

IN THE COURT OF THE LEARNED PRINCIPAL JUDGE, FAMILY
COURT, S.A.S. NAGAR (MOHALI), PUNJAB

G.W. Petition No. _____ of 2026

IN THE MATTER OF:

[NAME OF FATHER/MOTHER], S/o / D/o / W/o **[NAME]**,
aged about ____ years, resident of **[COMPLETE ADDRESS]**
Petitioner

VERSUS

[NAME OF RESPONDENT], S/o / D/o / W/o **[NAME]**,
aged about ____ years, resident of **[COMPLETE ADDRESS]**
Respondent

PETITION UNDER SECTIONS 7, 10 AND 17 OF
THE GUARDIANS AND WARDS ACT, 1890 READ
WITH SECTION 26 OF THE HINDU MARRIAGE
ACT, 1955 AND ALL OTHER ENABLING
PROVISIONS OF LAW FOR GRANT OF PERMANENT
CUSTODY/RESTORATION OF CUSTODY OF THE
MINOR CHILD AND FOR GRANT OF APPROPRIATE
VISITATION/ACCESS RIGHTS

MOST RESPECTFULLY SHOWETH:

PARTICULARS OF THE PARTIES

1. That the Petitioner is **[father/mother]** of the minor
child namely **Master/Miss [NAME OF CHILD]**, born on **[DATE
OF BIRTH]**, and is presently residing at the address
mentioned in the title of the petition.

2. That the Respondent is the **[father/mother]** of the minor child and is presently residing at **[ADDRESS]**.
3. That the minor child is presently **[in the custody of the Respondent / residing with the Respondent / residing with grandparents / otherwise]**.

PARTICULARS OF THE MINOR CHILD

4. That the minor child in respect of whom the present petition is being filed is:

Particular	Details
Name	Master/Miss _____
Date of Birth	_____
Age	_____
Gender	_____
Place of Birth	_____
School	_____
Present Class	_____
Present Residence	_____
Present Custodian	_____

5. That the minor child is presently aged about ____ years and is dependent upon the parties for his/her physical, emotional, educational and financial well-being.

STATUS OF THE MARRIAGE

6. That the Petitioner and Respondent were married on [DATE] at [PLACE] according to Hindu rites and ceremonies.

7. That after the marriage, the parties resided together at [ADDRESS].

8. That from the said wedlock, the minor child namely [NAME] was born on [DATE].

9. That the Petitioner has always discharged his/her responsibilities towards the minor child and has made sincere efforts to ensure the child's proper upbringing, education, health, safety and overall development.

PRESENT CUSTODY OF THE MINOR CHILD

10. That the minor child is presently in the custody of the Respondent.

11. That the present custody of the minor child with the Respondent is not conducive to the welfare and best interests of the minor child for the following reasons:

a. That the Respondent has [neglected the educational needs of the child / failed to provide proper supervision / prevented access to the Petitioner / exposed the child to matrimonial disputes / otherwise];

b. That the Respondent has repeatedly [withheld the child from the Petitioner / refused visitation / changed the child's residence without reasonable cause / otherwise];

c. That the Respondent has attempted to alienate the minor child from the Petitioner and has adversely affected the emotional relationship between the child and the Petitioner;

d. That the Respondent has **[any specific conduct or circumstance]** which is detrimental to the welfare of the minor child;

e. That the Petitioner is financially, emotionally and otherwise better placed to provide a stable and secure environment to the minor child.

12. That the Petitioner is not seeking custody merely as a matter of legal right. The present petition is being filed solely for securing the **welfare, safety, education, emotional development and overall best interests of the minor child.**

PETITIONER'S CAPACITY TO TAKE CARE OF THE CHILD

13. That the Petitioner is financially independent and has sufficient means to provide the minor child with proper food, clothing, education, medical treatment, residence and all other necessities of life.

14. That the Petitioner is employed/engaged in **[occupation/business/profession]** and earns approximately Rs. _____ per month.

15. That the Petitioner resides at **[address]**, where adequate accommodation and a suitable environment are available for the minor child.

16. That the Petitioner has made arrangements for the education of the minor child at **[name of school/suitable school]** and is capable of providing continuity in the child's education.

17. That the Petitioner is also capable of providing proper medical care, emotional support and parental guidance to the minor child.

18. That the Petitioner has never abandoned or neglected the minor child and has consistently expressed willingness to perform all parental responsibilities.

WELFARE OF THE MINOR CHILD

19. That it is settled law that in matters relating to custody and guardianship, the paramount consideration is the **welfare and best interests of the minor child**, and not the legal right of either parent.

20. That the welfare of the child includes not merely financial comfort but also emotional security, education, physical safety, moral development, continuity of relationships and a healthy environment.

21. That the Petitioner undertakes to facilitate a healthy and meaningful relationship between the minor

child and the Respondent, provided that such interaction is in the best interests of the child.

22. That the Petitioner does not intend to deprive the Respondent of his/her legitimate parental relationship with the minor child. The Petitioner seeks an arrangement which protects the child's welfare and permits meaningful contact with both parents.

RESPONDENT'S CONDUCT IN DENYING ACCESS

23. That despite repeated requests, the Respondent has refused/failed to permit the Petitioner to meet and interact with the minor child.

24. That the Petitioner has repeatedly requested the Respondent to permit telephone/video calls and physical visitation with the minor child, but the Respondent has **[refused/ignored/avoided/thwarted]** such requests.

25. That the Respondent's conduct has caused serious prejudice to the emotional relationship between the Petitioner and the minor child.

26. That the Petitioner apprehends that continued denial of access may result in the minor child becoming emotionally alienated from the Petitioner.

27. That the Petitioner is ready and willing to comply with any reasonable conditions which this Hon'ble Court may deem appropriate for ensuring the welfare of the minor child.

EDUCATION AND DEVELOPMENT OF THE CHILD

28. That the minor child is presently studying at [school name] in Class [___].

29. That the Petitioner is deeply concerned about the child's education and future career and is willing to bear the expenses relating to school fees, books, uniform, transport, tuition and other educational requirements.

30. That the Petitioner is also willing to maintain continuity in the child's schooling and social environment, subject to the directions of this Hon'ble Court.

MEDICAL AND HEALTH REQUIREMENTS

31. That the Petitioner is capable of providing appropriate medical treatment and health insurance/medical facilities to the minor child.

32. That the Petitioner undertakes to ensure that all necessary vaccinations, medical examinations and treatment of the minor child are duly undertaken.

NO DISQUALIFICATION OF THE PETITIONER

33. That there is no circumstance which legally or factually disqualifies the Petitioner from having the custody/guardianship of the minor child.

34. That the Petitioner has not been convicted of any offence involving moral turpitude and has never acted in a manner which could reasonably be considered prejudicial to the welfare of the minor child.

35. That the Petitioner has always acted in the interest of the minor child and is ready to abide by every direction issued by this Hon'ble Court.

CHILD'S RELATIONSHIP WITH BOTH PARENTS

36. That the Petitioner respectfully submits that a minor child ordinarily benefits from maintaining a healthy relationship with both parents.

37. That the Petitioner therefore undertakes that, if custody is granted, the Respondent shall be provided reasonable and meaningful visitation/access, subject always to the welfare and wishes of the minor child and the orders of this Hon'ble Court.

38. That the Petitioner is willing to facilitate:

i. regular physical visitation;

ii. telephone calls;

iii. video calls;

iv. weekend visitation;

v. reasonable holiday visitation;

vi. birthday and festival access; and

vii. such further access as this Hon'ble Court may consider appropriate.

CHILD'S PREFERENCE

39. That if this Hon'ble Court considers the minor child sufficiently mature to express an intelligent preference, the Petitioner respectfully prays that the child may be interacted with by this Hon'ble Court, preferably in an appropriate child-friendly environment, without exposing the child to the adversarial atmosphere of the proceedings.

40. That the Petitioner undertakes not to influence, tutor or pressure the minor child in relation to such interaction.

CAUSE OF ACTION

41. That the cause of action for filing the present petition first arose when the Respondent **[wrongfully retained the minor child / refused custody / denied visitation]** on **[DATE]** and thereafter arose on each occasion when the Respondent refused to permit the Petitioner to meet/interact with the minor child.

42. That the cause of action is continuing in nature as the Petitioner continues to be deprived of meaningful access to the minor child.

JURISDICTION

43. That this Hon'ble Court has jurisdiction to entertain and decide the present petition as the minor child ordinarily resides within the territorial jurisdiction of this Hon'ble Court at **[ADDRESS, S.A.S. NAGAR/MOHALI]**.

44. That the parties are also residing/last resided together within the jurisdiction of this Hon'ble Court and/or the matrimonial proceedings between the parties are pending/have been instituted before this Hon'ble Court.

45. That the present petition is therefore maintainable before this Hon'ble Court.

NO OTHER PETITION

46. That no other petition seeking identical relief concerning custody of the minor child is pending before any other Court, except **[give details, if any]**.

47. That if any other proceeding relating to the matrimonial relationship of the parties is pending, the details thereof are as follows:

Case No.: _____

Court: _____

Nature: _____

Status: _____

INTERIM CUSTODY/VISITATION

48. That the minor child is presently being deprived of meaningful interaction with the Petitioner and continued denial of access is likely to cause irreversible emotional prejudice.

49. That pending final adjudication of the present petition, the Petitioner respectfully seeks an interim arrangement whereby the Petitioner may be permitted to meet and interact with the minor child.

50. That the Petitioner may kindly be granted interim visitation/access as follows:

a. Video call with the child on every alternate day for at least 20-30 minutes;

b. Physical visitation on every Saturday/Sunday or on such days as this Hon'ble Court considers appropriate;

c. Overnight/weekend custody, wherever considered appropriate having regard to the age of the child;

d. Half of the school vacations/long holidays;

e. Reasonable access on the child's birthday and important festivals;

f. Such further access as may be considered appropriate.

51. That the Petitioner is willing to collect and return the minor child from an appropriate neutral location, if so directed by this Hon'ble Court.

52. That the Petitioner further undertakes that the minor child shall be returned to the Respondent strictly in accordance with the directions of this Hon'ble Court.

BALANCE OF CONVENIENCE

53. That the balance of convenience lies overwhelmingly in favour of the minor child having meaningful and regular contact with the Petitioner.

54. That no prejudice shall be caused to the Respondent if reasonable visitation/access is granted, whereas continued denial of access shall cause serious and potentially irreversible prejudice to the emotional bond between the Petitioner and the minor child.

BEST INTERESTS OF THE CHILD

55. That the Petitioner reiterates that the present petition is not intended to be used as an instrument of matrimonial dispute or to harass the Respondent.

56. That the Petitioner seeks only such custody/access arrangement as is necessary to secure the welfare and best interests of the minor child.

57. That the Petitioner undertakes to avoid making derogatory statements concerning the Respondent in the presence of the minor child and shall encourage the child to maintain a respectful relationship with both parents.

GROUND

The present petition is being filed, inter alia, on the following grounds:

A. Because the welfare of the minor child is the paramount consideration in custody proceedings.

B. Because the Petitioner is a natural parent of the minor child and is fully capable of providing proper care, education, security and emotional support.

C. Because the Respondent has wrongfully denied meaningful access to the Petitioner.

D. Because continued denial of parental access is prejudicial to the emotional and psychological development of the minor child.

E. Because the Petitioner has sufficient financial means and a suitable residential environment to take care of the minor child.

F. Because the Petitioner is willing to facilitate a healthy relationship between the minor child and the Respondent.

G. Because the welfare of the minor child requires a stable, secure and emotionally supportive parental environment.

H. Because the Respondent's conduct, as pleaded herein, demonstrates that an appropriate judicially regulated custody/visitation arrangement is necessary.

I. Because the Petitioner is willing to comply with all conditions imposed by this Hon'ble Court for protecting the welfare of the minor child.

J. Because the interests of the minor child cannot be subordinated to the matrimonial differences between the parties.

CHILD CUSTODY CASE LAWS

Custody of Children/Guardianship/Visitation Rights				
Sr. No.	Title	Citation	Question involved	Held
1	Beata Agnieszka Sobieraj Versus State of Himachal Pradesh	Criminal Appeal No. 787 of 2016 DOD : 22.08.2016 (SC)	Custody of Child to independent authority	- Whether it is permissible to Hand over child custody to an Institution ignoring parent's claim. - Held - while depreciating the practice of handing over the custody of the child to an institution, by ignoring the claim of a parent, especially the mother of the child, as not acceptable, - Held- the handing over of custody of child to an Institution, while ignoring the claim of a parent, especially the mother of the child, is not acceptable."
2	Bimla and others Vs Anita	2015(3) RCR (Civil) 153 (SC)	Custody of the minor	Mother is the best person to bring up her minor son and to effectively take care of his interest and in indeed, the welfare of the child lies with his mother.

3	ABC (Karuna Purti) Vs State (NCT of Delhi)	2015 (2) Apex Court Judgments (SC) 753	Hindu Minority and Guardianship Act	• In a petition for appointment for guardian of child, it is not imperative for unwed mother to specifically give notice of such petition to putative father of child to whom she has given birth. • Under a guardianship petition laid before court- the concerned child ceases to be in exclusive custody of parents thereafter until attainment of majority-child
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				continues in curial curatorship • This is in light of parens patriae jurisdiction of court.
4	Surya Vadanan Vs State of Tamil Nadu	2015 (2) SCC (Civil) 183 (SC)	Welfare of the Child	• Hon'ble Supreme Court of India after discussing the cases of (a) Arathi Bandi Vs. Bandi Jagadrakshaka Rao 2013 (3) RCR (Civil) 968; (b) Dhanwanti Joshi Vs Madhav Und, 1998(1) RCR (Civil) 190; (c) Elizabeth Dinshaw Vs Arvind M.Dinshaw, 1987 (1) SC 42; (d) Mckee Vs Mckee, 1951 AC 352; (e) Ruchi Majoo Vs Sanjeev Majoo, 2011 (3) RCR Civil, 122, (f) Sarita Sharma vs Sushil Sharma, 2000(2) RCR (Civil) 367; (g) Mrs.Shilpa Aggarwal Vs. Mr.Aviral Mittal & Anr., 2010(1) RCR (Civil) 231; (h) Smt. Surinder Kaur Sandhu Vs Harbax Singh Sandhu, 1984 (3) SCC 698 and (i) Dr.V.Ravi Chandran Vs. Union of India, 2010 (1) SCC 174. • Observed and held that the best interests and welfare of the child are of paramount importance.
5	Romann Sharma Vs Arun Sharma	2015 (2) Apex Court Judgments (SC) 18; AIR 2015 SC 2232,	Custody of Child	• In the above said case, Hon'ble Supreme Court of India after discussing the cases of (a) Mausami Moitra Ganguli Vs Jayant Ganguli,

				2008 (4) RCR (Civil) 551 and (b) Sarita Sharma vs Sushil Sharma, 2000(2) RCR (Civil) 367 has held that on account of dispute between husband and wife over the custody of the minor child. • The custody the child below the age of 5 years, was given to the mother, who was highly qualified than husband and had regular income from salary. • But visitation rights were given to the father.
6	Saro j Vs Sunder Singh and others	2014(1) Apex Court Judgments (SC) 08	(Civil Law) - Cancellation of sale deed.	• It was observed that prior permission of the court under Section 8 of the Hindu Minority and Guardianship Act, 1956 was required for such purpose and therefore the sale was set aside. • Disposal of immovable property by a natural guardian though for the proper benefit of the minor, their protection, education in contravention of Section 8(3) - would be voidable at the instance of minor. • Both the sale deed executed by the Respondent No.2 in favour of Respondent No.1 shall be voidable at the instance of minor.
7	Arathi Bandi Vs	2013 (3) RCR (Civil) 968	Decree of Foreign Court	• Hon'ble Supreme Court of India after discussing the

	Bandi Jagadrakshaka Rao	(SC)		cases of (a) Dhanwanti Joshi Vs Madhav Und, 1998(1) RCR (Civil) 190; (b) Elizabeth Dinshaw Vs Arvind M.Dinshaw, 1987 (1) SC 42; (c) Ruchi Majoo Vs Sanjeev Majoo, 2011 (3) RCR Civil, 122, (d) Sarita Sharma vs Sushil Sharma, 2000(2) RCR (Civil) 367; (e) Mrs.Shilpa Aggarwal Vs. Mr.Aviral Mittal & Anr., 2010(1) RCR (Civil) 231; (h) Smt. Surinder Kaur Sandhu Vs Harbax Singh Sandhu, 1984 (3) SCC 698 and (i) Dr.V.Ravi Chandran Vs. Union of India, 2010 (1) SCC 174. • Held that the decree of foreign court dissolving marriage between couple of Indian origin and who had acquired citizenship of US. • The courts in India should not set aside the decree on the ground that USA law was inconsistent with Indian Law.
8	Gaytri Bajaj Vs Jiten Bhalla	AIR 2013 SC (Civil) 77	Custody of Minor Child	• Held - that issue of custody of minor child is to be decided from the angle of welfare of child and not the better rights of parents as welfare of child is ultimate consideration.
9	Shaleen Kabra Vs Shiwani Kabra	2012 (2) RCR (Civil) 974 (SC)	Family Law (Custody of Children)	• Held - that the custody of elder son to the husband and that of younger son to the

				wife. • But the Hon'ble Supreme Court of India has held that it was not proper to separate both the brothers. • Who are admittedly close to each other and therefore the Hon'ble Apex Court of India set aside the impugned judgment and the custody of both the children was given to the father with visiting right to the mother at the expenses of father.
10	Ruchi Majoo Vs Sanjeev Majoo	AIR 2011 SC 1952; (2011) 6 SCC 479	Custody of Child	• Ratio: Interim order of custody in favour of parent should not insulate minor from parental touch and influence of other parent important for healthy growth of minor and development of his personality.
11	Vikram Vir Vohra Vs Shalini Bhalla	AIR 2010 SC 1675	Custodial Rights & Visitation Rights of Minor Child	• Custody of minor child. • Welfare of child is of paramount importance. • A child is not a chattel nor is he/she an article of personal property to be shared in equal halves. • Custody of minor child - welfare of child is of paramount importance and not the rights of parents under a statute.
12	Dr. V.Ravi Chandran Vs Union of India & others	2010 (1) SCC 174 (SC)	Custody of Child	• That while granting divorce to NRI couple by U.S. Court handed over the joint custody of child to the couple.

				• But the wife brought the child in India, depriving the joint custody to father. • Supreme Court of India directed the parties to act as per consent order passed by the Family Court of U.S.A. and directed that mother shall take the child of her own to USA within 15 days of the order and if she fails to do so, minor child alongwith his passport shall be restored to the custody of the father as return of minor child to USA would be in the best interest of the minor child. • Ratio: Interest of minor child is paramount consideration in cases of custody.
13	Mrs.Shilpa Aggarwal Vs Mr.Aviral Mittal & anr	2010 (1) SCC (Civil) 650 (SC)	Custody of Child	• Held that the husband and wife were permanent resident of UK and the wife came to India alongwith minor child. • When the husband filed petition for custody of child in the court, then • The Hon'ble Supreme Court of India allowed the same with the condition that the husband shall pay all the expenses of wife and child i.e. travel expenses, stay arrangement, medical expenses, legal expenses etc. to which the husband agreed.

14	Gaurav Nagpal Vs Sumedha Nagpal	(2009) 1 SCC 42 (SC)	Hindu Minority and Guardianship Act, 1956 and Custody of the minor child.	• In any proceeding under the said Act, the Court could make, from time to time, such interim orders as it might deem just and proper with respect to custody, maintenance and education of minor children, consistently with their wishes, wherever possible. • The principles in relation to the custody of a minor child are well settled. In determining the question as to who should be given custody of a minor child, the paramount consideration is the 'welfare of the child' and not rights of the parents under a statute for the time being in force.
15	Mausami Moitra Ganguli Vs Jayant Ganguli	2008 (4) RCR (Civil) 551 (SC)	Welfare of a child	• In the above said case, Hon'ble Supreme Court of India after discussing the case of Rosy Jacob Vs Jacob A. Chakramakkal, 1973 (1) SCC 840 has held that paramount consideration is the welfare of the child.
16	Nil Ratan Kundu and anr Vs Abhijit Kundu	2008 (3) RCR (Civil) 936 (SC)	Hindu Minority and Guardianship Act, 1956 and Custody of the Minor Child.	• Held that the controlling consideration governing the custody of the children is the welfare of the children and not the right to their parents.
17	Sheila B.Das Vs P.R.Sugasree	2006 (1) RCR (Civil) 758 (SC)	Family Law (Custody of minor female child)	• Held that the custody of minor female child was given to the father as per choice of the child with the observation that child was highly intelligent and was in

				a position to make intelligent choice.
18	Mamata Alias Anju Vs. Ashok Jagannath Bharuka	2005 (12) SCC 452; Law finder Id # 192313 (SC)	Custody of Child vis-à-vis Mutual Divorce	• Hindu Marriage Act, 1955, Section 26 - Custody of Children. • Mutual divorce - before deciding the issue as to whether the custody should be given to the mother or the father or partially to one and partially to the other, the High Court must (a) take into account the wishes of the child concerned, and (b) assess the psychological impact, if any, on the change in custody after obtaining the opinion of a child psychiatrist or a welfare work. • All this must be done in addition to ascertaining the comparative material welfare that the child/children may enjoy with either parent.
19	Sarita Sharma Vs Sushil Sharma	2000 (2) RCR (Civil) 367 (SC)	Custody of minor children and Constitutional Law Articles 226 and 136.	• Held that in the present case husband and wife lived in America. • Where divorce petition was filed, the wife came to India with both the children and the American court granted decree of divorce and custody of the children to husband. • But in view of facts and circumstances of the case, the decree passed by the American court through a relevant factor, but the same cannot override the

				consideration of welfare of the minor children.
20	Bijay K.Prasad Vs Ranjana	1999(9) SCC 544 (SC)	Custody of Child pending divorce	• Hindu Marriage Act, 1955, Section 26 - Divorce proceeding - custody of child. • Held-During pendency of divorce proceedings Family Court ordered girl child to remain living with father and to spend holidays with mother - Child States her wish to stay with father in chamber of S.C. Judge- • Considering that child was living with father for past 8 years - Directions of Family court to stay with mother in holidays set aside.
21	Chandrakala Menon Vs Capt. Vipin Menon	(1993) 2 SCC 6 (SC)	Custody of child	• The question regarding the custody of a minor child cannot be decided on the basis of the legal rights of the parties. • The custody of a child has to be decided on the sole and predominant criterion of what would best serve the interest and welfare of the minor. • It would be in the interest and welfare of minor that she would be permitted to be in the custody of her mother.
22	Kirtikumar Maheshankar Joshi Vs Pradipkumar Karunashankar Joshi	(1992) 3 SCC 573 (SC)	Custody of minor children	• Hon'ble Supreme Court handover the custody of minor children to maternal uncle refusing the preferential right of the father to the custody of his

				minor children. • In one of the directions. Father is set at liberty to move before the court for modification of the order for the custody of the children if he wins the love and affection of his children.
23	Elizabeth h Dinshaw Vs Arvind M.Dinshaw	1987 SCR (1) 175 (SC)	Custody of the minor children	• In the above case, Hon'ble Supreme Court of India after discussing the case of Re H.(Infants) 1966 (1) All England Reporter 886. • Held that when a question arises pertaining to the custody of a minor child. • The matter is to be decided not on considerations of the legal rights of the parties. • But on the sole and predominant criterion of what would best serve the interest and welfare of the minor.
24	Surender VS Sushma	AIR 2016 P&H 199; Law finder ID # 790898	Custody of minor children	• Held - Welfare of the children is the paramount consideration. Where mother is resided separately from minor children for many years and the children did not show any desire to go with her - father granted custody and mother granted visitation rights.
25	Maninderjit Kaur Attwal VS	2016 (1) PLR 358;	Visitation rights	• Held - Where marriage between the parents of

	Barinder Singh Pannu	Law finder ID# 736836 (P&H)		children was dissolved by USA Court and custody of children was given to the father with visiting rights to the mother during vacations. • Mother should be allowed to take the children to USA during vacations. Apprehension of the court and rejection of such prayer was held to be wrong. • Mother put to terms and condition to ensure their safety and safe return to India beside to bear travel expenses of children.
26	Neelam Vs Mann Singh	2015 (2) RCR (Civil) 291; Law Finder id # 654950 (P&H)	Custody of minor child residing with grandparents where father is dead and mother is facing criminal prosecution U/s 306 IPC for abating suicide of her husband.	1. Held - Welfare and interest of the child is paramount. 2. A child who is residing with grandparents for the last several years become emotionally attached to them. 3. In such circumstances custody of the child should remain with grandparents. 4. Visitation rights to the mother also declined.
27	Mayank bhargava vs Jyoti Bhargava	2015(2) PLR 15 (P&H)	Welfare of the Child	• Even though the aforesaid principles have been laid down in proceedings under the Guardians and Wards Act, 1890. • These principles are equally applicable in dealing with the custody of a child under Section 26 of the Act. • Since in both the situations

				two things are common; • The first, being orders relating to custody of a growing child. • Secondly, the paramount consideration of the welfare of the child.
28	Rajan Jairath Vs Mrs.Monita Mehta	2013 (1) RCR (Civil) 546 (P&H)	Grant of Visitation Right under Hindu Marriage Act, 1955, S.26.	1. Interim Custody of child. 2. Court has also to take care of the wish of the minors. 3. Both parents claiming custody of children - minors and living with their mother at Chandigarh whereas father being Senior Manager in PSU is living at Faridabad. 4. Father would not be in a position to spare enough time to look after the education, health, study and maintenance. 5. The children being matured enough, had made statements before the Lok Adalat that they are not ready to go with their father as due to long separation they have lost interest in father. 6. Custody given to mother and visiting rights to father.
29	Shri Rajinder Kumar Mishra Vs Shrimati Richa	AIR 2005 All 379	Appeal u/s 19 Family Courts Act Section 26, 27 Hindu Marriage Act, 1955	• Held - It is well settled that welfare of the minor child is of paramount consideration while deciding the dispute about the custody. • If the custody of the father cannot promote the welfare of the minor child equally or better than the custody of the

				mother then he should not be allowed to the custody as the same may adversely affect the welfare of the child.
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PRAYER

In view of the facts and circumstances stated hereinabove, it is most respectfully prayed that this Hon'ble Court may graciously be pleased to:

- a. appoint/declare the Petitioner as the guardian of the person of the minor child **Master/Miss [NAME]**, in accordance with law;
- b. grant **permanent/physical custody** of the minor child to the Petitioner in the paramount interest and welfare of the minor child;
- c. direct the Respondent to hand over the custody of the minor child to the Petitioner in terms of the order passed by this Hon'ble Court;
- d. in the alternative, if this Hon'ble Court is not inclined to grant immediate permanent custody, grant the Petitioner **liberal and meaningful visitation/access rights**, including physical visitation, overnight custody, weekend custody, vacation custody, telephone calls and video calls;
- e. pending final disposal of the petition, grant the Petitioner appropriate **interim custody/visitation/access** of the minor child;
- f. restrain the Respondent from removing the minor child from the jurisdiction of this Hon'ble Court without prior permission of

this Hon'ble Court, if such direction is considered necessary in the welfare of the child;

g. direct the Respondent to furnish complete details of the minor child's school, academic record, medical treatment and other material information concerning the child to the Petitioner;

h. direct both parties to refrain from making derogatory statements against each other in the presence or hearing of the minor child;

i. pass such further order(s) as this Hon'ble Court may deem fit and proper in the paramount interest and welfare of the minor child.

And for this act of kindness, the Petitioner, as in duty bound, shall ever pray.

Place: S.A.S. Nagar (Mohali)

Date: _____

PETITIONER

Through Counsel

ADVOCATE DEEPAK MALHOTRA

Advocate

Chamber/Office No. 4,

35-A, Chandigarh

Mobile: 98152-80500

VERIFICATION

I, **[NAME OF PETITIONER]**, S/o/D/o/W/o **[NAME]**, aged about ____ years, resident of **[ADDRESS]**, the Petitioner above named, do hereby verify that the contents of paragraphs 1 to 57 of the above petition are true and correct to my knowledge and belief, no material fact has been concealed therefrom and nothing stated therein is false.

Verified at S.A.S. Nagar (Mohali) on this ____ day of _____, 2026.

PETITIONER

AFFIDAVIT

AFFIDAVIT OF THE PETITIONER

I, **[NAME OF PETITIONER]**, S/o/D/o/W/o **[NAME]**, aged about ____ years, resident of **[COMPLETE ADDRESS]**, do hereby solemnly affirm and declare as under:

1. That I am the Petitioner in the accompanying petition and am fully conversant with the facts and circumstances of the case.
2. That the contents of the accompanying petition from paragraphs 1 to 57 are true and correct to my knowledge and belief.
3. That no material fact has been concealed and no part of the petition is false.

DEPONENT

VERIFICATION

Verified at S.A.S. Nagar (Mohali) on this ____ day of _____,
2026 that the contents of the above affidavit are true and
correct to my knowledge and belief and nothing material has been
concealed therefrom.

DEPONENT

APPLICATION FOR INTERIM VISITATION/CUSTODY

IN THE COURT OF THE LEARNED PRINCIPAL JUDGE, FAMILY COURT, S.A.S.
NAGAR (MOHALI), PUNJAB

G.W. Petition No. ____ of 2026

[PETITIONER]

Versus

[RESPONDENT]

APPLICATION UNDER SECTION 12 OF THE
GUARDIANS AND WARDS ACT, 1890 READ WITH
SECTION 26 OF THE HINDU MARRIAGE ACT,
1955 FOR GRANT OF INTERIM
CUSTODY/VISITATION AND ACCESS TO THE
MINOR CHILD

MOST RESPECTFULLY SHOWETH:

1. That the Applicant/Petitioner has filed the accompanying
petition seeking custody/guardianship of the minor child **[NAME]**,
which may kindly be read as part of the present application.

2. That the minor child is presently in the custody of the Respondent.

3. That the Respondent has been denying the Applicant meaningful access to the minor child.

4. That the minor child is being deprived of the love, affection, guidance and companionship of the Applicant.

5. That continued denial of access is likely to adversely affect the emotional bond between the Applicant and the minor child.

6. That the Applicant is ready and willing to comply with any safeguards or conditions imposed by this Hon'ble Court.

7. That the welfare of the minor child requires that the child should have meaningful contact with both parents, subject to the circumstances of the case.

PRAYER

It is, therefore, respectfully prayed that this Hon'ble Court may kindly:

a. grant the Applicant interim physical visitation of the minor child on every weekend or on such days as this Hon'ble Court may deem appropriate;

b. permit the Applicant to communicate with the minor child through telephone/video calls on alternate days;

c. permit reasonable overnight/weekend custody, wherever appropriate having regard to the age and welfare of the child;

- d. permit the Applicant reasonable access during school vacations, birthdays and festivals;
- e. direct the Respondent not to obstruct or interfere with the Applicant's lawful visitation/access;
- f. pass any other order deemed appropriate in the paramount welfare and interest of the minor child.

Applicant/Petitioner

Through Counsel

ADVOCATE DEEPAK MALHOTRA

Advocate

DOCUMENTS/ANNEXURES TO BE FILED

- 1. Marriage certificate/proof of marriage.
- 2. Birth certificate of minor child.
- 3. Aadhaar/identity proof of Petitioner.
- 4. Address proof of Petitioner.
- 5. School record/report card of minor child, if available.
- 6. Proof of Petitioner's employment/business/profession.
- 7. Income documents, if relevant.
- 8. Proof of suitable residential accommodation.
- 9. Medical records of the child, if available.
- 10. WhatsApp/SMS/email communications showing requests for visitation.
- 11. Call records/screenshots, where legally relevant and admissible.

12. Photographs showing Petitioner's relationship with the child.

13. Any previous court orders concerning custody/visitation.

14. Copy of pending matrimonial proceedings, if any.

15. Any complaint/FIR/DD entry or other document relied upon regarding the Respondent's conduct.

16. Any other document demonstrating the welfare and best interests of the minor child.

Note: Documents containing sensitive personal information should be filed/redacted in accordance with the applicable court rules and directions.