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

Date of Decision: 15th January, 2025

+ **W.P.(CRL) 99/2025**

GAJANAN KHANWEPetitioner
Through: Mr. Kanwar Udai Bhan Singh
Sehrawat and Mr. Sanjiv Vasishta
Advs. alongwith Petitioner in person
and his daughter Akansha Khanwe
through VC.

versus

UNION OF INDIA & ORS.Respondents
Through: Ms. Nidhi Raman, CGSC with Mr.
Zubin Singh and Mr. Akaash Mishra
Advs. for R-1 & 2. (M:9891088658)

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE DHARMESH SHARMA

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.

CRL.M.A. 888/2025 (for exemption)

2. Allowed, subject to all just exceptions. Application is disposed of.

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3. The present petition has been filed by the Petitioner - Mr. Gajanan Khanwe under Article 226 of the Constitution of India read with Section 528 of BNSS seeking issuance of a writ in the nature of *habeas corpus* for production of his daughter Ms. "AK" as also maternal grandson of about 17 months old.

4. The facts as stated in the petition are that Ms. AK was married to Mr.



Akshay Raja Sinha – Respondent No.4, in Bhopal, Madhya Pradesh, on 16th January, 2019. Immediately after the marriage, Ms. AK had moved to the United Kingdom along with her husband and was living in her matrimonial home. The couple was blessed with a baby boy on 19th July, 2023, who was born in India. Both the mother *i.e.*, Ms. AK and the child are Indian passport holders. In 2023, the Respondent No.4, is stated to have acquired citizenship in the United Kingdom and is in employment there.

5. Thereafter, it is stated that matrimonial discord took place between the parties. The allegation in the petition is that Ms. AK had received a legal notice on 20th November, 2024 from the counsel for Respondent No.4, calling upon her to not remove the child without the consent of Respondent No. 4. The Respondent No.4, in fact, appears to have taken steps to get the dependent visa of Ms. AK cancelled due to matrimonial discord and thereafter, initiated the divorce proceedings in the United Kingdom on 6th December, 2024 on the ground of irretrievable breakdown of marriage. It is stated that the dependent visa of Ms. AK has been cancelled and she is required under the law of the United Kingdom to leave the said country by 1st February, 2025.

6. The situation as on date is that the daughter of the Petitioner *i.e.*, Ms. AK and the grandchild are Indian citizens, living in the United Kingdom, in the same residence as of Respondent No.4 being 43, Moors Lane, Houlton, Rugby, Warwickshire, United Kingdom. The Petitioner states that his daughter is unable to travel back to India as she is attending to her son, who is an infant and is being breastfed. Visa of the Petitioner's daughter having been cancelled, the apprehension is that if the daughter does not leave the United Kingdom on or before 1st February, 2025, she would be living illegally



in the United Kingdom. This situation has arisen due to the steps taken by the Respondent No.4 while the wife and son are continuing to live in the same house with him.

7. Mr. Sehrawat, Id. Counsel for the Petitioner submits that the Petitioner is willing to go to the United Kingdom to help his daughter. However, he is unable to do so as his son-in-law *i.e.*, Respondent No. 4 is not willing to support his application for the visa. Moreover, due to the daughter's visa having been cancelled, she is also unable to invite him to the United Kingdom. It is also submitted by the Id. Counsel that the passport of the child has been kept in the custody of the father, who has refused to give the same.

8. Ms AK, who appeared through video conferencing, on being asked stated that she has not preferred to lodge any complaint with the police despite repeated acts of domestic violence at the hands of her husband and in-laws, since she wants to salvage the marriage and does not want to part with her child. She stated that she has no financial support to engage a lawyer to defend her legal rights in the Court proceedings either.

9. The entire scenario reveals a piquant situation wherein the daughter and the grandchild of the Petitioner are living without legal aid, counselling or any steps being taken by the daughter to protect her own legal rights in the United Kingdom. It is stated that due to the financial condition of the daughter, she is unable to avail of the available legal remedies.

10. Considering the fact that both the daughter and the grandchild of the Petitioner are Indian citizens, the Ministry of External Affairs is directed to provide counselling services, legal aid help and any other assistance, through the Indian High Commission in United Kingdom, which the daughter would require to ensure that she is able to avail of her legal remedies in United



Kingdom.

11. Ms AK, who has joined the proceedings online today, has expressed her intention to be able to travel back to India with her child. The same would be undertaken in accordance with law in the United Kingdom and the Indian High Commission shall assist her in providing the necessary assistance in this regard.

12. Let a status report in respect of steps taken by the Indian High Commission in United Kingdom be filed by the Ministry of External Affairs, by the next date of hearing

13. Ms. Nidhi Raman, Id. CGSC, shall communicate this order on an urgent basis, to the Ministry of External Affairs to further communicate it to the Indian High Commission in the United Kingdom for necessary information and compliance.

14. List on 27th January, 2025.

15. Order *dasti*.

PRATHIBA M. SINGH, J.

DHARMESH SHARMA, J.

JANUARY 15, 2025/dk/ms