

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

CRIMINAL WRIT PETITION NO.1724 OF 2024

Mehjbeen F. Kadri

.... Petitioner

Versus

The State of Maharashtra and Anr.

.... Respondents

.....

Mr.Vishal V. Rankhambe, Advocate for the Petitioner.

Ms.A.A. Takalkar, APP for Respondent No.1 –State.

Mr.Ifran A.Amsari a/w. Mr.Abdul Kalam Ansari and Mr.Vaibhav Shah, Advocate for Respondent Nos.2 to 4.

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***CORAM : BHARATI DANGARE &
MANJUSHA DESHPANDE, JJ.***

DATED : 14th JUNE 2024.

P.C. :

1 In the habeas corpus petition filed by the petitioner mother, on 30th May, 2024, the Division Bench (Vacation Court) examined the issue in great detail, and as per the recording in paragraph no.3, we deem it appropriate that the parties be engaged in mediation, and, therefore, the former Chief Justice of Rajasthan High Court was chosen to act as an Mediator with a hope that the parties would resolve their difference over a period of 60 days.

The very same order also provided an interim

arrangement till the issue is resolved between the parties which permitted the daughter to be dropped at the residence of the petitioner and to be picked up on the same day i.e. June 2, 2024, however, on the larger term it was directed that the daughter shall be dropped on every Saturday to the petitioner's place and pick up on Sunday at 05:00 p.m. so that the petitioner mother can avail overnight weekend access of the child.

2 While the mediator was in the process of mediation, he received an intimation informing that respondent no.2 is arrested in connection with a criminal complaint, unconnected with the dispute between the couple, and, this prompted the learned Mediator to immediately call for a meeting, and upon having due deliberation with the wife, who was present alongwith the daughter, and the advocate for the respondent-husband, the learned Mediator immediately prepared an interim report and in a sealed envelope directed it to be presented to the Court. The report furnished by the learned Mediator is taken on record and marked "X", for identification.

Accordingly the counsel for the petitioner produced a sealed envelope, and, upon its perusal, we could find that the learned Mediator has clearly recorded that he found the girl aged 8 years very attached to the mother, and felt secured with her and in her presence. It is further reported that since the husband who was to take the daughter back with him at the end of the weekend, this contingency is non-stalled in the wake of his arrest, and, therefore, the interim report is submitted in unusual circumstances.

3 The copy of the report shall also made available to the learned counsel for respondent no.2 to 4.

4 The learned counsel for respondent nos.2 to 4 make a categorical statement that he has no difficulty if the daughter continue to reside with petitioner mother, till the father is released from custody, and, upon such a contingency with an advance intimation being given to the counsel for the petitioner, the parties shall approach the learned Mediator, who shall thereafter move ahead with the mediation proceedings.

5 It is made clear that in the meantime the daughter shall continue to attend the school and for no reason there shall be any default in sending her in school as well as continuation of her extra curriculum actives, which was undergoing.

6 Re-notify to 7th August, 2024.

(MANJUSHA DESHPANDE, J.)

(BHARATI DANGARE, J.)