

In the Supreme Court of Bangladesh
High Court Division
(Special Original Jurisdiction)

Present:

**Mrs. Justice Fatema Najib
and
Mr. Justice Md. Hamidur Rahman**

Writ Petition No. 4016 of 2025

In the matter of:

An application under Article 102 of
the Constitution of the People's
Republic of Bangladesh.

In the matter of:

Mst. Mabia Akter.

---Petitioner.

-Versus-

Md. Kamrul Islam and others.

---Respondents.

Mr. Md. Saidul Alam Khan, Advocate.

---For the petitioner.

Mr. Kazi Ershadul Alam, Advocate

---For the respondent No. 3.

Mr. Akhtar Hossain Md. Abdul Wahab,

DAG with

Mr. S.M Emamul Musfiqur, AAG with

Ms. Tamanna Sultana, AAG with

Ms. Khandaker Asma Hamid, AAG with

Mr. Imrul Kayes Rana, AAG

....For the respondents.

Heard and Judgment on:28.07.2025

Md. Hamidur Rahman, J:

On an application under Article 102 of the Constitution
of the People's Republic of Bangladesh Rule was issued in the
following terms:

“Let a Rule Nisi be issued calling upon the respondents to show cause as to why, the detainee, a minor girl named Mehrima Islam Papri, date of birth 04.03.2022, aged about 3 years, held by any of the respondent Nos. 1 to 3, should not be brought before the Hon’ble Court so that this Hon’ble Court is satisfied that the detainee is not being held in the custody of the respondent Nos. 1-3 without lawful authority and or in an unlawful manner and or such other or further or orders passed as to this Court may seem fit and proper.”

At the time of issuance of the Rule Nisi respondent Nos.5 (Officer-in-charge, Police Station: Kotwali, District: Chittagong) and 6 (Officer-in-charge, Police Station: Anowara, District: Chittagong) was directed to produce the detainee at the time and on the date fixed by this Court.

Subsequently, on 16/03/2025 this Court further directed to respondent Nos. 5 (Officer-in-charge, Police Station: Kotwali, District: Chittagong) and 6 (Officer-in-charge, Police Station: Anowara, District: Chittagong) was directed to bring the detainee before this Court on the date was fixed by this Court.

Thereafter the matter was appeared in the list for producing the detainee-child on 08.05.2025. On that date the detainee girl with her mother were present before the Court

but the father of the detenue remained absent. This Court passed an order in the following:

“In the Writ Petition it has been stated that the marital relationship of the petitioner and respondent No. 1 had been dissolved by divorce on 08.10.2024 and since then she was not allowed to meet her daughter, even the petitioner does not know the whereabouts of her daughter (detenue). As per prayer of the petitioner the respondent Nos. 5 and 6 were directed to produce the child before this Court. Accordingly, the detenue has been produced today before the Court. Though the mother of the detenue (petitioner) is present before Court, but the father of the detenue remains absent. On query by this Bench learned Advocate on behalf of the respondent No. 2 informed that due to personal difficulty the father of the detenue is unable to present in Court. The learned Advocate of the petitioner submitted that the father of the detenue is in rehab centre for treatment. He also submits that the father of the detenue is addicted to drug and frequently admitted in rehab centre and suppressing those facts the father of the detenue (respondent No. 1) got married the petitioner due to which the relationship between the petitioner and the respondent No. 1 was ended by divorce. On asking the detenue-minor girl clearly expresses her willingness to stay with her mother. It also noticed that both hug each other.

It is pertinent to note that the learned Advocate of the respondent No. 2 states that an agreement was made between the petitioner and respondent No. 1 on some conditions including the condition that the petitioner will never claim the custody of her daughter (detenue). On the contrary the learned Advocate for the petitioner claim the said agreement was signed by the petitioner on pressure of the respondent No. 2 (father in law of the petitioner) and respondent No. 1 (husband of the petitioner) was absent there. The respondent No. 2 signed the agreement on behalf of the respondent no. 1. However, the validity of the agreement will be decided at the custody case of the detenue, though till date no case for custody of the minor girl has been filed.

In the light of the fact as observed, we are of the view that the child will be safe and good care at this moment will be taken under the custody of the mother.

However, the respondent No. 1 is at liberty to visit the child twice a week ie. Friday and Saturday from 10:00 AM to 5.00 P.M. at the mother's convenient place. At the end of the schedule time the detenue will be handed over to her mother.

None of the parties will travel abroad with the child without permission of this Court.

The petitioner is directed to allow the respondent No. I to have access with the child through virtual platform.

Let this matter to come up in the list on 01.07.2025 for order.”

The next date was fixed on 22/07/2025 for passing necessary order. But no one appears on behalf of the respective parties which presume to the Court that they are satisfied with the Court’s order.

However, this order will not stand bar to decide the custody right of the child by the Family Court.

In the result, the Rule is disposed of.

Let a copy of the judgment be immediately transmitted to the respondents for information and necessary action.

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(Md. Hamidur Rahman, J)

Fatema Najib, J

I agree.

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(Fatema Najib, J)