



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

MISC.CIVIL APPLICATION NO. 137 OF 2025

Supranjana Sanjay Rathod,
@ Supranjana Laxman Chavan,
Age; 33 years, Occ; Service,
Presently R/o; Vadhishnu Niwas,
Plot No. 37, Datta City,
Behind Gajanan Mandir,
Malegaon road, Nanded.

...APPLICANT
(Orig. Petitioner)

VERSUS

Sanjay Shankar Rathod,
Age; 40 years, Occ; Service,
Permanent Address :-
Kamal Niwas, Sundar Nagar Tanda,
North Parle, Parle, Tq. Karad and
District Satara – 415 124.

AND

At Present :-
R/o N-8, Khare Group Society,
Lane No. 3, Dhamani Road,
Vishrambag, Dist. Sangli – 416 410,
Email-ID-ssrathod3000@rediffmail.com

...RESPONDENT
(Orig. Respondent)

.....
Advocate for Applicant : Mr. Avinash Maheshkumar Reddy
Advocate for Respondent : Mr. A. D. Sonkawade
.....

CORAM : Y.G. KHOBRADE, J.

Date of Reservation : 16.01.2026

Date of Pronouncement : 21.01.2026

ORDER :

1. Heard, Mr. Reddy, learned Counsel appearing for the Applicant and Mr. Sonkawade, learned Counsel appearing for the non Applicant/Respondent.

2. By the present application, the Applicant wife prayed for transfer of Custody Petition bearing No. D-4 of 2024 from the file of the learned Family Court, Sangali, to the file of learned Family Court, Nanded.

3. At the outset it is submitted that, on 30.09.2025, this Court passed an order considering that the Applicant and the Non Applicant are highly educated and they are in the Government Service, therefore, to explore the possibility of settlement, both the parties were referred to a trained Mediator, the learned Counsel Mr. R.M. Deshmukh. On 26.11.2025 the Mediator submitted a failure report. Consequently, the parties were called upon to argue the matter on merit.

4. In a nutshell, the facts of the present application are that on 26.11.2017, the marriage between the Applicant and the Non Applicant was solemnized as per the Hindu customs and rites. After the marriage, the Applicant wife started cohabitation with the Non Applicant at his native place. Out of the said wedlock, they were blessed with a male child namely Bheem, on 10.05.2022 at Loni, District Ahmednagar. However, the Non Applicant was transferred to Pune, where the

Applicant started cohabiting with the Non Applicant w.e.f. 15.06.2018. Thereafter, the Non Applicant got promoted and was transferred to Miraj, District Sangli. The Applicant alleged that due to matrimonial disputes, on 31.12.2022, she was driven out of her matrimonial home by the Non Applicant alongwith her child. Thereafter, she started residing at her parental house at Nanded. On 13.11.2023, the Non Applicant alongwith his mother visited her paternal house at Nanded and took the child forcibly and illegally without the consent of the Applicant. Therefore, the Applicant filed a complaint with the Superintendent of Police, Nanded, on 18.12.2023. Thereafter, the Applicant filed a petition bearing No. D-24 of 2024 before the Family Court, Sangli, District Sangli, seeking custody of the minor child. The learned Family Court, Sangli issued summons to the Non Applicant. After service of summons, the Non Applicant filed his Written Statement on 07.12.2024. However, prior to filing of the petition for custody bearing No. D-4 of 2024 before the learned Family Court, Sangli, the Applicant had filed Misc. Criminal Application bearing No. 28 of 2024 for search of the child, namely Bheem, under Section 97 of the Code of Criminal Procedure, 1973, before the learned Judicial Magistrate First Class, Nanded. The Non Applicant appeared in the said proceedings. The learned Judicial Magistrate First Class, Nanded, passed an order in the Criminal Misc. Application bearing No. 28 of 2024 on 19.08.2024 and rejected the said application. Thereafter, the Applicant wife filed a petition bearing No. PWDVA Application No. 52 of 2024 under the Protection of Women from

Domestic Violence Act, 2005 (for short “the DV Act”), claiming interim custody of the child. The Non Applicant appeared in the said proceedings and filed an application at Exhibit-19 seeking stay to the said proceedings. On 28.02.2025, the learned Judicial Magistrate, First Class, Nanded, passed an order and allowed Exhibit 4/1 application and rejected Exhibit-19 application seeking stay to the proceedings.

5. According to the Applicant, her husband, Non Applicant has filed a Petition bearing No. A- 56 of 2024 before the Family Court, Nanded, on 23.02.2024 under Section 9 of the Hindu Marriage Act and prayed for a decree of restitution of conjugal rights against her. The Applicant wife appeared in the said proceedings and filed her Written Statement. However, her husband, the Non Applicant, again filed a Special Civil Suit bearing No. 2045 of 2024, before the learned Civil Judge, Senior Division, Pune, seeking declaration, possession, and injunction against the property purchased by the Applicant and the Non Applicant and the said suit is pending on the file of the learned Civil Judge, Senior Division, Pune.

6. According to the Applicant, the Non Applicant has filed Criminal Appeal bearing No. 11 of 2025 challenging the order dated 28.02.2025 passed by the learned Judicial Magistrate First Class, Nanded, below Exhibit – 4/1 and Exhibit – 19. After service of notice, she appeared in the said appeal. On 28.03.2025, the learned District

Judge, Nanded, passed an order in Criminal Appeal bearing No. 11 of 2025 and directed the Non Applicant to bring the minor child, namely Bheem, for meeting with the Applicant-wife. However, the proceeding for custody bearing No. D - 4 of 2024 is pending before the Family Court, Sangli. However, she apprehended that the said proceedings are not being conducted in a free and fair atmosphere. So also, the Applicant is not in a position to attend the said proceedings on each and every date before the learned Family Court, Sangli and the Non Applicant is deliberately and intentionally prolonging the said matter and not bringing the minor child to meet the Applicant. So also the Applicant is residing with her parents at Nanded, which is approximately 400 k.m. away from Sangli. Therefore, it is not possible for the Applicant to travel such a long distance on every date, being a lady and considering safety concerns. Therefore, the Applicant has prayed for transfer of Custody Proceeding bearing No. D – 4 of 2024, from the file of the learned Family Court, Sangli, to the Family Court, Nanded, for effective adjudication.

7. In support of his submission, **Mr. Reddy**, the learned Counsel appearing for the Applicant placed reliance on the case of **Sapna Kumari Vs. Rahul Kumar – MANU/SCOR/56399/2025 in Transfer Petition (Civil) Nos. 316 of 2025 dated 16.07.2025**, wherein, the Hon'ble Supreme Court transferred the Child Custody Petition, from the file of learned Family Court, Laksar, Haridwar, Uttarakhand, to the learned Family Court, Patiala House, New Delhi, on the ground that the

Petitioner therein required to take care of her aged parents, so also on account of long distance for which she was unable to effectively defend the proceedings instituted at Laksar with her newly born baby. It is further relied on the case of **Harjeet Kaur Vs. Jatinder Singh – 2023 SCC Online P & H 4622- Punjab and Hariyana High Court**, wherein the Punjab and Haryana High Court considered the scope of Section 24 of Code of Civil Procedure as well as law laid down in case of **N.C.V. Aishwarya vs. A.S. Saravana Karthik Sha, - AIR 2022 SC 4318** and transferred the petition filed by the Non Applicant husband under Section 13 of the Hindu Marriage Act, 1955 from the Principal Family Court, Amritsar to the Court of Ferozepur and the petition under Section 8 and 25 under the Guardian and Wards Act, 1890.

8. The learned Counsel appearing for the Applicant further relied upon the order passed by this Court in **Shilpa Nikhil Sharma Vs. Nikhil Kailash Sharma - Misc. Civil Application No. 264 of 2024, dated 18.02.2025**, wherein, this Court transferred the custody proceedings of challenging under Section 7, 19(B) and 25 of the Guardian and Wards Act, 1890 from the file of learned Family Court, Nanded to the Court of learned Civil Judge, Senior Division, Barshi, District Solapur.

9. Per Contra, **Mr. Sonkawade**, the learned Counsel appearing for the Non Applicant relied upon Section 9 of the Guardian and Wards Act, wherein the application is with respect to the guardianship of the

person of the minor, it shall be made to the District Court having jurisdiction over the place where the minor ordinarily resides. He further submits that as per the averments made in the application the minor is residing with the Non Applicant at North Parle, Tq. Karad, District Satara. Therefore, the application under the Guardian and Wards Act is maintainable before the Family Court, Sangli, within whose jurisdiction the minor is ordinarily residing and it would also be convenient for the minor to attend the Court, if his presence is required. In support of his submissions, the learned Counsel appearing for the Non Applicant placed reliance on the case of **Pooja Bahadur Vs. Uday Bahadur - (1999) 4 SCC 348**, wherein, the High Court of Punjab and Haryana has taken a view that the custody proceedings filed by the mother would lie under the Guardian and Wards Act, at Delhi and not in the Court at Chandigarh, as the minor children were residing with the father at Delhi. Therefore, no fault was found with the said order.

10. In case of **K.C. Sashidhar Vs. Roopa - 1993 AIR (Kar) 120**, wherein it was held that the mother was residing at Mysore, when the petition was presented at Mysore seeking custody of child and the child was forcefully in the custody of the father under the circumstances, it is held that since the child was in teen age, its custody should be with its mother. The words “ordinarily resides” should be construed as the place where the mother ordinarily resides from the presentation of the petition.

11. After going through the record it appears that, as on today, the following proceedings are pending, between the Applicant and Non Applicant, which reads as under :

Sr. No.	Case No.	Name of the parties	Name of Court
1)	HMP No. A-56 of 2024	Sanjay Shankar Rathod Vs. Supranjana w/o Sanjay Rathod	The Family Court, Nanded.
2)	PWDVA No. 52 of 2024	Supranjana Vs. Sanjay Shankar Rathod	Judicial Magistrate, First Class, Nanded.
3)	Custody Petition No. 04 of 2024	Supranjana Vs. Sanjay Shankar Rathod.	The Family Court, Sangli.
4)	Special Civil Suit No. 2045 of 2024	Sanjay Shankar Rathod Vs. Supranjana Laxman Chavan	The Civil Judge, Senior Division, Pune.

12. It is pertinent to note that another proceeding, bearing Criminal Appeal No. 11 of 2025 filed by the Non Applicant challenging the common order dated 28.02.2025, passed below Exhibit 4/1 and Exhibit-19 in PWDVA No. 52 of 2024 is disposed of. The Special Civil Suit bearing No. 2045 of 2024 instituted by the present Non Applicant before the learned Civil Judge, Senior Division, Pune, seeking declaration, possession, and injunction of the allegedly joint property purchased by the Applicant and the Non Applicant. However, the other proceeding bearing HMP No. A-56 of 2024 filed by the Non Applicant and the PWDVA No. 52 of 2024 instituted by the present Applicant wife are pending before the learned Family Court, Nanded, and Judicial

Magistrate, First Class, Nanded, respectively.

13. The Applicant contended that she has filed a Custody Petition bearing No. D- 04 of 2024 before the Family Court, Sangli, and after service of summons, her husband, the Non Applicant appeared in the matter and filed his Written Statement. She further contended that, being a lady, causes inconvenience to travel 400 k.m. away from Nanded to Sangli as she is residing at her paternal house at Nanded. So also, she and other witnesses are under the constant pressure of the Non Applicant. The Non Applicant is serving as the Electrical Inspector in Industrial Engineering and Labour Department at Miraj, District Sangli, and his job is always transferable from one place to another. However, the learned Judicial Magistrate First Class, Nanded, passed an order granting temporary custody of the minor in her favour and appeal filed against the said order is pending. Therefore, considering the pendency of the litigation at Nanded, the Custody Proceedings bearing No. 4 of 2024 pending on the file of learned Family Court, District Sangli needs to be transferred. Needless to say that Section 9 of the Guardian and Wards Act with respect to the Guardianship of the person of minor and the court is having jurisdiction to try the said application, where the minor is ordinarily resides. It appears that, the Applicant and the Non Applicant are the natural parents of the minor child namely Bheem, whose custody has been sought by the Applicant wife being the natural mother and guardian of the child. It is also a matter of record that due to

discord of the matrimonial relations between the Applicant and Non Applicant, they instituted various legal proceedings in the Court of law. So also the Marriage Petition filed by the Non Applicant i.e. the Hindu Marriage Petition bearing No. A- 56 of 2024, is also pending on the file of learned Family Court, Nanded and the Non Applicant is attending the said proceeding. The Section 24 of the Code of Civil Procedure, 1908, provides general powers of the Court to transfer and withdrawal of the proceedings by the Competent Court. However, while effecting transfer of matrimonial proceeding including the custody of minor filed by the natural guardian, the convenience of the female and welfare and well being of the child is required to be considered.

14. In **Shilpa Nikhil Sharma** (Supra), in order dated 18.02.2025 , this Court has considered the case of **Harjeet Kaur** (supra) and **Subhashani Mohan v. Nagendran Paulraj - MANU/2579/24** and transferred the child Custody in petition bearing No. D -3 of 2023 filed in the Family Court, Nanded and CJSD Court, Barshi, District Solapur by invoking jurisdiction under Section 24 of the CPC.

15. Similarly, in case in hand, as discussed above, the matrimonial proceeding bearing No. 56 of 2024 filed by the Non Applicant and another Domestic Violence proceeding bearing No. 52 of 2024 filed by the Applicant are pending on the file of Judicial Magistrate First Class, Nanded, whereas, the third proceeding/Custody Petition

bearing No. 4 of 2024, and or No. 24 of 2024 is pending on the file of learned Family Court, Sangli. Therefore, considering the convenience of the Applicant and as it is not possible for her to travel approximately 400 k.m. away distance on each and every date to attend the proceeding before the Family Court, Sangli, and as such the Non Applicant is attending two proceedings at Nanded, therefore, it would be just and proper to withdraw the Custody Proceeding bearing No. 24 of 2024 or 4 of 2024 pending on the file of the Family Court, Sangli and transferred the same to the Family Court, Nanded.

16. The Applicant claimed that on 31.12.2022 she was driven away from her matrimonial house by her husband, the Non Applicant with her child and since then she is residing at her paternal house with minor child. However, on 13.11.2023 the Non Applicant with his mother visited at her paternal house and took away the child forcibly without her consent and as such the Non Applicant purposefully kept the child away from her/the Applicant and did not give information or whereabouts of the child, therefore, she filed an application before the Superintendent of Police on 18.12.2023 and subsequently she has filed a Petition bearing No. D 24 of 2024 before the Family Court, Sangli. Therefore, it appears that the Non Applicant allegedly removed the custody of the minor from the Applicant from Nanded.

17. In view of the above discussion, I am inclined to grant the

present application and proceed to pass following order :

ORDER

(i) The Misc. Civil Application No. 137 of 2024 is hereby allowed.

(ii) The Custody Petition No. 4 of 2024 or 24 of 2024 pending on the file of learned Family Court, Sangli is hereby withdrawn and it is transferred to the file of learned Family Court, Nanded for proper trial and adjudication.

(iii) Intimate to the concerned Courts accordingly.

(iv) The Non Applicant/Husband is permitted to appear before the Family Court, Nanded through Video Conference, in case he is unable to attend the proceeding before the Court at Nanded.

(v) The Non Applicant shall personally appear before the Court/s for Examination-in-Chief and Cross-Examination of the witnesses.

(vi) With this the Misc. Civil Application is disposed of.

(Y.G. KHOBRADE, J.)

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