

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (HC) No. 15 of 2020**

Smt. Nisha Shukla W/o Shri Dwivesh Shukla Aged About 29 Years R/o House No. 38, Gitanjali Bihar Nehru Nagar, P.S. Civil Line, Bilaspur, District Bilaspur (Chhattisgarh)

---- **Petitioner****Versus**

1. Dwivesh Shukla S/o Late Shri Rameshwer Prasad Shukla Aged About 35 Years R/o Ward No. 9, Bihari Coloni, Near Viklang Chhatravas, P.S. Kotwali, Anoopur, District Anoopur (Madhya Pradesh)
2. The Superintendent of Police S.P. Office Bilaspur, District Bilaspur (Chhattisgarh)

---- **Respondents**

For Petitioner	: Shri Avadhesh Mishra, Advocate.
For Respondent/State	: Shri Chandresh Shrivastava, Deputy Advocate General

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice
Hon'ble Shri Parth Prateem Sahu, Judge

Order on Board**Per P. R. Ramachandra Menon, Chief Justice****11.01.2021**

1. The Petitioner has filed this petition in the style of "Habeas Corpus" seeking production of her child aged about 6 years stating it to be in the custody of Respondent No.1.
2. Shri Avadhesh Mishra, the learned counsel for the Petitioner submits that the child of the Petitioner is in the custody of Respondent No.1, who is her husband and father of the detinue. He further points out that Respondent No.1 is even not permitting the Petitioner to meet her child.
3. As per the pleadings made in the writ petition, the Petitioner has specifically pleaded that there is some dispute between the Petitioner and the 1st Respondent and the Petitioner is residing separately with her husband and filed an application under Section 125 of the Cr.P.C. for

seeking maintenance, which is pending consideration before the Family Court, Bilaspur.

4. Taking into consideration the facts and circumstances of the case, submission of the learned counsel for the Petitioner as well as the pleadings made in the writ petition, custody of the child with Respondent No.1 cannot be termed to be illegal detention as the child is residing with her father.
5. In view of above, we do not find any merit in the writ petition. The writ petition stands dismissed. However, the Petitioner is set at liberty to file appropriate proceeding before the Family Court for seeking custody of the detainee. If any such proceeding is filed by the Petitioner before the learned Family Court, then the learned Family Court may consider the same as expeditiously as possible.

Sd/-
(P. R. Ramachandra Menon)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge