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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 948 of 2023

Sudha Chowgule

... Petitioner

vs.

The State of Maharashtra and Ors

... Respondents

Mr Navroz Seervai, Senior Advocate, a/w Mr Ashish Kamat, Senior Advocate, Mr Kunal Mehta, Mr Abhay Jadeja, Mr Varun Satiya and Ms. Snigdha Mankar i/b. Jadeja & Satiya, for the Petitioner.

Mrs P.P. Shinde, A.P.P for the State.

Mr Jamsheed Master a/w Ms. Natasha Bhat, for the Respondent No. 1.

CORAM : REVATI MOHITE DERE &
GAURI GODSE, JJ.

DATED : 28th JUNE, 2023

P.C. :-

1. Heard learned counsel for the parties. Petitioner seeks a writ of *habeas corpus* for the production and immediate release of her mother-Induben Patel who according to the Petitioner, is illegally and wrongfully detained by Respondent No.1.

2. Petitioner and Respondent No. 1 are real sisters. Presently

their mother-Induben Patel aged 93 years, is residing with Respondent No.1.

3. Admittedly, there are several proceedings, Civil and Criminal, pending between the parties *inter se*, i.e. between the Petitioner and the Respondent No.1 and their families. Both, have made serious allegations against each other. At this stage, we do not wish to go into the allegations made by either the Petitioner or the Respondent No.1 against each other.

4. This Court, vide order dated 21st March 2023, had appointed Advocate Ms. Manjiri Shah to ascertain the wishes of Mrs Induben Patel as to where she would like to reside, what she desires in life and if she would like to meet the Petitioner and in what manner. Pursuant thereto, Advocate Ms. Manjiri Shah visited and met Mrs. Induben Patel on 25th March 2023. Ms Manjiri Shah submitted her report in a sealed envelope. After opening the said envelope, we have perused the report of Ms. Manjiri Shah's visit to Mrs Induben Patel's residence on 25th March 2023. Having perused the report, we are at pains to see

what Mrs Induben Patel is required to go through, in her twilight years.

5. We have also perused the report dated 26th October 2021, when Ms. Manjiri Shah was appointed to visit Mrs Induben Patel, pursuant to an Order passed by this Court, in a Petition, being Writ Petition No. 2430 of 2021, filed by the Respondent No.1-Jaya Patel, seeking a writ of habeas corpus. In the said Writ Petition, the Respondent No.1-Jaya had alleged illegal detention of Mrs Induben Patel by the Petitioner- Sudha Chowgule. In the said report dated 26th October 2021, when Mrs Induben Patel was staying with the present Petitioner, on the basis of the conversation, two most important aspects were noted; firstly, that she wished for peace in her life and secondly, that nobody speaks negatively about Ashok (husband of present Petitioner- Sudha). The said report also noted that Mrs Induben Patel mentioned to Ms Manjari Shah that she was very well looked after by Sudha and her family, i.e. Petitioner in the present Writ Petition. The said report dated 26th October 2021 of Ms Manjiri Shah also records that Mrs. Induben Patel felt a sense of shame

that despite their father having given so much, there were quarrels between the Petitioner(Sudha) and Respondent No.1(Jaya) and that she wishes that both the sisters would stop fighting and she wanted to bring peace between them.

6. Learned counsel for the Respondent No.1 vehemently opposes grant of any interim relief. He submits that he should be permitted to file Affidavit in reply and thereafter, the grant of interim relief be considered.

7. Having considered the aforesaid peculiar facts, both the reports of Ms Manjari Shah and having regard to the age of Mrs Induben Patel, who is aged about 93 years, at this stage, we deem it appropriate to pass the following interim relief:

I) The Petitioner, her husband-Ashok, their children and grandchildren are permitted to meet Mrs Induben Patel on every Monday, Wednesday and Friday from 10:00 a.m. to 11:00 a.m., until further orders. Any two family members are permitted to accompany on the said days.

II) The Petitioner her family members shall meet Mrs Induben Patel in the covered area of the Portico of Bella Vista, 72, Peddar Road, Mumbai-26. We make it clear that no Advocate, Solicitor, or Chartered Accountant is permitted to accompany the Petitioner during any of the visits.

III) Neither the Petitioner/her family or the Respondent No.1/family to videograph the meeting.

IV) The Nurse looking after Mrs Induben Patel will be present at a visible but not at an audible distance, during the said meetings.

V) Respondent No.1/her family/any staff, shall not remain present during the said meetings/interactions.

6. At this stage, learned counsel for the Petitioner on instructions of the Petitioner who is present in the Court states, that neither the Petitioner nor any of her family member will discuss anything relating to the property of Mrs Induben Patel or her bank accounts and that none will carry any paper/document

with them. Statement accepted.

7. This order would come into operation forthwith from this Friday i.e. 30th June 2023, having regard to Induben Patel's age.

8. At this stage, learned counsel for the Respondent seeks stay to the implementation of this order. Prayer for stay is rejected.

9. Stand over to **7th July 2023 at 2:30 p.m.**

(GAURI GODSE, J.)

(REVATI MOHITE DERE, J.)