, Ms. Kriti
Gupta and Mr. Vipin Singh, Advocates.

versus

POONAM ABHILASHA SHARMA

..... Respondent

Through Nemo.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE ASHA MENON

ORDER

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11.02.2020

C.M. No. 5427/2020 (exemption)

Allowed, subject to all just exceptions.

MAT.APP.(F.C.) 40/2020 & C.M. No. 5426/2020 (by the appellant for overnight custody of the minor child)

1. The appellant/father is aggrieved by an order dated 8.1.2020, passed by the learned Family Court, dismissing an application filed by him under Section 25 of Guardian and Wards Act whereunder, he had sought permission for overnight stay of the minor child of the parties, with him.
2. Mr. Goswami, learned counsel for the appellant/father submits that vide order dated 23.5.2017, the appellant has been granted visitation rights on the first and third Sundays of every month for four hours and later the time period was increased vide order dated 31.5.2018, from 11 A.M. to 6 P.M. on every Sunday, during the summer vacations of the child. Subsequently, vide order dated 1.6.2019, the appellant was granted visitation rights for the enhanced period from 11 A.M. to 8.30 P.M., during the summer vacations of the child in the year 2019.

3. The request made by the appellant/father for grant of overnight stay of the child with him has been turned down by the learned Family Court, noting that the child has just completed six and a half years and has been staying with his mother ever since he was 1-2 years old. The Family Court has also recorded that having interacted with the child, he had expressed an apprehension that he may be asked to stay away from his mother, which he was not keen on, but he was willing to meet his father.

4. We have perused the impugned order. The learned Family Court has given valid reasons for declining overnight stay of the child to the father. While we understand the anxiety of the appellant/father for having access to the child and spending time with him, which he has been permitted twice a month, keeping in mind the tender age of the child and the observations made by the learned Family Court on interacting with him, we are of the view that for the present overnight visitation rights cannot be granted to him. However, liberty is granted to the appellant/father to approach the learned Family Court in the event he proposes to seek enhancement of visitation rights for more than two days in a month, as granted to him, from 11 A.M. to 6 P.M.

5. The present appeal is dismissed in *limine*, alongwith the pending application.

HIMA KOHLI, J

FEBRUARY 11, 2020NA/rkb

ASHA MENON, J