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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(CRL) 2138/2024

PANKAJ KUMAR JHA

.....Petitioner

Through: Mr. Kundan Chandravanshi, Mr. Ravi
Kumar, Mr. Siddharth Chaudhary,
Adv. (M: 8826089120)

versus

STATE OF NCT OF DELHI & ORS.

.....Respondents

Through: Mr. Sanjay Lao, Standing Counsel
(Crl.) with Ms. Priyam Agarwal and
Mr. Abhinav Kumar Arya, Adv. with
Insp. Aditya Malik and SI Ashwani,
PS Fatehpur Beri.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE AMIT SHARMA

ORDER

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18.07.2024

1. This hearing has been done through hybrid mode.

CRL.M.A.20740/2024 (for exemption)

2. Allowed, subject to all just exceptions. Application is disposed of.

**W.P.(CRL) 2138/2024 & CRL.M.A.20741/2024 (for interim visitation
rights)**

3. The present writ petition has been filed on behalf of the Petitioner-Mr. Pankaj Kumar Jsha seeking issuance of a writ of habeas corpus to direct the production of his minor child aged between 4-5 years in Court.

4. It is stated that the mother of the said child committed suicide and an FIR no. 30/2023 under Sections 304B/498A/34 IPC at Police Station Fatehpur Beri, Delhi was registered against the Petitioner on allegation of dowry and



harassment. The Petitioner was granted bail on 5th February, 2024 after having been in custody for more than one year. The minor child is currently with the maternal grandparents i.e. *nana* and *nani*.

5. The Petitioner has already filed a petition under the Hindu Minority and Guardianship Act, 1956, being ***GP/25/2024 titled Pankaj Kumar Jha v. Punita Mishra & Anr.*** in Tis Hazari Courts, Delhi, where the notice has also been issued.

6. The status report dated 18th July, 2024 authored by SHO PS Fatehpur Beri placed on record in Court today states that the Nani of the said child- Smt. Punita Mishra has confirmed that the minor child/Master 'R' (name withheld), who is now five years old, is living with her family after the death of her daughter. The constable concerned has interacted with the child and today he is stated to be in school. The extract of the status report is below:

“2. That the brief facts of the case are that the petitioner was married to Ms. Sweta Mishra @ Sikha on 22.06.2018. He has a son namely Riyansh. On 11.01.23, she committed the suicide by hanging herself. Hence, a case FIR No. 20/2023 Dated 12.01.2023 U/s 498A/304B/34 IPC was registered in this PS and the petitioner was arrested and sent to judicial custody. Now, he is on bail from 05.02.24. The case is pending trial.

3. The petitioner filed a complaint in this PS on 05.07.24 wherein he alleged that he has not seen his son namely Riyansh Age 04 years from 21.01.2023. His son is under the custody of her father in law and mother in law. In this regard, he has also filed a Guardianship Petition in Tis Hazari Court, Vide Case No. GP/25/2024. He wants to custody of his child and the same was entrusted to SI Nasib Singh.



4. On 17.07.2024, HC Vijendra No.1850/SD went to H. No. R-38/39, Ragubir Nagar, New Delhi and met to Smt. Punita Mishra W/o Sh. Lalit Mishra R/o as above and she stated that her nephew namely Riyansh Age 05 years is living with her family after the death of her daughter Sweta Mishra. Thereafter, the HC Vijendra interacted with child and he stated that he wants to live with her grandmother in law (Nani Ji). A separate statement was recorded in this regard and the same is attached herewith for your kind perusal.”

7. Considering this position and the fact that the Petitioner has already filed a guardianship petition and wishes to meet the minor child, this Court is of the opinion that instead of entertaining this habeas corpus petition, it is deemed appropriate to direct the concerned Guardianship Court to consider the prayer for putting an interim arrangement in place in accordance with law. The matter is stated to be listed on 30th July, 2024 in the concerned Guardianship Court.

8. The child along with his maternal grandparents shall appear before the concerned Guardianship Court on 30th July, 2024 and the Court shall pass appropriate orders within a period of two weeks.

9. The petition is disposed of in the above terms, along with all pending applications.

PRATHIBA M. SINGH, J

AMIT SHARMA, J

JULY 18, 2024/dk/rks/Pc