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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.02.2022

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH
AND
THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

H.C.P.NO.2097 OF 2021

Shak Mytheen

.. Petitioner

Vs.

1. State of Tamil Nadu represented by
The Superintendent of Police,
Salem District.
2. The Deputy Superintendent of Police,
Mettur, Salem District - 363 401.
3. The Inspector of Police,
Mettur Dam I Police Station,
Salem District - 636 401.
4. Akbar Patcha
5. Dilshath
6. Nasreen Chithara

.. Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus directing the 1st, 2nd and 3rd respondents police to produce the body of the detenu viz., minor S.Sahk Aslam, aged 3 ½ years, now detained under the custody of the respondents 4, 5 and 6 and to hand over his custody to the petitioner.

For Petitioner : Ms.T.K.S.Bharathy Shri

For RR 1 to 3 : Mr.R.Muniyapparaj,
Addl. Public Prosecutor

For RR 4 to 6 : Mr.C.Sivakumar





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directions:

- (a) the petitioner shall collect the child viz., Sheik Aslam on Saturday at 10.00 a.m. from the respondents 4 to 6 and return the child on Sunday at 5.00 p.m. without fail;
- (b) if the petitioner violates the above direction, it is open to the respondents 4 to 6 to approach the third respondent/police, who shall immediately take appropriate action against the petitioner and report to this Court.

6. As stated above, this is purely a temporary arrangement and this Court proposes to monitor this arrangement till the next date of hearing and take decision in this regard. In the meanwhile, it is open to the parties to approach the appropriate Court for guardianship and custody, if so advised or if the parties are able to amicably arrive at a settlement, that could also be reported to this Court on the next date of hearing.

With the above directions, this matter stands adjourned to 22.02.2022."

3. Heard Ms.T.K.S.Bharathy Shri, learned counsel for the petitioner, Mr.R.Muniyapparaj, learned Additional Public Prosecutor appearing for the respondents 1 to 3 and Mr.C.Sivakumar, learned counsel for the respondents 4 to 6. Today all the parties are present before this Court.

4. We find that the child Sheik Aslam has developed attachment towards the petitioner, he being the natural guardian of the child. That apart, it is seen that the respondents 4 and 5 are involved in some chit transactions and there are some police complaints against them in C.S.R.No.163 of 2021 on the file of the Vadakur Police Station, Erode District.

5. In such view of the matter, we are of the opinion that interests of justice will be served, if custody of the child Sheik Aslam is given to the petitioner and visitation rights are given to the respondents 4 to 6 at the residence of the petitioner on every weekends.

6. Accordingly, the following directions are issued:

- i. The custody of the child Sheik Aslam is given to the petitioner;
- ii. The respondents 4 to 6 may visit the child Sheik Aslam at the residence of the petitioner at 10.00 a.m. on every Saturdays and Sundays;
- iii. The respondents 4 to 6 shall not take away the child Sheik Aslam from the custody of the petitioner;



7. This is purely a temporary arrangement and it is open to the parties to approach the appropriate Court for guardianship and custody of the child Sheik Aslam, if so advised and the said Court shall proceed with the matter without in any manner influenced by what is stated above.

In the result, this habeas corpus petition stands closed.

Sd/-
Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

nsd

To

1. The Superintendent of Police,
Salem District.
2. The Deputy Superintendent of Police,
Mettur, Salem District - 363 401.
3. The Inspector of Police,
Mettur Dam I Police Station,
Salem District - 636 401.
4. The Public Prosecutor,
High Court, Madras.

+1cc to M/s.T.K.S.Bharathy Anandraj, Advocate, S.R.No.11407

H.C.P.No.2097 of 2021

GPL(CO)
RLP(16/03/2022)