

**HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR**

D.B. Habeas Corpus Petition No. 260/2026
CNR: RJHC010451062026
URN: HC / 413U / 2026

Nirma D/o Punma Ram w/o Rahul, Aged About 23 Years, R/o Jhakharda, Tehsil Dhorimanna, District Balotra. Atpresent Resident At Udaniyo Ka Bas, Gudamalani,district Balotra.

-----Petitioner

Versus

- 1. State Of Rajasthan, Through The Secretary, Ministryof Home Affairs, Jaipur, Rajasthan.
- 2. Deputy Inspector Of General, Jaipur.
- 3. The Superintendent Of Police, Balotra.
- 4. The Superintendent Of Police, Barmer.
- 5. The Sho, Police Station Gudamalani, District Balotra.
- 6. The Sho, Police Station Dhorimanna, District Balotra.
- 7. The Superintendent Of Police, Navsari Gujrat.
- 8. Rahul S/o Kishna Ram,
- 9. Kishna Ram S/o Not Known,
- 10. Suresh S/o Kishna Ram,
- 11. Varsha D/o Kishna Ram,
- 12. Bhanwari W/o Kishna Ram,
All b/c vishoi, R/o Jhakharda Tehsil Gudamalani, district Balotra.

-----Respondents

For Petitioner(s)	:	Mr. Mohan Singh
For Respondent(s)	:	Mr. Deepak Choudhary, GA-cum-AAG with Mr. K.S. Kumpawat Mr. Suresh Kumar Bishnoi

HON'BLE MR. JUSTICE VINIT KUMAR MATHUR
HON'BLE MR. JUSTICE CHANDRA SHEKHAR SHARMA
Order

07/07/2026

- 1. Heard learned counsel for the parties.

2. The present habeas corpus petition has been filed by the mother of the corpus Kamakshi (Kritika) alleging therein that she is in illegal detention of private respondents.

3. Learned counsel for the petitioner submits that the respondent No.8, who is father of the corpus has forcibly taken away the custody of the child and, therefore, she is in the illegal detention of private respondents. He further submits that there is a marital discord between the petitioner and respondent No.8, for which a divorce petition has already been filed before the competent court. He further submits that the petitioner is ready to take the custody of the child. He, therefore, prays that a direction may be issued to the respondents to hand over the custody of the corpus to the petitioner.

4. After hearing the learned counsel appearing for the parties, this Court issued notices and on the last date of hearing, the petitioner and respondent No.8 were directed to remain present before this Court.

5. Today, respondent No.8, who is the father of the corpus, is present before this Court. He has stated that it was the petitioner, who handed over the custody of the child to him and went to her maternal house. He further submits that since the petitioner is not taking proper care of the child, therefore, it will be in the interest of justice to allow him to hold the custody of the child. He further submits that their divorce petition is already pending in the competent court, therefore, for the custody of the child, an appropriate legal proceedings before appropriate forum may be initiated by the petitioner, if she felt so advised, where she can place on record all the documentary proof for the custody of child.

He further submits that during the pendency of the said proceedings, the child may be allowed to stay with the respondent No.8.

6. We have considered the statements made before us.

7. Since, there is a marital discord between the petitioner and the respondent No.8 and, therefore, a divorce petition is already pending consideration before the competent court and during mediation proceedings conflicting views were expressed by the petitioner and respondent No.8, it is not possible for this Court to come to the conclusion that whether the petitioner has left the custody of the child with respondent No.8 or the respondent No.8 has forcibly taken the custody of the child.

8. In these circumstances, we feel that since the corpus is in the custody of respondent No.8, who is a biological father of the child, therefore, she cannot be said to be in illegal detention. As far as the custody of the child is concerned, the appropriate proceedings be initiated before the competent court.

9. Thus, the present habeas corpus petition is devoid of force and the same is, hereby, dismissed

(CHANDRA SHEKHAR SHARMA),J

(VINIT KUMAR MATHUR),J