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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(CRL) 890/2025**
AJIT KUMAR JHAPetitioner

Through: Mr. C.M. Grover, Advocate with
petitioner in person.

versus

STATE GOVT NCT OF DELHI & ORS.Respondents

Through: Mr. Sanjay Lao, Standing Counsel
for the State.
R-4 and R-5 in person.

CORAM:
HON'BLE MR. JUSTICE CHANDRA DHARI SINGH
HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER
19.03.2025

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CRL.M.A. 8341/2025

Exemption granted, subject to just exceptions.

The application stands disposed-of.

W.P.(CRL) 890/2025

By way of the present petition filed under Article 226 of the Constitution of India read with section 528 of the Bharatiya Nagarik Suraksha Sanhita 2023 ('BNSS'), the petitioner (father) seeks issuance of the writ of *habeas corpus* directing respondents Nos. 1 to 3 to produce respondent No.5 i.e., the petitioner's minor daughter before this court, contending that his daughter is missing. The



petitioner further seeks a direction that the custody of respondent No.5 be handed-over to him.

2. On advance copy of the petition served upon them, Mr. Sanjay Lao learned Standing Counsel (Criminal) is present on behalf of respondents Nos. 1 to 3 *i.e.* the State of NCT of Delhi and the Delhi Police.
3. Learned Standing Counsel informs the court that they have secured the presence of respondents Nos. 4 and 5, who are respectively the mother-in-law and minor daughter of the petitioner, who are both present in court today.
4. Mr. C.M. Grover, learned counsel appearing on behalf of the petitioner submits, that upon the passing away of the petitioner's wife (mother of respondent No.5) on 29.01.2025, respondent No.4 (*i.e.* respondent No.5's maternal grandmother) has taken away respondent No.5 and is now refusing to hand-over custody of respondent No.5 to the petitioner. Learned counsel contends that respondent No.5 is being held in the custody of respondent No.4 against the wishes and desires of the minor child as well as of the petitioner.
5. For completeness it may be recorded that the petitioner has 02 children - a son who is about 12 years of age and a daughter who is about 14 years old (*viz.* respondent No. 5). Though the petitioner contends that his own mother permanently resides with him in Delhi, that assertion has been disputed by respondent No. 4.
6. Considering the nature of the reliefs sought, and the fact that respondent No.5 is a minor, this court has held an in-chambers



interaction with respondent No.5 individually, as well as together with the petitioner and respondent No.4.

7. Based on what respondent No.5 has shared with the undersigned during the in-chambers interaction, this court is of the view that respondent No.5 is residing with respondent No.4 happily and of her own free volition. Respondent No.5 has informed the court that her maternal uncles and their respective wives (*mamas* and *mamis*) also reside in the same household at Faridabad, Haryana alongwith respondent No.4; and that the former have their own children as well, with whom respondent No. 5 interacts and engages.
8. Respondent No.4, who is stated to be working as a nurse in a local hospital, has informed the court that she has got respondent No.5 admitted to a nearby school, where the latter now attends classes regularly and there has been no significant interruption in her education after the passing away of her mother.
9. On the other hand, during the course of the interaction with the parties, this court gathers that the petitioner proposes to admit his 12-year-old son (respondent No.5's brother) in a *gurukul* (a traditional boarding school); and though the petitioner asserts that his mother (the paternal grandmother of respondent No.5) resides with him in Delhi, this court is not convinced that this assertion is true, since it would appear that the petitioner's parents reside in their native village in Bihar.
10. Furthermore, it also transpires that the petitioner is in private employment and keeps long working hours, leaving home early in the morning and returning late at night.



11. Upon a careful consideration of the aforesaid facts and circumstances, this court is of the view that so far as the prayer for *habeas corpus* is concerned, that stands satisfied by the production of respondent No.5 before this court.
12. Insofar as the prayer for handing-over the custody of respondent No.5 to the petitioner is concerned, in the opinion of this court, the safety, welfare and interests of respondent No.5 are better secured if she continues to reside with respondent No.4 *i.e.*, her maternal grandmother and the extended family on her mother's side.
13. Furthermore, in the course of the in-chambers interaction it has also been agreed by the parties that respondent No.4 would ensure that there is no impediment to the petitioner meeting and interacting with respondent No.5 as and when he desires, subject of course to logistic convenience and to the wishes of respondent No.5.
14. However, *at least for the time being*, the petitioner would *not* be permitted to take his daughter back with him to reside in his house.
15. It is however clarified that the aforesaid arrangement has been made by this court in the present *habeas corpus* proceedings only *pro tem*, with the aim and intent of ensuring the safety, welfare and interests (including educational pursuits) of respondent No.5; and such arrangement shall be *subject to* any directions or orders that may come to be passed in proceedings seeking custody and/or visitation rights that may be filed by the petitioner before the competent court, in accordance with law.
16. The petition is disposed-of in the above terms.



17. Pending applications, if any, also stand disposed-of.

CHANDRA DHARI SINGH, J

ANUP JAIRAM BHAMBHANI, J

MARCH 19, 2025/ss

Click here to check corrigendum, if any