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

CRIMINAL WRIT PETITION NO.4991 OF 2025

Rahulkumar Chandulal Chavda ... Petitioner
V/s.
Union of India and Ors. ... Respondents

Mr. Paarth Singh i/b Manan Sanghai for the Petitioner.
Mr. Yogesh Nakhwa APP for the Respondent-State.
Mr. Khevana Dagli with Divyam Sheth for Respondent No.4.

**CORAM : BHARATI DANGRE &
SHYAM C. CHANDAK, JJ.**

DATE : 25th NOVEMBER, 2025

PC:-

1) The Habeas Corpus Petition filed by the Petitioner-father seek command to Respondent No.4 to produce the minor child before the Court. The second relief in the Petition is in form of a direction for handing over the custody of the minor child to the Petitioner, being natural and fit guardian, in the best interest and welfare of the child.

2) We have heard the learned Counsel for the Petitioner and the learned Counsel for Respondent No.4.

The Petition filed under Article 226 of the Constitution seeks issuance of writ of *habeas corpus* and as the Petition itself plead that the proceedings are filed with the aid of Section 6 of the Hindu Minority and

Guardianship Act, 1956 seeking restoration of custody of the minor child, who is alleged to have been unlawfully removed from lawful guardianship of the Petitioner and taken to unknown destination by the mother, by playing fraud and deceit.

3) The facts pleaded in the Petition clearly reveal that marriage was solemnized between the Petitioner and Respondent No.4 on 23/07/2021 at New Delhi and a necessary certificate to that effect has been procured on 24/07/2021. As per the Petitioner, the parties cohabited at Surat and later at West Bengal. However, in June 2022, the wife traveled to Belgium and in late 2022, they returned to India and resumed their matrimonial life. They were blessed with a child on 9/12/2023 and it is a pleaded case of the Petitioner that she removed the child from his custody and is presently residing in Belgium.

4) According to the Petitioner, Respondent No.4 has instituted Divorce proceedings along with the Petition for custody as well as maintenance, at the jurisdictional Court in Belgium. In the said proceedings, the Petitioner marked his appearance and raised an objection on the jurisdiction of the Court to entertain the proceedings.

We are informed that the jurisdictional Court at Belgium on 25/11/2025 has rejected the objection as to jurisdiction, and the order has been challenged in an Appeal by the Petitioner.

5) When the said proceedings are already pending before the Competent Court, and the Petitioner being aware of the proceedings being instituted as he participated in the said proceedings, we are of the view that under the guise of issuance of a Writ of *habeas corpus*, he is seeking permanent custody of a child, which we are not inclined to grant, since the Writ of *habeas corpus* can only be limited to the issuance of production of a person and the Petitioner is aware that the child is with the mother and is contesting the custody claim in the Belgium Court.

It is also open for the Petitioner to institute the appropriate proceedings, claiming custody before the appropriate forum in India, if at all it is permissible, since the marriage is solemnized in India.

6) In the wake of the above, since we do not find any reason to exercise our writ jurisdiction in support of the relief that is prayed, we dismiss the Petition.

Needless with the liberty to take appropriate proceedings as are available in law.

(SHYAM C. CHANDAK, J.)

(BHARATI DANGRE, J.)