

SA Pathan

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.6945 OF 2019

SHABNOOR
AYUB
PATHAN

Digitally signed
by SHABNOOR
AYUB PATHAN
Date: 2023.08.31
17:50:10 +0530

Rahul Ajay Chandak

... Petitioner

V/s.

Deepti Rahul Chandak

... Respondent

Mrs. Taubon F Irani a/w Ms Disha Shetty, for the
Petitioner.

Ms. Kimaya Prajapati h/f Mr. Nilabh N Toshnival , for
Respondent No.1.

CORAM : AMIT BORKAR, J.

DATED : AUGUST 25, 2023

P.C.:

1. The challenge in this petition is to the order dated 30 April 2019 permitting petitioner custody of child.
2. Learned Advocate for the petitioner has rightly raised objection to the words “kidnapped” and “nabbed” in the order. In my opinion, it is necessary that such words ought not to have been used by the Court in relation to the Family Court proceedings matter. Particularly, when the father allegedly unauthorizedly took away child, it would appropriate to describe better words available than which have been used by the Family Court.
3. It appears that during pendency of present petition, the petitioner has filed an application for shifting interim physical

custody of their son to petitioner for following prayers:

a) This Hon'ble Court be pleased to shift interim physical custody of their son to the petitioner-father and direct the respondent mother to return the minor child Nirvaan to his natural guardian in Mumbai;

b) This Hon'ble Court be pleased to issue directions to the respondent to remain present before this Hon'ble Court with the minor son;

4. Taking into consideration the issue involved is in relation to custody of child the technicalities of pleadings would not apply. It is necessary that the Court must be sensitive about the welfare of the child. All orders passed by the Court should be in the interest of child.

5. It is well settled that *non custodial parents* are entitled to have access to the child.

6. Learned Advocate for the respondent-wife, therefore, makes statement that father would be entitled to have access to the child through video calls to child between 7:30 pm to 8:30 pm every day Indian standard time during pendency of application dated 19 July 2023

7. The paternal grandparents of the child shall be entitled to have access of the child on *weekends and holidays* for three hours excluding travel time.

8. Considering facts of the case, the Family Court is directed to decide the application dated 19 July 2023 as expeditiously as

possible in any case within eight weeks from today.

9. The writ petition stands disposed of. No costs.

(AMIT BORKAR, J.)

Note: This Order is corrected as per order dated 31 August 2023. Corrections in paragraph Nos.5 & 7 are shown in italicize.