



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.2755 OF 2026

PETITIONER :- Mr. Kushagra S/o Shalabh Jhalani
i Age : 34 years, Occu. : Service, R/o. C/o.
Shalabh Jhalani, A-601, Kalpataru Grandeur,
27 Yashwant Niwas Road, Indore 452003
(M.P.).

..VERSUS..

RESPONDENT :- Mrs. Ruchika W/o. Kushagra Jhalani, Aged 34
years, occ.: Service, R/o. C/o 1105, Rachna
Nakshatra, Rohini, Friends Colony, Katol
Road, Nagpur, 440013.

Mr. Meera P. Kshirsagar, Advocate for petitioner.
Mr. M.S. Gupta, Advocate for Respondent.

CORAM : **ROHIT W. JOSHI, J.**

DATE : **11/06/2026**

JUDGMENT :

1. The present petition takes exception to the order dated 19.12.2025 passed by the learned Judge, Family Court No.3, Nagpur, on application at Exh.38 in Petition No.D-63 of 2023. The said application is filed by the present petitioner seeking custody of minor child during Diwali vacation. The respondent-wife opposed the said application.

2. The husband is residing at Indore, whereas the wife residing at Nagpur. The child is presently five years and six months old. The learned Family Court has partly allowed the application by granting access to the father for six hours every day, from 11.00 a.m. to 05.00 p.m. Father has preferred the present petition challenging the said order.

3. The learned advocate for the petitioner draws attention to photographs placed on record, where the child is seen in the company of the father and grandparents. It is contended that the child is very comfortable and happy in the company of his father and grandparents. It is contended that both parents have right to reasonable access to, and love and affection of their child and child is also equally entitled to love and affection of both parents. The learned advocate therefore contends that the learned Family Court ought to have considered granting custody of the child to the father during the vacation period.

4. The learned Family Court has found that as on the date of order, the child was four years and ten months of age. His parents have separated while he was one year and eight months old. Since then, the child is staying with her mother at Nagpur. The father wants custody of the child at Indore. Child is of tender age of five

and half years. The learned Family Court has found that the child may not be comfortable at a new place, i.e., at Indore, and may miss his mother if he is sent to Indore to stay with his father. In view of the aforesaid, the learned Judge of the Family Court has granted limited access to the father from 11.00 a.m. to 05.00 p.m. during vacation period.

5. The learned Judge of the Family Court has exercised discretion for just and proper reasons. This Court sees no reason to take a different view of the matter. The learned Family Court has kept the welfare of the child as a paramount consideration while passing the impugned order. The child is barely five and half years old. He may well miss his mother with whom he is residing since he was one years and eight months old. There is no material to infer that he has ever stayed away from his mother. Distance between Indore and Nagpur is apparently 465 kms. The impugned order is just and proper and does not warrant any interference.

6. However, having regard to the fact that the access is being granted at Nagpur, in the considered opinion of this Court, time for access can be increased upto 09.00 p.m. In view of the above, Writ Petition is **partly allowed** as under:-

- a) The respondent-wife shall give access of Minor Kaveer to

the petitioner-husband and his parents from 11.00 a.m. to 09.00 p.m. during the summer vacations from 12.06.2026 to 30.06.2026.

- b) On the above dates, the respondent-mother will deliver the child before 11.00 a.m. to the father in the available hotel to the petitioner-husband at Nagpur. The father shall hand over the child at 09.00 p.m. to the respondent-mother at the same place.

(ROHIT W. JOSHI, J.)

C.L. Dhakate