

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 2526 OF 2024

Javed Mahamad Attar

... Petitioner

Versus

1. Almas Javed Attar
2. Ehan Attar
3. Kayum Mahamad Attar
4. Khatunbi Mahamad Attar
5. Sana@ Surayya Begam Kayur Attar
6. The State of Maharashtra

...Respondents

Mr. Kuldeep Nikam for the Petitioner.
 Mr. Bharat Puneekar for Nos.1 to 5.
 Mr. Nitin B. Patil for Respondent No.6-State.

CORAM : MANJUSHA DESHPANDE, J.

DATE : 4 JULY 2025

P.C.:

1. The Petitioner is the father and Respondent No.2 is the child, Respondent No.1 is the mother to whom the custody has been refused, in the interim application, vide order dated 15th July 2023 passed below Exhibit-19 in Criminal M.A. NO.179 of 2016. However, she has been granted limited visitation rights in respect of the child, named, Eham, i.e., Respondent No.2. Vide Order dated 15 July 2025, the 4th Judicial Magistrate, First Class, Sangli, has granted visitation rights to Respondent No.1-wife on every second and fourth Sunday of the each month. It has been directed that the Petitioner shall arrange the visit of

Respondent No.2 to the Respondent No.1 by leaving the Respondent No.2 in the custody of Respondent No.1 between 11.00 am to 06.00 p.m. at the residence of Respondent No.1 and then Respondent No.1 shall send Respondent No.2 back to the Petitioner on the same day.

2. The Order dated 15th July 2023, passed by the 4th J.M.F.C., Sangli, was challenged by the Petitioner before the Sessions Judge, Sangli, by filing P.W.D.V.A. Appeal No.52 of 2023. The appeal was disposed of on 8th April 2024, by the Additional Sessions Judge, Sangli, with a modification only to the extent of timings, by modifying clause-(4) of the said Order dated 8th April 2024, to the extent that “on every second and fourth Sunday of each month the Petitioner shall arrange the visit of Respondent No.2 with Respondent No.1, by leaving Respondent No.2 in the custody of Respondent No.1 at 11:00 a.m. and then Petitioner-husband shall send Respondent No.2 back to Respondent No.1-wife on the same day at 3:00 p.m.”.

3. According to the Petitioner, while passing the Order dated 8th April, 2024, the learned Additional Sessions Judge, has categorically recorded that when the child Eham, was interviewed by the learned Judicial Magistrate, First Class, the child has refused to stay with his mother, and expressed his desire to stay with his father, i.e., the Petitioner. However, keeping in mind the paramount interest and welfare of the child, the learned Additional Sessions Judge, Sangli has not caused any interference in visitation rights but only modified the Order dated 15th July 2023, by reducing the visitation hours from 11.00

a.m. to 03.00 p.m.

4. It is the contention of the Petitioner that it would not be appropriate for the child of 14 years, to travel on every second and fourth Sunday of each month, to the residence of the mother, which is at the distance of 150 k.m. from the residence of the Petitioner. Therefore, the Order dated 8th April, 2024, be modified by this Court and Respondent No.1-wife should be directed to travel and come to the place where Petitioner resides or at any other suitable place, so that the access rights can be availed.

5. Learned Advocate for Respondents submitted that considering her earlier experience with the Petitioner, on two occasions, when she was abused by the Petitioner, she is not ready to agree with the suggestion given by the Petitioner.

6. This Court has given suggestion to both the parties to suggest a place suitable to both the parties. However, the parties are not in a position to arrive at consensus about suitable place, which is agreeable to both parties. The inconvenience caused to the Respondent No.2 to travel for a distance of 150 k.m., that too on only two occasions in a month, cannot be a ground for modification of the Order dated 8th April, 2024, passed by the Additional Sessions Judge, Sangli. Considering that he is required to travel on only two occasions on second and fourth Sunday in a month to meet his mother.

7. The Petitioner has not made out any ground for causing interference with the Order passed by the Additional Sessions Judge,

Sangli, dated 8th April, 2023, for exercising powers under Article 227 of the Constitution of India. There is no judicial error in the Order passed by the learned Additional Sessions Judge, Sangli. The order impugned is perfectly valid and legal. The order passed is very much in the interest of child as well as mother. The order passed is neither pervert nor arbitrary. In view of the limited scope for interference in its supervisory jurisdiction of the High Court under Article 227, no interference is called for in the impugned order. Hence, the Petition is dismissed.

[MANJUSHA DESHPANDE, J.]