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IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 510 OF 2025

Mr. Karan Bajaj
son of Col. Jatinder Bajaj,
Aged 46 years, Businessman,
US National,
R/o. Villa Alohomora, 57/1F,
Gaunsavaddo, Mae De Deus Chapel Road,
Sodeim, Siolim, Goa. ... Petitioner

Versus

1. Ms. Kerry Anne Bajaj
wife of Mr. Karan Bajaj
Aged 44 years, Housewife, US National,
R/o. Goveia Marina, House No.9,
Near Casa de Maria Luisa, Vaddy, Siolim, Goa-403
517;

2. Miss. Leela Bajaj
D/o. Mr. Karan Bajaj
Aged 11 years of age, student, Through Ms. Kerry
Bajaj, R/o. Goveia Marina, House No.9,
Near Casa de Maria Luisa, Vaddy, Siolim, Goa-403
517;

3. Miss. Rumi Bajaj
D/o. Mr. Karan Bajaj
9 years of age, student,
Through Ms. Kerry Bajaj,
R/o. Goveia Marina, House No.9,

Near Casa de Maria Luisa, Vaddy, Siolim, Goa-403 ... Respondents
517;

Ms. Geeta Luthra with Ms. Tabitha Souto and Mr. Raunak Rao, Adv A.
Kothari, Adv. J. Desai and Ms. Shivani Luthra, Advocates for the Petitioner.

Ms. Nandita Rao, Senior Advocate with Ms. Mrinalini Sen, Ms. Priyanka
Kamat, Ms. Shivani Savaikar and Ms. Aditi Singh, Advocates for the
Respondents.

CORAM: VALMIKI MENEZES, J.

DATED: 20th December 2025

ORAL JUDGMENT:

1. Registry to waive office objections and register the matter.
2. Heard learned Counsel for the parties.
3. Rule. With the consent of the parties rule made returnable forthwith.
4. This petition, filed under Article 227 of the Constitution of India, takes exception to an order dated 21.12.2025, passed by the Principal District Judge, North Goa, at Merces, granting an ad-interim order on Civil Misc. Application No.208 of 2025 filed by the Respondent. The Respondent (mother) in these proceedings is the original Applicant in Civil Misc. Application No.260/2025 wherein the Petitioner (father) is the original Respondent.
5. The petition has been filed in the following background facts which are not in dispute:
 - A) The Petitioner and Respondent are both citizens of the United States of America and are also Overseas Citizens of India card holders. They have two

children (both minor girls), one is 9 years and other is 11 years old, both of whom are US citizens and also holding an Overseas Citizens of India card. The marriage between the Petitioner and the Respondent was solemnized at Uttarkashi and registered on 16.04.2013 under Hindu Marriage Act. The parties to this petition have been residing in India since the year 2016, first at Mumbai and since 2022, have been permanently residing at Siolim, Bardez Goa.

B) The Petitioner and Respondent have been de-facto separated since September 2024 and since then reside at their respective addresses shown in the cause title of this petition.

C) After their separation, it is not in dispute, that by mutual arrangement between them, custody of the children has been shared, with each parent retaining the custody every alternate week, with the change over happening every Monday; both children attend Paradise School which is situated at Parra, Bardez, Goa. They have been attending that school since September 2022, the younger child being in grade V while the older child being in grade VI. The shared custody, in the manner detailed above, continued until 15.12.2025, when the children did not move to their father's house.

D) The Respondent (mother) filed an application under Section 26 of the Guardians and Wards Act, 1890 before the Principal District Judge, North Goa at Merces on 15.12.2025 (CMA No.208 of 2025) seeking custody of the children in which the following reliefs are sought:

- (i) to appoint the mother as the sole guardian of the minor children
- (ii) grant the mother sole custody of the children

- (iii) To permit the mother to permanently relocate with the minor children to the United States of America.
- (iv) To direct the father to handover the original passports and OCI Card of the minor children.
- (v) To grant the father only supervised visitation rights.
- (vi) For protection of the injunction order to restrain the father from removing the minor children from the custody of the mother and from the jurisdiction of the Court.

An ad-interim order was sought praying for interim protection by an order of restraint in terms of prayer clause (vi), which was granted ex-parte by the District Court on 16.12.2025.

(E) The District Court issued notice to the father which was made returnable on 17.12.2025 and on 18.12.2025 the impugned order was passed.

(F) The impugned order which is an interim order, continues the custody of the children with the mother until 05.01.2026, allowing the mother to travel with the children to the United States of America on 21.12.2025 and on returning to India on 03.01.2026, to handover custody of the children to the father on 05.01.2026; the Court further directed that the arrangement between the parents i.e. custody alternating one week with each parent, the changeover taking place on Mondays, would continue to operate till 05.01.2026.

(G) The other conditions imposed upon the mother during her travel to the United States of America are the following:

- (i) The mother to deposit an amount of Rs.10 lakhs before the District Court to secure her return to India with children.

(ii) The father to handover passports of the children to the mother on 19.12.2025 by 5pm.

(E) Immediately after the filing of the guardianship application by the mother, the father filed a similar petition under the Guardians and Wards Act in which he sought the following reliefs:

- (i) For sole custody and guardianship of the minor children.
- (ii) For directions that the minor children shall reside in Goa, being their settled and habitual residence, under the father's primary care.
- (iii) Pending the hearing of the application, for interim custody of the children.
- (iv) For an interim order of restraint against the mother from removing the children from Goa or from India without the father's written consent.
- (v) That the passports should be kept in the safe custody of either the Court or in a jointly operated Bank locker standing in the joint name of the parents.
- (vi) upon final adjudication to issue a permanent injunction against the mother from removing the minor children from Goa or India.
- (vii) Pending final disposal of the application, to restrain the mother from removing children from Paradise School.

This application is pending and no interim orders have been passed on the same though notice has been issued and the mother has put in appearance on 17.12.2025.

6. The mother filed proceedings under DVA No. 42 of 2025 on 18.12.2025 pending before the JMFC Mapusa, in which notice has been

waived and appearance is due to be put in by the father on the same date. The case has been now set down for reply on 05.01.2026.

7. Though both applications are pending before the District Court, given the short time within which the parties had to react, by filing replies, the pleadings are not yet complete and the parties have not filed their respective replies. The next date set down by the District Court is on 30.12.2025, when two Misc. Applications at the behest of the father, one being for imposing an order of restraint on the mother and her family members from sharing, disclosing, transmitting, posting or uploading or circulating or publishing the pleading or oral statements or evidence which forms part of proceedings in the public domain through various platforms, and the second being an application seeking an adjournment to file reply to the passport application of the mother.

8. The primary grounds of challenge to the impugned order, as submitted by the learned Counsel for the Petitioner are the following:

- a) It has been submitted that the impugned order grants, by way of an interim arrangement, permission to the mother to travel to the United States without setting down any restrictions or even recording the itinerary of travel. It was further submitted that the impugned order does not direct the Immigration Authorities to record an endorsement, that the children are travelling out of the country under orders of the Court nor does the order direct that there should be a mirror order which the Court with a competent Jurisdiction in the United States, requires to pass, recording that the parties have submitted to the jurisdiction of the District Court in North Goa.

b) It was submitted that the impugned judgment had been passed without considering the mandate set down by the Supreme Court in a matter similar to the present one, in **Aman Lohia v/s. High Court of Delhi**, passed in Criminal Appeal Diary No(s)43372/2019; the learned Counsel submits that in **Aman Lohia** (supra), the Supreme Court has directed that the Applicant shall apply for obtaining a mirror order from the competent Court in the United States of America and the Respondent would be required to co-operate with the Applicant to ensure that the mirror order was passed by the Competent Court within a reasonable period of time.

c) It was further submitted that the District Court has taken into account the possibility of the flight risk, considering that the mother and children are of US nationals with a place of abode in the United States; it was further submitted that the District Court has erred in imposing a security deposit of just Rs.10lakhs, considering that the amount is miniscule and would not in any manner secure return of the mother and the children to India. According to the learned Counsel, such a condition would not be adequate to ensure the return of the Respondent mother to India with the children, such that she would be subjected to the jurisdiction of the Indian Court.

9. Per contra, the learned Senior Counsel Ms. Nandita Rao for the Respondent mother advances the following submissions:

a) At the out set, the learned Counsel submits that the mother is ready and willing to disclose the entire itinerary of travel and make full

disclosure of the place at which they would reside during the oncoming Christmas vacation of the children. It was further submitted that the mother, on returning to India would abide by the orders of the Court by placing the children in the custody of the father on 05.01.2026 and continue with the custody arrangement of the children alternating between the father and the mother every week, where the change over would take place on Monday; she further submits that for the moment there would be no change in the attendance of school i.e. at Paradise School and the children would continue to attend the school until the orders are passed by the District Court on the respective applications.

b) It is further submitted that the Supreme Court in **Aman Lohia**(supra) no doubt has passed a mirror order in that case, however passing of mirror orders by a Court with jurisdiction in the Country of the citizenship of the parties is an exception; reliance is placed on paragraph 6 of the order dated 22.06.2022 of Delhi High Court in **Pankaj Jain v/s. Parul Jain** in CM(M) 607/2022.

10. I have heard the learned Counsel for respective the parties and on considering their submissions, and on perusing the record of the District Court, I have arrived at to the following conclusions:

The District Court, in its order has granted a temporary custody to the mother (Kerry) for the limited purpose of travelling to the United States of America during the Christmas break of the children between 21.12.2025 and return by 03.01.2026. Whilst allowing this limited custody to travel under orders of the Court, it has not detailed out, the itinerary under which the

mother and children would travel to the United States of America nor has it recorded the specific location where the children would ultimately reside during this period.

11. On further consideration of the impugned order, the District Court does not appear to have given due weightage to the fact that the mother and the children being the citizen of United States of America, there is a clear flight risk and certain restrictions would have to be imposed either in the travel itinerary or on the information being given to the Immigration Authorities and the Courts with jurisdiction in the United States. The impugned order has clearly not factored these provisions.

12. The orders of the District Court are only ad-interim orders for the limited purpose for permitting travel of the mother and the minor children to the United States of America and the custody applications of both parents are yet to be decided. In fact, pleadings are not complete and this would take some time. The sole purpose for entertaining this petition is for modifying the interim arrangement directed by the impugned order to ensure certain safe guards for the return of the mother and the children to the jurisdiction of this Court. The main concern of this Court, therefore is to ensure the return of the children to the joint custody of both parents and to submit to the jurisdiction of the District Court. There is no doubt, that both parents having filed proceedings under the Guardians and Wards Act before the District Court North Goa, within whose jurisdiction they reside and the children reside, have submitted themselves to the jurisdiction of the North Goa District Court, notwithstanding the fact that they are all citizens of the United States of America. From the averments made in the applications, they have subjected

themselves to this jurisdiction since they reside at Siolim, Goa and the children reside within the jurisdiction of the District Court and also attend school within the jurisdiction of the District Court, having a closed affinity, at least for the moment, with the territory of Goa.

13. In this background, therefore, the order of the District Court does not require any interference but requires certain modification to ensure that the mother and the children return to the jurisdiction of the District Court of North Goa, after their Christmas holidays in the United States of America.

14. I, therefore, proceed to pass the following order:

a) The mother (Kerry) is permitted to travel the United States of America (USA) from 21.12.2025 with her two minor children (names withheld, name shall be placed in a separate envelope along with this order), and shall return to India(Goa) on 03.01.2026.

b) On her return, the mother shall hand over the custody of the children to the father (Karan) at the usual time on 05.01.2026, after which the children shall be in the custody of the father for the entire week, and thereafter he shall hand over the custody to the mother in the following week on Monday. This arrangement shall continue for custody of the children, alternating from week to week, with each parent, the changeover taking place on Mondays, until further orders of the District Court in the two pending custody applications.

c) It is clarified that this order shall operate as a limited custody order solely for the purpose of permitting the mother to travel to the United

States of America (USA) under orders of this Court/District Court.

d) The mother shall file an affidavit during the course of the day, furnishing the itinerary of her travel from Goa to Florida (which is her ultimate destination) and her movements in the United States of America (USA) during the period from 21.01.2025 to 03.01.2026. The affidavit shall contain the details of flights between Goa and Florida.

e) A statement has been made by the learned Counsel appearing for the mother on instructions, that during their stay at Florida, the children shall visit their parental grandfather (Col. Jatinder Bajaj), who resides at Maryland the United States of America (USA) between 28.12.2025 and 30.12.2025; this is to ensure that the children spend some time with their parental grandfather during Christmas. If Col. Jatinder Bajaj is willing to travel, the mother shall make all arrangements for his travel to Florida during this period to ensure that the children spend some time with their paternal grandfather.

f) The Registrar (Judicial) of this Court shall ensure the communication of this order, with the names of the children and the mother under closed cover to the Foreigners Regional Registration Office (FRRO) at Panaji and also to the Immigration Authorities including the Immigration Authorities at Mopa airport to ensure that an endorsement of this order is made in the immigration systems/ record when the children leave the country.

g) The Petitioner father may also communicate this order to the Courts with jurisdiction, in Florida, and it is open to the father to file such a

proceeding to ensure, if he so desires, to have mirror orders passed by the appropriate Courts in the United States of America.

h) The Registrar(Judicial) shall also ensure that this order is communicated through e-mail to the United States of America Consulate at Mumbai, and the United States of America Embassy in New Delhi.

i) The father (petitioner herein) shall forthwith hand the passports of the children to the Registrar(J) of this Court, who shall, under endorsement, hand the custody of the same to the mother of the children(i.e. Respondent herein).

j) On return to India, the mother, Respondent herein, shall deposit the passport of the children, under application with the Registry of the Principal District Court, North Goa, Mercas, on 05.01.2026, who shall keep the same under safe custody until further orders of the District Court.

k) The condition imposed on the mother directing her to deposit Rs.10 lakhs by way of Fixed Deposit with the Registry of the District Court shall continue to operate. Considering that the mother is due to travel late tonight, and this order would not be uploaded by the time the District Court accepts the same, she is permitted to deposit this Fixed Deposit by Tuesday, 23.12.2025, through any other responsible person.

l) The District Court, on commencement of hearing of the two guardianship applications, shall ensure that the minor children are interviewed by Counsellor/Psychologist Mylin Maria Gonsalves, Bela-

Vista, Sangolda, Bardez- Goa, who shall act as a Counsellor and would interview the children, and if required also the parents, at her convenience, and submit a report of her findings to the Principal District Court, which shall be taken into consideration before passing orders on the pending custody applications; the parties shall bear the cost of fees of the Counsellor in equal proportion.

m) The parties shall adhere to this order in letter and spirit; both parties were present during the entire court proceeding and have participated therein by regularly instructing their Counsel. This order was dictated and pronounced in their presence.

15. Rule is made absolute in the above terms.

16. The parties are each handed over an authenticated copy of this order to ensure that they act in accordance with the same.

17. This order will be digitally signed by the Private Secretary/Personal Assistant of this Court. All concerned will act on the production by fax or email of a digitally signed copy of this order.

VALMIKI MENEZES, J.