



2026:AHC:174166

HIGH COURT OF JUDICATURE AT ALLAHABAD

HABEAS CORPUS WRIT PETITION No. - 1091 of 2026

Anushka Sonkar And 3 Others

.....Petitioner(s)

Versus

State Of U.P. And 3 Others

.....Respondent(s)

Counsel for Petitioner(s)	: Mahesh Kumar, Muzzamil Jahid Ansari, Rayaz Hasan, Deepak Singh Patel
Counsel for Respondent(s)	: G.A.

Court No. - 73

HON'BLE SANDEEP JAIN, J.

By order dated 04.08.2026, the State as well as respondent No.4 were directed to produce the corpus, namely, Anushka Sonkar, Anuj Sonkar and Arpit Sonkar, before this Court. In compliance thereof, the corpus have been produced before the Court by Sri Krishna Kumar, Constable and Ms. Priya Rai, Lady Constable, Police Station Jhunsi, Prayagraj.

This Court interacted with the eldest corpus, Anuj Sonkar, aged about nine years. He disclosed that he, along with his other siblings, is not attending school as the Aadhaar Card, which is required for admission, is in the possession of his father. Although the corpus was found to be quite comfortable in the company of their mother, it is evident that they are presently deprived of education. At their tender age, continued deprivation of education is likely to seriously prejudice their future.

This Court also interacted with the petitioner, Arjun Sonkar, who disclosed that his wife is allegedly having an illicit relationship with another person and, on account of the same, he is not willing to reside with her in the matrimonial home. He, however, expressed his willingness to take custody of the minor corpus and assured the Court that he would properly look after them, provide them education and make every endeavour for their proper upbringing so that they may grow into responsible citizens of the country.

This Court also interacted with respondent No.4, Smt. Nisha Sonkar, who

stated that she is willing to reside with her husband in the matrimonial home, but the petitioner is not willing to resume cohabitation with her. She claimed custody of the corpus on the ground that she is their mother. However, it is evident that she is not earning any income and is wholly dependent upon her relatives. It is also admitted that the corpus have not yet been admitted to any school and, consequently, their formal education is yet to commence.

This Court also made sincere efforts to facilitate reconciliation between the spouses. However, in view of the stand taken by the petitioner on account of the alleged illicit relationship of his estranged wife, no possibility of reconciliation could be brought about. The Court is, therefore, constrained to determine the issue of custody of the minor corpus on the touchstone of their welfare.

It is apparent that the corpus are presently residing with their mother and share a strong emotional bond with her. At the same time, it is equally evident that the respondent-mother has no independent source of income and is wholly dependent upon her relatives. More importantly, despite the passage of time, the education of the corpus has not commenced.

On the other hand, the petitioner, being their natural father, has expressed his willingness and capacity to assume responsibility for their upbringing and has assured the Court that he shall get them admitted to a good school and ensure their education and overall welfare. He has further stated that his other family members are also available to look after the corpus in his absence. Though the eldest corpus, Anuj Sonkar, has expressed his unwillingness to accompany his father, the preference expressed by a child of such tender age cannot, by itself, be treated as determinative when the Court is required to assess the overall welfare and best interests of the minors.

The paramount consideration in matters relating to custody of minors is their welfare and best interest, and not merely the legal right of either parent. Having regard to the totality of the circumstances, particularly the need to secure the education, proper upbringing, financial security and overall development of the corpus, this Court is of the considered opinion

that their welfare would be better served by placing their custody with their father, the petitioner, Arjun Sonkar.

Accordingly, the custody of the minor corpus, namely, Anushka Sonkar, Anuj Sonkar and Arpit Sonkar is handed over to their father, the petitioner, Arjun Sonkar.

At the same time, this Court is conscious of the emotional bond which the corpus share with their mother. In order to preserve and nurture such bond, respondent No.4, Smt. Nisha Sonkar, shall have visitation rights. She shall be at liberty to visit the residence of the petitioner, Arjun Sonkar, at any reasonable time, with prior intimation, for the purpose of meeting and interacting with the minor corpus. She shall also be entitled to interact with them through video conferencing on a daily basis between 6:00 p.m. and 9:00 p.m.

The petitioner shall extend all reasonable cooperation in facilitating such visitation and video interaction and shall not create any unnecessary hindrance therein. The respondent-mother shall likewise ensure that her interactions with the corpus remain conducive to their emotional well-being.

It is, however, made clear that the aforesaid arrangement shall not prevent the respondent-wife from resuming cohabitation with the petitioner in the matrimonial home, if the petitioner is willing to do so and the parties mutually agree to such arrangement. Any such decision shall, however, be taken voluntarily by both parties and in the best interests of the minor corpus.

With the aforesaid observations and directions, the instant habeas corpus petition stands disposed of.

(Sandeep Jain,J.)

August 18, 2026
Himanshu