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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(CRL) 3135/2024

RAKHI

.....Petitioner

Through: Mr. Sanjay and Mr. Hazari Lai,
Advocates with Petitioner in person
alongwith her mother and child.

versus

STATE NCT OF DELHI AND ORS.

.....Respondents

Through: Mr. Sanjay Lao, Standing Counsel
(criminal) for the State with Ms.
Priyam Agarwal and Mr. Abhinav Kr.
Arya, Advocates.
Mr. N.S. Dalai, Mr. R.S. Chauhan, Ms.
Nidhi Dalai, Mr. Alok Kumar and Ms.
Raehana Dalai, Advs. for R-4 to 6
(M:7082348017) with R4 in person.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE AMIT SHARMA

ORDER

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22.10.2024

1. This hearing has been done through hybrid mode.
2. The present petition has been filed by the Petitioner-Rakhi under Article 226 of the Constitution of India read with Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 ('BNSS') seeking a writ in the nature of habeas corpus for seeking production of her minor son who is just over a year old, and is currently with her husband- Respondent No. 4.
3. Certain allegations have been made in the petition that on 20th September, 2024 the Respondent No. 4-husband forcibly took away the child from the custody of the Petitioner-wife.

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4. On 8th October, 2024, the Court was informed by the Id. Standing Counsel that the Respondent No. 4-husband had assured the IO that he would appear online for attending the matter on the said date. However, none appeared on behalf of the husband. Accordingly, the Court directed the Respondent No. 4-husband to remain present along with the minor child on the next date of hearing i.e., 14th October, 2024.

5. On 14th October, 2024, the Court had met the parties in Chamber and had recorded as under:-

“6. After interacting with them in the Chamber, the facts which have emerged are that the husband works in Bank of Baroda, Regional Office at Connaught Place, Delhi. The child is currently in his custody. The Petitionerwife lives with her parents in Shakarpur Delhi. It is stated by the Petitioner that she has not met her child for more than two weeks. As per the Respondent No.4-husband he was illegally detained at the police station on 20th September, 2024 due to the allegations made by his mother-in-law i.e., the Petitioner's mother. Further, the allegations on behalf of the Petitioner is that the Respondent No.4-husband had subjected her to ill treatment and, therefore, she had left her matrimonial home and went to her mother's house.

7. Without going into the respective rival contentions of the parties, after hearing all the parties and considering the condition of the minor child, this Court is of the opinion that the child has been well looked after even in the Respondent No.4-husband's house, as the mother-in-law of the Petitioner is taking care of the child. Equally, the child is also attached to the mother i.e., the Petitioner.

8. Accordingly, as an interim arrangement, the following directions are issued:-

i) Both the Respondent No. 4-husband and the Petitioner-wife i.e. Mr. Ashish and Ms. Rakhi, shall visit the Marriage Counsellor/Family Counsellor in the Delhi High Court Mediation and Conciliation Centre on 14th October, 2024, Monday; 15th October, 2024, Tuesday; 16th October, 2024, Wednesday; and 18th October, 2024, Friday with the minor



child at 5.30 pm.

ii) From 14th October, 2024 to 17th October, 2024, the child shall remain with the mother - Petitioner.

iii) On the evening of 17th October, 2024, the child shall be picked up by the Respondent No. 4-husband from the current residence of the Petitioner-wife and the minor child shall live with him for three days i.e. till Monday morning, 21st October, 2024. The child shall be returned by the Respondent No. 4-husband, to the Petitioner-wife on Monday morning.

9. The minor child is stated to be slightly ill and is undergoing treatment from a doctor in Sonipat. Both Respondent No. 4-husband, and Petitioner wife shall together visit the said doctor with the child today i.e., 14th October, 2024 and thereafter the wife can take the child, as directed above.

10. The Marriage Counsellor/Family Counsellor shall submit a report by 22nd October, 2024.”

6. Today both the Respondent No. 4-husband and Petitioner-wife have appeared before the Court along with the child. The Petitioner-wife's mother is also present.

7. The Court has also perused the Marriage Counsellor's report dated 21st October, 2024, wherein it is stated that a total of four mediation sessions were conducted between the parties pursuant to directions in order dated 14th October, 2024. It is also observed that there are significant communication barriers and unresolved conflicts between the parties.

8. The Court has also once again interacted with the Petitioner-wife and the Respondent No. 4-Husband, as also the mother of Petitioner, in the Chamber. It clearly appears to the Court that differences between the Respondent No.4 - husband and the Petitioner-wife are irreconcilable, at this stage. The child is comfortable both with the mother as also the father and his *Dadi*. The child's *Dadi* has been taking care of the child. In view of the same



the following temporary arrangement is put in place:-

- i. From Monday to Thursday, the child shall remain with the Petitioner-wife. On Thursday evening the Respondent No.4- husband can pick up the child from the Petitioner-wife's current residence, so long as his mother is available at his home to take care of the child.
 - ii. On Monday morning, Respondent No.4- husband shall drop the child back to the Petitioner-wife's place.
 - iii. The Respondent No.4- husband shall pay a sum of Rs. 10,000/- per month to the Petitioner-wife towards the daily expenses of the child subject to the orders of a competent Court.
 - iv. The said amount of Rs. 10,000/- shall be paid by the 10th of every month.
 - v. If there is any inconvenience in picking up or dropping off the child, the Respondent No.4- husband and Petitioner-wife shall coordinate with each other.
9. The above arrangement shall continue till further orders of the competent Court.
10. The parties are free to avail their legal remedies in accordance with law.
11. The petition is disposed of in the above terms.
12. Pending application(s), if any, are also disposed of.

PRATHIBA M. SINGH, J.

AMIT SHARMA, J.

OCTOBER 22, 2024/sn/pr/ms