



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

22 CRIMINAL WRIT PETITION NO.545 OF 2025

Saluji Manohar Khatke,
Age 39 yrs., Occ. Agri.,
R/o Borgaon Thadi, Tq. Georai,
Dist. Beed.

... Petitioner

... **Versus** ...

- 1 The State of Maharashtra
Through it's Principal Secretary,
Home Department, Mantralaya,
Mumbai – 32.
- 2 The Superintendent of Police,
Jalna, Dist. Jalna.
- 3 The Police Inspector,
Police Station, Mojpuri,
Jalna.
- 4 The President,
Women & Child Welfare Committee,
Jalna, Dist. Jalna.

... Respondents

...

Mr. B.S. Doifode, Advocate for petitioner

Mrs. Priya R. Bharaswadkar, APP for respondent Nos.1 to 4

...

CORAM : SMT. VIBHA KANKANWADI &
SANJAY A. DESHMUKH, JJ.

DATE : 28th APRIL, 2025

ORDER : (PER : SMT. VIBHA KANKANWADI, J.)

1 In view of the order passed by this Court on 17.04.2025 the girl, whose production was sought, was produced before this Court at 2.00 p.m. today. The girl is presently aged between 13 – 14 years and, therefore, in order to ascertain the fact we had made inquiry with her in chamber. Before considering what she disclosed to us, we would put the background which was to some extent considered in our earlier order. Petitioner is the father of the minor girl viz. Tanuja, who is taking education in 8th standard. Petitioner is permanently residing at Borgaon Thadi, Tq. Georai, Dist. Beed. His wife i.e. mother of the girl had expired in illness. Since then the girl was residing as per the contents in the writ petition with petitioner and for some days she used to reside at Bhatepuri, Tq. Jalna with her maternal aunt Kavita Bhagwan Atole and was taking education there. Petitioner's paternal aunt Shilabai Vilas Atole is also residing in the same village and the maternal uncle of the girl viz. Maroti Haribhau Pankhule is also resident of the same village. The petitioner states that maternal uncle was not approving that the girl used to stay with maternal aunt and paternal aunt sometimes. However, said uncle wants that the girl should be married with his relative. Said uncle had many times requested the father as well aunt of the girl to give consent, however, they have not given the consent, taking into consideration the girl is

minor. The uncle got annoyed and had threatened both the families that he would implicate in some case. Thereupon he lodged First Information Report vide Crime No.50/2025 with Maujpuri Police Station, Tq. & Dist. Jalna, for the offence under Section 137 (2) of the Bharatiya Nyaya Sanhita, 2023 on 08.03.2025 alleging that as the girl could not be found by him in his house on 08.03.2025, he made inquiry. The girl was not on talking terms with paternal aunt Shilabai Atole. Still under some circumstance if the girl had gone to the aunt's place, uncle went to search the girl with paternal aunt's house, but he found that the house was closed. He made phone call to Shilabai Atole and he asked her, as to whether the girl is with them ? Shilabai told them that the girl is with her and she will not send her to uncle's place and she put off the phone. The uncle states that the girl is staying with him since the girl was aged 01 and he has incurred expenses for her education. Present petitioner i.e. father of the girl is very much addicted to liquor. Petitioner contends that the said First Information Report is false. Petitioner is the natural guardian of the girl. When after the registration of the said offence vide Crime No.50/2025, police had taken the girl and produced her before the Women & Child Welfare Committee, Jalna on 12.03.2025. The girl is with the said committee since then. Petitioner himself states that he himself, maternal aunt and paternal aunt all were making request to give the custody of the girl to the Women and Child

Welfare Committee, but no action was taken. Therefore, as a last resort petitioner made application on 07.04.2025 to the Committee. It was also told that annual examinations of the girl were scheduled from 19.04.2025 and arrangement should be made for attendance at the time of examination. The President of Women and Child Welfare Committee denied even to accept the application. He, therefore, made an application to Superintendent of Police, Jalna. Petitioner contends that he is ready to abide by terms and being the natural guardian he is entitled to get the custody.

2 By our order dated 17.04.2025 interim order was passed in respect of arrangement for the girl to appear at the time of examinations and examinations were over.

3 When we made inquiry with the girl, she has stated that she herself and her two elder sisters were staying with maternal aunt Kavita Atole, but they were not allowed to meet the father. She has stated that her uncle Maroti Pankhule forced her elder sisters to marry when they were 16 years old and she was also not allowed to meet her father. At her father's place the father resides with her two brothers and grandmother. She expressed that she wants to study more and join Police Force.

4 Learned APP is producing the investigation made up till now in

Crime No.50/2025. It appears that statement of one Mohan Vaijinath Atole has been recorded on 11.03.2025. He states that on 08.03.2025 he received phone call from his maternal aunt Shilabai Atole from the phone number of her son Appasaheb stating that she is coming to Pune along with the girl, but this witness refused because the girl is staying with maternal uncle since her childhood. The girl is brought up by maternal uncle and another maternal uncle Bhagwan Atole. He states that the petitioner is addicted to liquor. Statement of girl has also been taken, wherein she states that on 08.03.2025 after her school was over she went to maternal uncle's house and went to play outside. When she was playing, at that time, Shilabai Vilas Atole i.e. her paternal aunt, present petitioner, another paternal aunt and Vilas Atole called her. Maternal aunt told her that she should come with them for going out of station. When she told that she would inform it to her maternal uncle, at that time, Shilabai and Vilas threatened her and asked her to accompany them without any reaction. She was then taken to Medsingi in the house of another paternal aunt. At night time Shilabai's son Appasaheb came and around 9.00 p.m. in the temple which was outside the house of paternal aunt her marriage was settled with Appasaheb. They stayed there for about two days at Medsingi and then she was produced before the police by the petitioner on 11.03.2025. Further, it appears that the statement of girl has been recorded under Section 164 of the Code of Criminal Procedure before

learned Judicial Magistrate First Class, Jalna. Here, she has totally denied that she was so taken away by paternal aunt. Rather she says that her maternal uncle has lodged a false report against her paternal aunt. She has not stated the story of her engagement with Appasaheb, but then she reiterates that she was taken by her paternal aunt, present petitioner, another paternal aunt to Medsingi, Dist. Osmanabad.

5 We had made inquiry with petitioner also. He admits that his two elder daughters' marriage was performed when they were 16 years of age and he has not made any attempt to get the custody of present girl nor he had resisted the marriages of those elder daughters. We are surprised with the conduct of petitioner under these circumstances. When he came to know about the marriage of his two elder daughters, when they were minors, then how he continued the custody of the third girl with the uncle. Now, conveniently it is stated that the girl was residing with her maternal aunt and paternal aunt. In any other matter we would not have interfered with, when the natural guardian is seeking the custody. However, in the present case the natural guardian himself appears to have parted with the custody of his ward and then it is questionable as to in whose custody the girl was since her childhood. In the writ petition we cannot go into the disputed facts. However, taking into consideration the prayer clause 'B' which is only now

remaining, wherein not only the production of girl was prayed but it was also prayed that after ascertaining the truth this Court may grant the custody of the girl to the petitioner and, therefore, all the facts have been now taken note of. The girl is in the custody of the Women and Child Welfare Committee which is competent to consider as to whether the child is in need of care and protection. No doubt, the petitioner has his own rights to claim the custody, but certainly, if the girl is a child in need and protection, then certainly, the custody of the girl to the petitioner can be denied. Of course, that would be on merits.

6 We, therefore, direct the Women and Child Welfare Committee, Jalna, where the girl is now stationed, to decide the issue and may permit the petitioner to make an application. The Women and Child Welfare Committee, Jalna may also call any person for giving evidence to arrive at the conclusion, whether child is a child in need of care and protection. We hope that the Women and Child Welfare Committee, Jalna would consider the point of child marriage in the family in the past as a consideration to arrive at such conclusion. With these observations, we dismiss the Writ Petition.

(SANJAY A. DESHMUKH, J.)

(SMT. VIBHA KANKANWADI, J.)

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