



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.658 OF 2024

SUREKHA DEVLAL GAIKWAD
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for the Petitioner : Mr. Bakal Vishal P.
APP for Respondents: Mr. G.A. Kulkarni
...

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

DATE : 23.04.2024

PER COURT:

This is a petition for *habeas corpus*.

2. The petitioner alleges about her husband having forcibly taken away all the four children of the couple aged 9 year, 8 year, 5 year, and 1 ½ year.

3. In the normal course, seeking custody of children in a dispute between the couple should go to the civil court under the appropriate law. However, since even the custody of a girl aged 5 years and a boy aged 1 ½ year is under consideration, we had expressly directed these two children to be brought to this Court.

4. Learned APP, on instructions, from Mr. Shailesh Deshmukh (API) submits that pursuant to the orders of this Court, the father of the

children together with all the four children are present in the Court. The petitioner is present with her advocate.

5. Considering the complexity of issue and bearing in mind the welfare of the children, we relegate the petitioner to seek appropriate relief to the extent of the children aged 9 year and 8 year as several other factors will have to be borne in mind and would be decisive for deciding the rival claims for custody to these two children.

6. Although, same can be said even in respect of other two children, as we have expressed earlier since the third girl Divya is aged 5 year and fourth child son Om is aged 1 ½ year, we direct that both these two children Divya and Om be handed over to the petitioner immediately.

7. We dispose of the writ petition by granting liberty to the petitioner as also the husband, to resort to appropriate remedies.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)

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