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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(CRL) 2437/2025**
K K AND ANR

.....Petitioners

Through: Mr. A. K. Mishra, Mr. Baljeet
Kaur Sandhu, Mr. Arpit Mishra
and Ms. Sakshi Mishra, Advs.
along with petitioners.

versus

STATE GOVT. OF NCT OF DELHI AND ORS.

.....Respondents

Through: Mr. Sanjay Lao, Standing
Counsel (Crl.) for State with
Ms. Priyam Agarwal, Mr.
Abhinav Kumar Arya and Mr.
Aryan Sachdeva, Advs. and
W/SI Deepti Chaudhary, PS
Lajpat Nagar.
Mr. Ankur Goel, Adv. for R-3
with Ms. Archana Aroa,
Welfare Officer.
Mr. Robin Jaswal, Adv. for R-4
along with R-4.

CORAM:

HON'BLE MR. JUSTICE VIVEK CHAUDHARY

HON'BLE MS. JUSTICE SHALINDER KAUR

ORDER

% **07.08.2025**

CRL.M.A. 22986/2025, CRL.M.A. 22987/2025, CRL.M.A.
22988/2025 (Exemptions)

1. Allowed, subject to all just exceptions.
2. Applications stand disposed of.

W.P.(CRL) 2437/2025, CRL.M.A. 22985/2025

3. The present petition is filed under Article 226 of the
Constitution of India read with Section 528 of the Bharatiya Nagarik



Suraksha Sanhita, 2023, seeking issuance of directions/writ of *Habeas Corpus* for immediate restoration of custody of the minor child, aged about one year, to his biological mother and maternal grandmother. Additionally, the petitioners seek declaration of the continued custody of the minor child with the respondent no. 3/the Welfare Home for Children, Sarita Vihar, as illegal.

4. A perusal of the record reveals that the Petitioner No. 2, a minor girl, lost her father in January 2023 and thereafter experienced emotional distress. In October 2023, following a domestic dispute, she left home and consumed sleeping pills at Lodhi Garden, where she fell asleep. Upon waking up, she experienced symptoms indicative of sexual assault, which later resulted in an undetected pregnancy, discovered only on 17.06.2024, when she was admitted to Holy Family Hospital on complaint of severe abdominal pain and delivered a male child.

5. Upon realising that the pregnancy was a consequence of the suspected sexual assault by an unknown person, the hospital authorities informed the police, leading to registration of FIR No. 273/2024 under Section 376 of the Indian Penal Code, 1860 and Section 6 of the Protection of Children from Sexual Offences Act, 2012 at Police Station Lajpat Nagar.

6. Pursuant to the said FIR, the minor child, the Petitioner No. 2, and the couple temporarily taking care of the child were produced before the Child Welfare Committee, Kalkaji, (CWC) which directed that the child be placed in institutional care at the Welfare Home for Children, Sarita Vihar/Respondent No. 3. Notably, there was no



voluntary surrender by the biological mother nor any declaration of the child being legally free for adoption. The CWC further directed initiation of proceedings under Section 80 of the Juvenile Justice Act, 2015 (JJ Act) against the said couple.

7. Thereafter, Petitioner No. 2 and the said couple were booked under Section 80 of the JJ Act. During the course of proceedings, the Petitioner No. 2 disclosed the name of the Respondent No. 4 in her statement recorded under Section 164 of the Criminal Procedure Code, 1973 (CrPC). Consequent thereto, a non-bailable warrant was issued against Respondent No. 4, followed by proceedings under Section 82 of the CrPC on account of non-appearance.

8. On 06.08.2024, Respondent No. 4, the biological father of the male child, moved an anticipatory bail application, stating he was unaware of the age of Petitioner No. 2 and expressed willingness to marry her upon attaining majority and to assume full responsibility for the child, including relocation to Delhi. The learned ASJ-06, POCSO Court, Saket, (POCSO Court) granted *interim* protection to Respondent No. 4, subject to certain conditions.

9. Thereafter, in March 2025, the Petitioner No. 2 discovered that the Welfare Home had cut the minor child's hair without consent, despite repeated requests to respect Sikh religious customs. This, coupled with restricted visitation contrary to court directions, caused further anguish to the family. Nonetheless, Respondent No. 3 continues to retain custody of the child in the absence of any judicial order divesting the biological mother of her natural guardianship.

10. Upon being queried, the learned counsel for the petitioners



submits that both the minor mother/Petitioner No. 2 and the biological father/Respondent No. 4 have expressed willingness to jointly raise the child and have filed sworn affidavits before the learned POCSO Court indicating their intention to marry upon the Petitioner No. 2 attaining majority, who now has attained majority.

11. He submits that the father/respondent no. 4 has also complied with all the conditions imposed by the learned POCSO Court *vide* Order dated 18.11.2024, while granting *interim* protection, which includes the creation of a Fixed Deposit Receipt (FDR) in the sum of Rs. 2,00,000/- in favour of the minor child, and consistent monthly deposit of Rs. 10,000/- towards the welfare of the child. He further submits that the child is currently under the care and custody of the Welfare House for Children, Sarita Vihar/Respondent No. 3.

12. At this stage, the learned counsel for the petitioners submits that respondent nos. 2 & 4 though have complied with the conditions as imposed by learned POCSO Court, however, some conditions are yet to be complied with and thus, seeks permission to withdraw the present petition with liberty to file afresh in future, if required.

13. Permission and liberty, as prayed for, in accordance with law, is granted.

14. The present petition along with pending application is, accordingly, dismissed as withdrawn.

VIVEK CHAUDHARY, J

SHALINDER KAUR, J

AUGUST 7, 2025/ss/kp