

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

WRIT PETITION NO. 4387 OF 2026

MOBIN AHAMAD MOHAMMAD RAFIQUE SHEIKH
VS

SAMREEN MOBIN AHAMAD SHEIKH (SAMREEN D/O. ABDUL SAMAD SHEIKH)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mr. S.A. Dethé, Advocate for the Petitioner (s).
Mr. R.A. Biranware, Advocate for the Respondent.

CORAM : RAJ D. WAKODE, J.
DATE : 29th MAY, 2026.

1. On 27.05.2026, this Court had issued notice to the respondent and made it returnable on 29.05.2026 i.e. today. The sole purpose of issuing such notice was to grant an opportunity to the respondent-mother before passing any interim order in the present writ petition.
2. The petitioner-father has approached this Court challenging the impugned order dated 15.05.2026 passed by the learned Family Court, Nagpur, below Exhibit 21 in Petition No. D-56 of 2024.
3. On 14.05.2025, the learned Family Court had passed an order below Exhibit 9. The aforesaid order is on record at Page No. 72 (Annexure E). A perusal of the order reveals that it was passed without the say of the petitioner-father and also without recording the contentions on behalf of the respondent.

4. The petitioner-father, on 03.01.2026, had filed an application for setting aside the order dated 14.10.2025. The learned Family Court, while deciding the said application filed by the petitioner for setting aside the order dated 14.10.2025 below Exhibit 9, directed the petitioner to hand over the temporary custody for 15 days to the respondent-mother as per order dated 14.10.2025 below Exhibit 9. The petitioner was directed to hand over the custody immediately on the same day i.e. 15.05.2026 from the court premises, and the respondent-mother was directed to hand over the custody of the child to the petitioner on 30.05.2026.

5. The petitioner immediately filed another application for grant of stay of the aforesaid order below Exhibit 30, which was granted by the learned Family Court for a period of one week in order to enable the present petitioner to approach this Court.

6. In view of the above, the petitioner has approached this Court.

7. Mr. Dethé, learned counsel for the petitioner, has vehemently argued that the impugned order dated 15.05.2026 is erroneous in view of the fact that the learned Family Court had completely ignored the child interaction report dated 15.05.2026 submitted by the Marriage Counsellor, Family Court, Nagpur. The relevant portion of the aforesaid child interaction report reads thus:

“Hammad stated that at home, he is residing with his Dada-Dadi, Chacha-Chachi and their son and he likes their company.

Hammad was quite upset while talking about his mother. Tension began to appear on his face. He stated that he did not want either talk to his mother and does not want to see her. According to Hammad residing with mother is out of question for him.

He stated that he does not want to go to his mother because he is afraid of her and she has beaten him many times, when her was residing with her.

When his mother was called in the cabin, child refused to talk to her. He did not even see at his mother. He repeatedly stated that he does not want to go alongwith his mother. He did not want to come for access at children complex.

When Marriage Counselor tried to know the reason behind his reluctance towards his mother, child Hammad kept mum and did not utter a word.

Hammad was comfortable with his father. He wants to be with his father while talking to counselor. He clearly stated that he wants to live with his father and his family.”

8. This Court is shocked to see the manner in which the learned Family Court has completely ignored the child interaction report, which was most relevant while deciding such application for temporary custody, and has passed the order dated 15.05.2026.

9. Mr. Biranware, learned counsel for the respondent-mother, has sought time to file a reply.

10. In view of the above, list the present writ petition on 10.06.2026.

11. In the meantime, there shall be a stay on the effect and operation of the impugned order dated 15.05.2026 passed by the learned Family Court, Nagpur, below Exhibit 21, till the next date.

(RAJ. D. WAKODE, J.)