



\$~21

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(CRL) 4008/2024 & CRL.M.As.38653/2024, 822/2025**

POONAM

.....Petitioner

Through: Ms. Rupali Francesca Samuel & Ms.
Aparmita Pratap, Advs. with Petitioner
in person.

versus

PRASHANT KUMAR & ORS.

.....Respondent

Through: Respondent No.1 in person.
Mr. Sanjay Lao, Standing Counsel
(Criminal) with Ms. Priyam Agarwal
& Mr. Abinav Kumar Arya, Advs.,
Insp. Ganesh PS Badarpur.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE AMIT MAHAJAN

ORDER

% **14.01.2025**

1. This hearing has been done through hybrid mode.
2. The present petition has been filed on behalf of the Petitioner-Poonam under Article 226 of the Constitution of India read with Section 528 of the BNSS seeking a writ in the nature of *habeas corpus* for the production of her three-year-old son, who has allegedly been taken away by her husband *i.e.* Respondent No. 1.
3. There are various allegations being made by the Petitioner against her husband's family, which the Court has not gone into. However, in the present case, the Court is concerned only with the welfare and well-being of the child.
4. On the last date of hearing *i.e.* 20th December, 2024, the Id. Counsel appearing on behalf of the State submitted that the husband lives in Noida and



the child is in Mainpuri, Uttar Pradesh with his paternal grandparents.

5. Considering this position, the Court on 20th December, 2024 directed the following:

“4. The Id. Counsel appearing for the State has submitted that upon inquiry from the husband, it has been revealed that the husband lives in Noida but the child is now in Mainpuri, Uttar Pradesh with his paternal grandparents.

5. Considering this position, let the child be produced on the next date of hearing along with the father.

6. List on 14th January, 2025.

7. In the meantime, the father shall ensure that at least one video call is made on a daily basis in which the child is made to speak with the mother for fifteen minutes.

8. This order shall be communicated to the father by the concerned IO.”

6. Accordingly, today, the Respondent No.1 – Mr. Prashant Kumar, the husband of the Petitioner has appeared with his three and a half years old son. The Petitioner is also present. The Court has had an in-chamber interaction with the parties present.

7. The facts that have emerged during the chamber interaction are that the couple has two children *i.e.* one daughter of approximately 5 years of age and a son who is about three and a half years of age. The daughter is in the custody of the Petitioner-mother and the son is in the custody of the Respondent No.1-father.

8. It is further stated by the parties present that the Respondent is working as an electrician (lineman) and living in Noida along with his mother and brothers. The Petitioner currently lives in Badarpur with her parents and other



family members along with her daughter. She has made a statement that she is going to shift to Noida. She states that she is working in LGM company in Noida.

9. The Court, having seen the son of the couple, is of the opinion that he is quite comfortable with the father. The mother has also met the son. In these facts and circumstances, the following directions are issued:

- (i) The Petitioner and the Respondent shall exchange their respective present addresses. The Petitioner shall also give her future address of Noida to the Respondent.
- (ii) Neither of them would block each other on their respective phones and they would be in touch with both the children regularly. Neither of them would prevent the other from being in touch with the children and shall even have video calls with the children, in the custody of the other spouse;
- (iii) It is expressed by the husband that he wishes to continue the marriage but the Petitioner is clear and categorical that she does not wish to continue the marriage. In these circumstances, the parties are directed to try to amicably resolve their disputes through mediation. Accordingly, the parties are referred to the Delhi High Court Mediation and Conciliation Centre for amicable resolution of their disputes.
- (iv) Both the children shall stay with their respective parents and maintain the present *status quo*. If either of the parents wish to visit the other child, the same would be facilitated and shall not be prevented in any other manner. Even the family members of both the husband and wife shall cooperate.



- (v) Both the parties are directed not to indulge in any violent or abusive behaviour with each other or against the members of each other's families.
- (vi) Since it appears that the children involved herein are quite young, to keep them in touch with each other, the Petitioner and Respondent shall ensure that both the children meet each other on every weekend, at a common public area including the Delhi High Court Mediation Centre, where the children can play and spend time with each other.
- (vii) The concerned police officials shall ensure that they do not cause any harassment to either of the parties.
- (viii) The parties are directed to appear before the Mediation Centre on 21st January, 2025 at 3:00 PM.
10. In case the mediation fails, the parties are free to avail their remedies in accordance with law.
11. The present petition is disposed of in these terms. All pending applications are also disposed of.

PRATHIBA M. SINGH, J

AMIT MAHAJAN, J

JANUARY 14, 2025/dk/rks