



2026:DHC:1603-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI***Date of decision: 23rd February, 2026*+ W.P.(CRL) 509/2026
ROHAN SHARMA

.....Petitioner

Through: Ms. Sheebba Khuranaa and Mr.
Nishant, Advocates with
petitioner in person.

versus

STATE OF NCT OF DELHI & ANR.Respondents

Through: Mr. Sanjay Lao, Standing
Counsel (Criminal) with Ms.
Priyam Agarwal and Mr. Aryan
Sachdeva, Advocates with SI
Kamal Sharma, PS-Maidangarhi.
Mr. Shivam Raturi and Mr.
Juned Ansari, Advocates for R-2.
Respondent no. 2 and child in
person.**CORAM:****HON'BLE MR. JUSTICE NAVIN CHAWLA****HON'BLE MR. JUSTICE RAVINDER DUDEJA****NAVIN CHAWLA, J. (ORAL)**

1. This petition has been filed under Article 226 of the Constitution of India read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 for issuance of a Writ in the nature of Habeas Corpus or any other appropriate Writ or direction requiring the presence of the minor daughter of the petitioner and the respondent no. 2, Ms. XXXX, who is six years old.

2. It is the case of the petitioner that the respondent no. 2, who is presently a resident of Doiwala, Uttarakhand, had taken away the



2026:DHC:1603-DB



minor child, without the consent of the petitioner, on 07th January, 2026, and is not returning the custody of the child to him despite repeated demands.

3. On 17th February, 2026, we directed the physical presence of the respondent no. 2 along with the child.

4. We have interacted with the petitioner, the respondent no. 2, and the child. Through this interaction, we learnt that the petitioner, the respondent no. 2, and the child were residing together till around September-October, 2025. The respondent no. 2 complains that she moved out of the matrimonial home due to differences with the petitioner and his parents, and despite her request, she was not given the custody of the minor child nor was she allowed to meet the minor child even virtually. She states that she came to Delhi on 06th January, 2026, and with the consent of the petitioner, took away the minor child to her maternal home at Doiwala, Uttarakhand. She states that she has, thereafter, filed a petition under the Guardian and Wards Act, 1890, before the learned Family Court at Uttarakhand, and further stated that the child has also been admitted to a school there and her exams are to start from 12th March, 2026.

5. On the other hand, the petitioner maintains that the child, since her birth, was staying at Delhi and was admitted to a school in Delhi, where her examination was to start from 19th February, 2026. It is further submitted that the respondent no. 2 forcefully took away the child without the consent of the petitioner. It is stated that the petitioner had never stopped the respondent no. 2 from meeting the child, either physically or virtually. The learned counsel appearing for



the petitioner submits that the welfare of the child would be at Delhi as respondent no. 2 is suffering from cancer and will not be able to take care of the child.

6. The learned counsels for the petitioner and respondent no. 2 have made submission on similar lines as the respective parties.

7. We have considered the submissions made by the learned counsels for the petitioner and the respondent no. 2, as also by the parties themselves.

8. At the outset, we would note the limited jurisdiction that we exercise under Article 226 of the Constitution of India to determine the matters of custody and visitation of a minor child, especially when the dispute is between the warring parents of the child, in a Writ of Habeas Corpus.

9. The child, in the present case, is six years old and is presently residing with the respondent no. 2, her mother at Uttarakhand. Such custody cannot be termed as illegal. The matters for determining the custody and visitation needs to be determined by the competent court, created under the Family Courts Act, 1984.

10. Given the limited jurisdiction that we exercise under Article 226 of the Constitution of India, we are not inclined to proceed further with the present petition and leave it open to the parties to agitate their rights and claims before the Court of competent jurisdiction.

11. However, in the interim, we direct that the respondent no. 2 must ensure that the child has interaction with the petitioner, virtually or physically.

12. We make it clear that our present order shall in no manner



2026:DHC:1603-DB



prejudice any of the parties in case they avail of their appropriate remedies in accordance with law for the custody/visitation of the child.

13. The petition is disposed of in the above terms.

NAVIN CHAWLA, J

RAVINDER DUDEJA, J

FEBRUARY 23, 2026/vd/ma/ik