
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 1599 OF 2025

Shakib Mustafa Palte

.. Petitioner

Versus

The State of Maharashtra & Anr.

.. Respondents

Mr. Kamran S. Shaikh a/w Heena Shaikh for the Petitioner.

Mr. Nachiket Kulkarni i/b. Sushma Mishra for Respondent No.2.

Mrs. Rutuja Ambekar, APP for the State.

CORAM: RAVINDRA V. GHUGE &
GAUTAM A. ANKHAD, JJ.

DATE: JULY 25, 2025

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1. This Petition seeking issuance of the Writ of *Habeas Corpus*, is based on peculiar facts.

2. After the Petitioner and Respondent No.2 were married on 19th April, 2018, they divorced within six months vide Deed of Divorce dated 20th December, 2018. Thereafter, the wife informed the Petitioner-husband that she

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has conceived and the divorced document executed before the Kazi, became null and void. Both of them came together. On 8th September, 2019, a male child was born, who was named as Mohammed Azlan Shakib Palte.

3. The child was purportedly diagnosed with autism and a doctor suggested therapy for a child. Thereafter life between the Petitioner and Respondent No.2 became sour and they agreed for a divorce on 6th October, 2021 (Khula). After this divorce (second divorce), again both of them got married for the third time, on 21st January, 2022. Since the wife did not sign the Nikah Nama, they again separated for the third time.

4. The husband has approached the Competent Court at Panvel by moving Civil Miscellaneous Application No. 131 of 2024 under Section 25 of the Guardians and Wards Act, 1890 for seeking custody of the child, who is all along with mother. The Petitioner husband claims that the mother of the child has now remarried. Petitioner-husband was already married and Respondent No.2 was his second wife. From the first marriage, the Petitioner has two children.

5. In the peculiar facts and circumstances as above, we find that this case can be termed as an abuse of the Writ of *Habeas Corpus*. The contention of the Petitioner that Respondent No.2 (mother of the child) is not taking good care of the child, is prima facie falsified by the documents placed on record by the learned Advocate for Respondent No.2 (3 pages) which is marked as 'X' for identification. These documents pertain to the medical reports and after clinical examination by the Institute of Psychological Health at Thane, it is advised that the parents would require psycho education to help them to understand the child's concerns in a better way. The child needs speech therapy and social skills training to initiate interactions. The delivery of the child was healthy. The child shows average intellectual functioning and difficulty in adoptive functioning. There are no symptoms of autism spectrum disorder.

6. In view of the above, **this Petition is disposed off.**

7. Needless to state that all contentions and rights of the parties are kept open keeping in view that CMA No. 131/2024 is pending before the Competent Court at Panvel.

[GAUTAM A. ANKHAD, J.]

[RAVINDRA V. GHUGE, J.]

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