IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.2273 of 2026

CNR No. BRHC011146962026

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Anurag S/o Sri Dilip Chandra Mishra R/o Mohalla - Baban Bigha, 52 Bigha, Laxmisagar, Milki, Laxmisagar, P.S - L.N. Mithila University, District - Darbhanga.

... ... Petitioner

Versus

1. The State of Bihar through the District Magistrate, Darbhanga
2. The Senior Superintendent of Police, Darbhanga
3. The Station House Officer, L.N. Mithila University Police Station, District - Darbhanga
4. Nigam Rani W/o Anurag D/o Someshwar Jha, R/o - Mokrampur, P.S - Sadar, District - Darbhanga

... ... Respondents

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Appearance :
For the Petitioner : Md. Nadien Seraj, Advocate
Mr. Ali Muqtadin Ahmad, Advocate
For the State : Mr. S.D. Sanjay, A.G.
Mr. Shashwat Agarwal, AC to AG
Ms. Shravya Pathak, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
and
HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

2 29-10-2026 Heard learned counsel for the petitioner and learned Advocate General assisted by Mr. Shashwat Agarwal, learned AC to AG for the State of Bihar.

2. In the nature of the order which will be proposed to be passed in this writ application, no notice need be issued to the private respondent.

3. This is the second attempt of the petitioner to obtain the custody of his minor daughter. It is a matter of record

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that the petitioner has preferred a Guardianship Case bearing No. 02 of 2023 in the court of learned Principle Judge, Family Court, Darbhanga.

4. The learned Principal Judge, Family Court, Darbhanga has passed certain directions by way of an interim order dated 05.04.2025 (Annexure ‘P/11). Paragraph ‘20’ of the order contained Annexure ‘P/11’ reads as under:-

> "20. Considering the above facts and circumstances and the precedent of the Hon'ble Apex Court and taking into the consideration of the welfare of the child as well for balancing rights of both parties (parents), it would be appropriate to pass following direction as regard the access as well as the visitation rights :-
>
> i. The interim custody of minor daughter Aura Mishra is kept with the opposite parry/mother till further order.
>
> ii. The applicant father shall have physical access and visitation right of minor daughter Applicant and opposite party are directed to exchange their mobile number to each other to make physical access and visitation right more convenient and easier.
>
> iii. The applicant shall pickup the minor child from the house of the opposite party on every Saturday ar about 7:00 PM and he shall dropped back the minor child on coming Sunday at about 7:00 PM at the house of the opposite party/mother with prior intimation to the opposite party.
>
> iv. The opposite party is directed to provide the details of the school of the child where she is currently studying. The opposite party is further directed not to remove the minor child from the current school and shall not take admission any other school without prior permission of this court.
>
> v. Neither applicant nor Opposite party shall

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remove the child out of the Jurisdiction of this court without prior permission of the court.

vi. The applicant and opposite party are at liberty to decide to birthday plan of minor child with prior intimation to each other.

vii. In the event of birthday of minor child, the applicant shall make arrangement in greed place by both the parties, or at the home of common relative maintaining decorum and without disturbing the others.

viii. The opposite party shall give birthday access of the minor child to the applicant since 9 am to till 4 pm and applicant shall hand over the custody of minor child to the opposite party after 4.00 pm by dropping the child at the house of the opposite party.

ix. Opposite party shall not prevent the minor girl from receiving any gift that may be given by applicant father to the child.

x. The opposite party is directed to give interim physical custody of minor child to Diwali Vacation, Summer Vacation and Christmas vacation etc) and applicant shall the applicant during the half of the vacations of the school (50% of vacations i.e. hand over the custody of the minor child after said 50% vacation access to the opposite party scrupulously.

xi. Both the parties shall decide the above 50% vacation access without dragging the child in the dispute.

xii. Opposite party shall make sure that the child should be available and present for the access to the applicant as directed above.

xiii. The opposite party shall give telephonic or video call access of the minor child to the applicant on every alternate day from Monday to Friday in between 7.30p.m. to 8.30 p.m.

xiv. The opposite party shall give compensatory access of the child to the applicant the next day, in case of any access missed or denied, without fault of applicant.

xv. The parties are directed to see that their

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conduct shall not affect on the minor during the access period, in any manner.

xvi. Both the parties have to decide the pick and drop of the child during the above access period with prior intimation to each other.

xvii. It is evident that both the parents are extremely attached to the child and wants well-being. Therefore, it expected from both the parents that they would work towards proper vaccination of their minor daughter, so that she grows up in a well balanced and healthy child. It is make clear that the expenses incurred towards vaccination of the minor child shall be borne by the applicant father.

xviii. It is also desirable from the point of view of the welfare of the minor child that the earning applicant father may be directed to make the fixed deposit of amount of the Rs. 50,000/- (Fifty thousand) in the name of minor child Aura Mishra and also further directed to payment of monthly a sum of rupees 3000/- (Three thousand) for her maintenance (education and medical) of minor from date of passing of this order.

It needs to be borne in mind that the present arrangement is being made by way of an interim arrangement during the pendency of the proceeding and the family court after consideration of the evidence on record may make appropriate modification as deems fit as regards the custody of the child considering the welfare of the child."

5. In the first round of litigation before this Court in Cr. WJC No. 2043 of 2025, this Court having taken note of the pendency of the matter before the learned Principal Judge, Family Court, Darbhanga observed on the submission of the learned counsel for the petitioner that the girl child is in fact compelled to work at a tea stall, as under :-

"6. In our considered opinion, the

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> petitioner may bring these facts to the notice of the learned Principal Judge, Family Court, Darbhanga who besides ensuring compliance with the interim order, shall also get done an inquiry into the matter as to whether the girl child is being made to sit in a shop and work.
>
> 7. If it is so, then appropriate action shall be taken to protect the child. Such orders may be required to be passed in that circumstance shall be passed by the learned Principle Judge, Family Court, Darbhanga after hearing the constesting parties."

6. At this stage, the grievance of the petitioner is that the opposite party is neither complying with the interim directions of the learned Principal Judge, Family Court nor she is putting appearance before the Court. Attention of this Court has been drawn towards the various orders passed by the learned Principal Judge, Family Court from time to time, the last order dated 18.08.2026 (Annexure ‘P/26’) would show that in the guardianship case, the applicant witnesses have been examined. The evidence of the applicant has been closed and the case has been fixed for evidence on behalf of the opposite party.

7. Learned counsel for the petitioner submits that the opposite party is not producing her witnesses. In the meantime, the girl child is suffering because of her being engaged at a tea stall to help her mother in running the tea stall. It is his

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submission that the girl child needs protection.

8. Learned Advocate General representing the State submits that even as the State is not in an adversarial position vis-a-vis the petitioner in the present case, he would definitely say that the girl child is required to be taken care of and adequate protection would be required.

9. Having regard to entire facts and circumstances of the case, we are of the considered opinion that learned Principal judge, Family Court, Darbhanga must proceed with the guardianship case on day to day basis, give adequate opportunity to the opposite party to participate in the evidence and hearing of the matter but do not grant unnecessary adjournments. All endeavours would be made to conclude the guardianship case within a period of three months from the date of receipt/production of a copy of this order. Notwithstanding this direction, we would further direct the learned Principal Judge, Family Court to ensure compliances with the interim order and conduct an inquiry into the matter as to whether the girl child is being made to work in a tea shop. This inquiry be conducted within a period of two weeks from the date of receipt/production of a copy of this order. If the learned Principal Judge, Family Court finds that that the girl child

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requires care and protection, he would pass an appropriate order to protect the interest of the girl child.

10. This writ application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

(Sunil Dutta Mishra, J)

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