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IN THE HIGH COURT OF DELHI AT NEW DELHI***Date of Decision: 24th July, 2024***

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W.P.(CRL) 2152/2024**TANYA SHARMA****.....Petitioner**

Through: Mr. Yogesh Lohchab, Adv. (M:
9899406506) with Petitioner in
person.

versus

STATE NCT OF DELHI AND ORS.**.....Respondents**

Through: Ms. Priyam Agarwal, Adv. for State.
Mr. Deepak Khadara, Adv. for R-2
with R-2 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 *habeas corpus* petition has been filed by Ms. Tanya Sharma, the wife of Mr. Aayush Sharma (Respondent no. 2) seeking production of her child Master 'S' who is stated to be 2 years and 4 months old.
3. The case of the Petitioner is that she has not been allowed to meet her child. The Petitioner, her husband/Respondent No. 2 and the child are present in Court and the Court has held an in-chamber hearing with them.
4. It has emerged from the interaction with the couple and with the child are that the child is quite comfortable with both the parents i.e.,



mother/Petitioner and the father/Respondent no. 2. The Petitioner is working in AIIMS, Guwahati as a Nursing Officer with effect from December, 2023. Prior to that, she was working as a Nursing Officer with Sir Ganga Ram Hospital, however, upon obtaining a government job, she expressed that she wished to join AIIMS, Guwahati, which led to her separation from her child and her husband, as also the matrimonial home.

5. Respondent No. 2 is working in a private MNC in NOIDA in Sector-62. According to Respondent No. 2, Master 'S' is attending a play-school namely '*Naughty Genius Day Care and Play School, East Patel Nagar*'. The respondent no.2 lives with his parents in East Patel Nagar. He is also stated to have an elder sister.

6. It is a matter of fact that the mother has not had regular interactions and meetings with the child and proceedings for divorce between the parties are already pending before the Family Court. The Petitioner has also filed a complaint in respect of allegations of dowry against the Respondent No. 2 and his family.

7. In these circumstances, since the child has been produced before the Court, the Court is only inclined to put in place an interim arrangement, subject to further orders that may be passed by a competent Court. Under these circumstances, the following interim measures are put in place:

- i. Whenever the Petitioner-mother wishes to travel to Delhi for a continuous period of 5 to 6 days, she would be permitted to take the child with her and live with her parents in the Karol Bagh, i.e., her maternal residence for a maximum period of 3 to 4 days. If the period is to be extended, the same shall be done only with the consent of the father-Respondent. During such period, the Petitioner would ensure



unhindered communication between the child and the father. The Petitioner shall give at least one week advance notice of the dates when she would be coming to delhi for meeting the child and for keeping the child with her.

- ii. The Petitioner-mother shall ensure that during this period, if the play school of the child is functional or working, the child is sent to school on a daily basis and he doesn't miss his school.
- iii. Upon expiry of a maximum period of 4 days, the child shall be returned to the custody of the father/Respondent no. 2 or the father can pick up the child from the Petitioner's maternal residence.
- iv. The Petitioner, if she visits the husband's home to meet the child or pick up the child, shall not in any manner engage in any form of abuse with the in-laws. The parties shall maintain cordial atmosphere with the in-laws which shall apply to husband/Respondent No. 2 also when he visits the wife's maternal home.
- v. Both the father and mother, shall not remove the child from India.
8. The Petitioner's name shall be reflected in all the records including school records of the child as the mother of the child.
9. Parties are left to avail of their remedies under the Guardians and Wards Act, 1890.
10. Since the mother/Petitioner has travelled from Guwahati and is staying in Delhi currently, the mother may take the child and return the custody of the child by 26th July, 2024 in the evening i.e., by 5:00 p.m to the custody of the father/Respondent no. 2.



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11. If there is any violation of this order or if any modification is needed, liberty is reserved for parties to approach the Court by way of an application.
12. The petition is disposed of. All pending applications are disposed of.

PRATHIBA M. SINGH
JUDGE

AMIT SHARMA
JUDGE

JULY 24, 2024
dj/dn/Pc