

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD.**

WRIT PETITION NO. 8738 OF 2021

1. Rajendra s/o Dilip Maid,
Age : 30 years, Occu. Business
2. Mandabai w/o Dilip Maid,
Age : 46 years, Occu. Household

Both R/o. Ashwi, Taluka-Sangamner,
District : Ahmednagar.

...Petitioners

Versus

Shubhangi @ Rani Rajendra Maid,
Age : 27 years, Occu. Beauty Parlor,
C/o. Radhakisan Pandurang Kapile,
R/o. Newasa Khurd, Tal. Newasa,
District : Ahmednagar.
At Present R/o. Sai Bramha Housing Society,
Behind Kale Medical Store,
Newasa Phata, Taluka-Newasa,
District : Ahmednagar.

...Respondent

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Shri. Ravindra M. Deshmukh, Advocate for the petitioners
Shri. Ganesh P. Darandale, Advocate for the respondent

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**CORAM : PRITHVIRAJ K. CHAVAN, J.
DATE : MARCH 16TH, 2022**

ORAL JUDGMENT : -

1. Rule. Rule made returnable forthwith. Heard finally with
the consent of the learned Counsel for the parties.

2. By this petition, the petitioners challenge an order dated 24.03.2021 passed by the learned District Judge-2, Newasa, below Exh. 14 in Civil M. A. No. 33/2020, whereby the permission to meet son Anshuman twice in a month, has been rejected.

3. Heard learned Counsel for the petitioners and the respondent/mother of Anshuman.

. Without going into the merits of the order, the learned Counsel for the parties are *ad idem* to permit the petitioners to have visiting rights to Anshuman (son of petitioner no.1), twice in a month.

4. Admittedly, there was a divorce by mutual consent between the petitioner no. 1 and respondent by a decree passed by the learned Civil Judge Senior Division, Newasa, on 11.09.2017. The learned counsel for the petitioners submits, that at the time of divorce, it was mutually and orally agreed that the respondent/mother would permit the petitioner no. 1 to meet Anshuman, twice in a month. However, when the petitioner no. 1 had been to Newasa to meet his son on 06.08.2018, he was restrained from meeting the son by the respondent and her parents. The petitioner no. 1, therefore, moved

an application before the District Court under the Guardian and Wards Act, 1890 on 07.08.2018. It is submitted that the learned District Judge had orally asked the petitioner no. 1 to meet his son after he attains the age of four years, as at that time Anshuman was only two years old.

5. It is, however, stated that on 03.12.2018, when the petitioner no. 1 had been to the District Court to attend a case being Misc. Application No. 32/2018, and when he was on the way to return home at the Bus Stand of Newasa, respondent and her relatives had abused, threatened and assaulted him. He was threatened to withdraw the application filed by him in the court. Admittedly, a non-cognizable case appears to have been registered against the accused with Newasa Police Station on 17.12.2018 for the offences under Sections 504 and 506 of the Indian Penal Code. It is surprising from the perusal of the copy of the FIR that a non-cognizable case has been registered by the concerned Police Station, though, the FIR clearly reveals that the petitioner no. 1 was threatened with dire consequences by the accused. Be that as it may.

6. Learned Counsel for the respondent is *ad idem* with the prayer made in the petition whereby the petitioners seeks to meet

Anshuman, twice in a month. In the aforesaid circumstances, the following order is expedient.

ORDER

- [i] The Petition is allowed.
- [ii] The petitioners are permitted to meet Anshuman Maid on 01st and 03rd Friday of every month between 03:00 pm to 06:00 pm, at Newasa.
- [iii] The petitioners shall strictly follow the duration as above.
- [iv] The petitioners shall make their own arrangement as regards the place where they would meet Anshuman, twice in a month.
- [v] The respondent-mother shall give free access of Anshuman to the petitioners without any interference.
- [vi] In view of the earlier episode of assault, the petitioners may seek assistance of the Local Police, in case there is an apprehension of assault. However, the petitioners shall deposit the requisite charges of police protection in advance.
- [vii] Upon an application being made to the concerned Police Station, the concerned In-charge of the Police Station shall make necessary arrangements, if required.

[viii] The petitioners shall not take Anshuman to their native place Ashwi, Taluka Sangamner, Dist. Ahmednagar, or anywhere else.

[ix] Copy of this order be sent to the Superintendent of Police, Ahmednagar district.

7. Rule is made absolute in the aforesaid terms with no order as to costs.

[PRITHVIRAJ K. CHAVAN]
JUDGE