

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO.5999 OF 2024

Chitra Marathe

.....Petitioner

Versus

State of Maharashtra
and others

.....Respondents

Ms. Chitra Marathe, the Petitioner is present in person.

Smt. Mankuwar M. Deshmukh, APP for the Respondent-State.

Mr. Vikram Dinkar Marathe, the Respondent No.5 is present in person.

**CORAM : SARANG V. KOTWAL &
S.M. MODAK, JJ.**

DATE : 14th JANUARY, 2025

P.C. :

1. This is a Petition for writ of *habeas corpus* preferred by mother of a fourteen year old girl.

2. Heard Ms. Chitra Marathe, the Petitioner appearing in person, Smt. Mankuwar Deshmukh, learned APP for the Respondent-State and Mr. Vikram Marathe, the Respondent No.5 appearing in person.

3. The Respondent No.5 is father of the child. The

Petitioner and the Respondent No.5 have separated through divorce by mutual consent. The child was residing with the Petitioner. It is her case that from 7.12.2024 the child was given in custody of the Respondent No.5 with the help of the officers of Vadgaon police station. Therefore, according to her, a writ of *habeas corpus* was necessary to reunite the child with the Petitioner.

4. The Respondent No.5 has produced the child in the Court. He was present in the Court along with the child. Therefore, we thought it fit to interview the child in the Chambers. Accordingly we interviewed the child in the presence of the learned APP and the Sheristedars of this Court. After interacting with the child, we found her to be quite smart and intelligent. She gave good answers during the interaction. We specifically asked her wish as to with whom she would prefer to reside with. On our specific question, she categorically answered that it was her wish that she should stay with the Respondent No.5 – father. The child further informed us that she has an elder sister, who is currently working in a company

and she is also residing with the Respondent No.5. She stated that she would be happy to reside with her elder sister and the Respondent No.5 – father.

5. We thereafter allowed the Petitioner as well as the Respondent No.5 to enter our Chambers. We had a discussion with them also. The Petitioner submitted that the child is in need of medical care for her mental health issues. The Respondent No.5 submitted that the documents of the child are with the Petitioner and they would be necessary for taking her admission in a school. He requested that the present order may include directions to the Petitioner to hand over necessary documents, the belongings including clothes as well as books and note-books of the child so that her schooling can start without any hinderance.

6. Considering the child's wish, the Petitioner very fairly accepted that the child can stay with the Respondent No.5. She sought liberty to take appropriate steps to approach the Civil Court for custody of the child. As far as present Petition for writ of *habeas corpus* is concerned, her only

request was that till she obtained some order from the appropriate forum before the Civil Court, the child be allowed to meet her periodically. To that request, the child herself and the Respondent No.5 responded positively. The child showed willingness to visit the Petitioner's house every alternate Sunday between 12.00 p.m. to 5.00 p.m..

7. Considering this stand taken by the Respondent No.5 and the child, the Petitioner is satisfied with the arrangement and does not press this Petition any further.

8. Considering the above discussion, the following order is passed :

:: O R D E R ::

- i. The child is allowed to go and reside with the Respondent No.5.
- ii. The Petitioner is at liberty to adopt appropriate proceedings before the appropriate civil forum for custody of the child.
- iii. Till such order is passed by the appropriate forum, the child is permitted to reside with the Respondent No.5.

- iv. Till such order is passed, the Respondent No.5 shall ensure that the child visits the Petitioner every alternate Sunday between 12.00 p.m. to 5.00 p.m. at the Petitioner's residence.
- v. The Petitioner shall hand over all necessary documents of the child, her necessary belongings including clothes and her books and note-books to the Respondent No.5 within a period of fifteen days from today.
- vi. The Respondent No.5 shall take necessary steps to address the health issues of the child.
- vii. With these directions, the Petition is disposed of.

(S.M. MODAK, J.)

(SARANG V. KOTWAL, J.)