



2024:DHC:5573-DB



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IN THE HIGH COURT OF DELHI AT NEW DELHI*Date of decision:-29th July, 2024.*

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W.P.(CRL) 2117/2024, CRL.M.As.20564/2024 & 20565/2024**HARIOM KAUSHIK**

.....Petitioner

Through: Mr Jatan Singh, Mr Siddharth Singh, Mr Tushar Lamba, Mr Ravin Rao, Mr Ayan Sharma, Ms Vanshika Adhana, Ms Sangeeta Singh, Mr Pallavi Gupta, Mr Akshit Sawal & Mr Kunal Vason, Advs. (M: 9810041079) with Petitioner in person.

versus

THE STATE (NCT OF DELHI) AND ORS.

.....Respondents

Through: Ms. Nidhi Raman, CGSC with Mr. Akash Mishra, Advs. for R-5/UOI. (M: 9891088658)
Mr. Sanjay Lao, SC (Crl.) with Ms. Priyam Agarwal & Mr. Abhinav Kr. Arya, Advs. with Insp. Manoj, PS Shalimar Bagh.
Mr. Ramesh Gupta, Sr. Adv. with Ms. M. Begum, Mr. Shailendra Singh, Mr. Ishaan Jain and Mr. Harsh Choudhary, Advs. for R-6 to 9. (M: 9999332944)
Respondent No.7 alongwith child in person.

CORAM:**JUSTICE PRATHIBA M. SINGH****JUSTICE AMIT SHARMA****Prathiba M. Singh, J.(Oral)**

1. This hearing has been done through hybrid mode.
2. The present writ petition has been filed by the Petitioner under Article 226 of the Constitution of India and Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, seeking a writ of *Habeas Corpus* directing the Respondents to produce his daughter who is 4 years old before this Court.

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3. It is the case of the Petitioner that he has not met his daughter since October 2023. According to the Petitioner, he and his wife-Neha Verma *i.e.* Respondent No.6 have marital discord, pursuant to which she took the daughter and travelled to Germany on 6th January, 2023.
4. It is further submitted by the Petitioner that he also went to Germany and tried to resolve the issues, and he last met his wife and daughter in March 2024. Thereafter, however, there has been considerable deterioration in relations and the Respondent No.6 is not allowing him to meet the daughter.
5. Respondent No. 6 and daughter of the Petitioner are now in India and he has sought production of his daughter, with whom he has not met for the last several months.
6. A status report dated 16th July, 2024 was handed over in Court on the last date of hearing and the same was taken on record.
7. As per the said status report counselling sessions are being held at the Child and Women Cell, Kirti Nagar, Delhi, between the Petitioner and Respondent No.6 but the daughter has not been produced there.
8. On 16th July, 2024, the wife-Respondent No.6 had appeared alone and had informed the Court that she wishes to travel back to Germany on 2nd August, 2024 to join back her job at M/s. GIZ GmbH in Eschborn, Germany. On the said date, the Court directed some meetings to be held under the aegis of the Delhi High Court Mediation and Conciliation Centre between the Petitioner and the child and had also directed that the child shall be produced before the Court on the next date of hearing.
9. Respondent No.6 has appeared along with the child. The Petitioner is also present.
10. The Court had interacted with them in Chamber on 26th July 2024 and again in the Court today.



11. There is matrimonial discord between the Petitioner and Respondent No.6. The issue relating to the child has been discussed with both the parents. The Petitioner states that he is working on a contractual basis in BMW, India. The Petitioner wishes to and is willing to start living with his wife and daughter again, however Respondent No.6 opposes any reconciliation in the marriage. She is clear that she does not wish to cause any rift between the daughter and the Petitioner and is willing to facilitate their meetings.

12. Considering the fact that the child is already studying in Germany and staying with her mother comfortably, the child shall continue to remain with the mother until any orders are passed by the Competent Court under the Guardianship and Wards Act or any other applicable law.

13. The wife shall facilitate the Petitioner-father to speak to the child on a daily basis on video call, at least for one hour, so that the bond between the father and the child-daughter is also maintained. Whenever the Petitioner wishes to travel to Germany, he is free to visit the child and even take her for outings *etc.* so long as her safety and security is not compromised in any manner. If the mother-Respondent No.6, wishes to accompany the Petitioner and the child, she can accompany them or can remain in the vicinity. Respondent No.6 is also willing to make the child speak with her paternal grandparents.

14. Thus, the interim arrangement, as directed above, of video call as also the visit of the Petitioner to his daughter during stay in Germany, shall continue. Both the parties shall abide by the same.

15. If the Petitioner is planning to travel to Germany, he shall give at least one week's advance notice to Respondent No.6 so that she can arrange to make the child available to spend some time with the Petitioner. Respondent No.6 also assures the Court that during holidays, she can travel to India and she will inform the Petitioner prior in time, of the same so that the child can spend time with the



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Petitioner and her grandparents during such visits on a daily basis. Whenever the school vacations are there, Respondent No.6 has agreed to inform the Petitioner in advance so that he can travel to Germany and spend time with the child in Germany itself.

16. Subject to fulfilling the above conditions, Respondent No. 6 is free to travel to Germany along with the child. However, the Petitioner's name shall be reflected in all school records, official records, passport, Aadhaar card etc., as the father of the child 'M'. The nationality of the child shall also not be changed without the prior permission of the Court. If any application is to be moved for changing of passport or nationality of the child, a copy of the said application shall also be served to the father.

17. Till 1st August, 2024, the Petitioner is also permitted to visit the child and spend time with the father on a daily basis. Both the parents shall ensure that the safety and security of the child is not compromised in any manner.

18. The present *Habeas Corpus* petition is disposed of in the above terms. Parties shall strictly abide by the directions given above. All pending applications are also disposed of.

19. Copy of this order be also communicated to the passport authorities through the Standing Counsel Mr. Anurag Ahluwalia.

PRATHIBA M. SINGH
JUDGE

AMIT SHARMA
JUDGE

JULY 29, 2024

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