



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

CRIMINAL WRIT PETITION NO. 473 OF 2024

**MAJID BADSHA SHAIKH
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...

Advocate for the Petitioner : Mr. T. J. Momin
APP for Respondents/State : Ms. V.N. Patil-Jadhav

...

**CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.**

DATE : 13 MARCH 2024

PER COURT :

. The petitioner who was the husband of respondent no.3 is coming with following prayers :

- “(A) Writ Petition may kindly be allowed.*
- (B) By issuing a writ, order or direction in the nature of Habeas Corpus, direct Respondent no.1 Police to produce the minor daughter of the petitioner before this Hon’ble Court.*
- (C) By issuing a writ, order or direction in the nature of Habeas Corpus, direct Respondent no.2 to look into this matter personally and make sure the minor daughter of the petitioner is produced before this Hon’ble Court and detailed report the matter is placed before this Hon’ble Court.*
- (D) Pass other such orders which are necessary in the facts and circumstances of the case in favour of the petitioner.*
- (E) To grant any other suitable and equitable relief may kindly be granted in favour of the petitioners.”*

2. The learned Advocate for the petitioner submits that by seeking a writ of habeas corpus, he is soliciting a direction against respondent no.2/Commissioner of Police to ensure that the girl child of the couple who is born in the year 2017 which is in the custody of respondent no.3, is brought before this Court.

3. The learned Advocate for the petitioner refers to and relies upon the decision of the Supreme Court in the matter of **Rohith Thammana Gowda Vs. State of Karnataka and Ors.**, in Civil Appeal No.4987/2022, to buttress his submission that this Court can in appropriate case exercise the jurisdiction of issuing a writ of habeas corpus, even in such matter.

4. Apart from the fact that the facts in the matter before the Supreme Court were peculiar inasmuch as the child therein was born and brought up in the United States. There was an order of Court of competent jurisdiction in the States directing custody and it is pursuant to the facts and circumstances, the direction was given to the mother to enable the child to go back to the United States.

5. The facts and circumstances in the matter in hand are not so peculiar. It would be always open for the petitioner to resort to the appropriate remedies as are available to him in law to seek custody of the child and even visitation rights. It all would require enquiry into the facts and the decision will have to be taken keeping in mind welfare of

the child. All such exercise can happen in a Court while exercising jurisdiction under the Guardians and Wards Act.

6. There are no extra-ordinary circumstances which would compel us to invoke jurisdiction for issuing writ of habeas corpus. Keeping that avenue open, the writ petition is disposed of.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]

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