

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL WRIT PETITION NO. 3423 OF 2022**

Mudassir Shaikh

.....Petitioner

Vs.

The State Of Maharashtra & Anr.

.....Respondents

Ms. Rimpal Trivedi for the Petitioner.

Mr. Nilesh Pawaskar a/w Mr. Irfan Khan i/by Ms. Sudha Dwivedi for the Respondent Nos.2 and 3.

Mr. Ajay Patil APP, for the Respondent No.1-State.

**CORAM : A. S. GADKARI AND
PRAKASH D. NAIK, JJ.
DATE : 7th DECEMBER, 2022.**

PC.:-

1) In pursuance of Order dated 19th October, 2022, the Deputy Registrar, Main Mediation Center, High Court Mumbai has submitted a communication dated 3rd November, 2022 stating therein that, it did not receive a report from the Mediator. It may be noted here that, we never directed the Deputy Registrar, Main Mediation Center, High Court Mumbai to send any communication to this Court. What we are expecting is the Mediation Report from the learned Mediator.

2) Mr. Pawaskar, learned counsel for the Respondent Nos.2 and 3, on instructions submitted that, the learned Mediator has in fact submitted a

report to this Court, a copy of which was also given to his clients. He tendered across the bar, an unsigned copy of the said report. As per the said report, the mediation has failed as the parties herein were unable to resolve the dispute amicably.

3) Be that as it may. As the Respondent No.2 has disclosed the whereabouts of the corpus namely Ms. Amaira Shaikh and in pursuance of Order dated 19th October, 2022, the Petitioner has availed access of Ms. Amaira Shaikh on the dates and time stipulated in the said Order, the present Petition for habeas corpus as of today does not survive.

4) Learned Advocate for the Petitioner on instructions submitted that, the Petitioner will adopt appropriate legal remedy either for seeking custody of the said minor child and/or visitation rights before the appropriate Court of law, including Family Court or Civil Court. She further submitted that, the Petitioner will file appropriate Application if so advised or as may be permissible under the law within a period of two weeks from today.

5) In view of above, for a period of three weeks from today, we continue the access of the Petitioner to Ms. Amaira Shaikh as per Order dated 19th October, 2022 and as modified by Order dated 23rd November, 2022. This interim arrangement will come to an end on 28th December, 2022.

During the period of these 3 weeks, Respondent No.2 is directed not to take away the child out side the jurisdiction of this Court.

6) Learned Advocate for the Petitioner on instructions, submitted that, whenever the Respondent No.2 will come with the child i.e. Ms. Amaira Shaikh to have an access of Petitioner for exercising visitation rights, the Petitioner will pay to and fro travelling charges of taxi to Respondent No.2. The said statement is accepted.

7) Writ Petition is disposed off in the aforesaid terms.

(PRAKASH D. NAIK, J.)

(A.S. GADKARI, J.)

SANJIV
SHARNAPPA
MASHALKAR

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by SANJIV
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