

ORDER SHEET  
**IN THE HIGH COURT OF SINDH  
CIRCUIT COURT HYDERABAD**

Criminal Miscellaneous Application No.S-330 of 2023

DATE	ORDER WITH SIGNATURE OF JUDGE
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<u>26-05-2023</u>	For orders on office objection. For hearing of main case.
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Mr. Habibullah Chang, advocate for applicant along with applicant.

Ms. Rameshan Oad, Assistant Prosecutor General Sindh.

Mr. Mazhar Ali Leghari, advocate files Vakalatnama on behalf of respondent No.4, taken on record.

Respondent No.4 Teerath is present along with alleged detainees/minors namely Narsing and Baby Reshma.

Learned counsel for the applicant contends that though the applicant filed a criminal miscellaneous application before the learned Ex-Officio Justice of Peace, Sanghar but only the custody of minor Janvi was given to the applicant and custody of the alleged detainee was not handed over the applicant, who is their real mother. He, therefore, prayed that custody of alleged detainees/minors may be handed over to the applicant.

2. On the other hand, learned counsel appearing on behalf of respondent No.4 contends that the custody of the minors with their father cannot be said as illegal and the right course for the applicant is to approach before the concerned Court for their custody by filing appropriate application under Guardians and Wards Act. He, therefore, prays for dismissal of the application.

3. Learned A.P.G. Sindh submits that the alleged detainees are minors aged about 2 and 3 years, therefore, their custody may be handed over to their mother/applicant as an interim arrangement till it is decided by the concerned Family Court on filing appropriate application by the parties.

4. Pursuance to Court notice, the respondent No.4 Teerath has appeared along with alleged detainees/minors namely Narsing and Baby

Reshma. As soon as the minors Narsing and Baby Reshma saw their mother, the applicant, they by running started going to her and jumbled with her in open Court. Though for taking custody of minors a proper forum is Family/Guardian Court; however, seeing the situation of love and affection of the minors with their mother, it is appropriate to hand over their custody to the minors keeping in view that they are minors aged about 2 and 3 years respectively, they need proper care and caution of their mother. Notwithstanding that the custody of the minors with their father does not mean that they are illegally detained but the custody of minors can be said to be improper looking to the ages of minors.

**5.** In view of the above facts and circumstances, instant criminal application is allowed and the custody of minors Narsing and Baby Reshma is handed over to the applicant as an interim arrangement. However, for proper custody, the applicant and respondent No.4 are at liberty to file an appropriate application before the concerned Court under Guardian and Wards Act. The applicant shall allow the father of minors for meeting purpose till the concerned Court orders properly as and when application is filed as stated above.

JUDGE

\*Abdullah Channa/PS\*