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Darshan Patil

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 2997 OF 2025

Miss Ruksar Dadamiya Khan and Ors. ...Petitioners
Versus
Union of India and Ors. ...Respondents

Mr. Siddha Pamecha, a/w Mr. Raj Pani, for the Petitioners.
Ms. Mahalakshmi Ganapathy, APP for the Respondent-State.
Ms. Manisha Jagpat, for the Respondent No.1.
P.I. Manoj Chalke, SBI
PSI Sanjay Gaonkar, Mankhurd Police Station

CORAM Dr. Neela Gokhale,
Firdosh P. Pooniwalla, JJ.
DATED: 3rd June 2025

PC:-

1. The Petition is for issuance of the writ of Habeas Corpus directing the immediate release of the Petitioners from the unlawful custody of the Respondents and restraining them from taking any coercive action, including detention or

deportation, against the Petitioners without following due process of law. There are other ancillary prayers as well.

2. The Petitioners are the daughters of one Mr. Dadamiya Bardhyar Khan and Mrs. Mariyam Khan, the legally wedded wife of Mr. Dadamiya Khan. Petitioner No.1 is of 18 years of age and Petitioner Nos. 2 and 3 are 16 and 8 years of age respectively.

3. It is the case of the Petitioners that their father Mr. Dadamiya Khan is an Indian citizen and residing in India for past 37 years. He was a cab driver and sustained himself and his family by operating his own vehicle. Admittedly, Mrs. Mariyam Khan, wife of Mr. Dadamiya Khan and biological mother of the Petitioners is an Indian citizen by birth and has always resided in India. It is the grievance of the Petitioners that despite the entire family having Indian citizenship, they were harassed by the Respondents which finally led to the detention of the Petitioners herein for eventual deportation.

4. Mr. Siddha Pamecha learned counsel for the Petitioners submits that the minor daughters i.e. Petitioner Nos. 2 and 3 are now released in the care and custody of their mother and Petitioner No.1 has been detained in the Nirbhaya Cell of the Mankhurd Police Station, Mumbai. He has placed on record one page of the passport of Mr. Dadamiya Khan, his PAN card and the Ration card of family. He has also placed on record the identity card issued by the Election Commission of India to Mrs. Mariyam Khan. He has also placed on record birth certificate of the Petitioners indicating that they were born in India. He thus says that the Respondents are not entitled to detain the Petitioners for their eventual deportation.

5. Ms. Jagtap, learned counsel appears for Respondent Nos. 1 and 5 and learned APP appears for Respondent Nos. 2, 3 and 4.

6. Ms. Jagtap submits that Mr. Dadamiya Khan has already been deported to Bangladesh and he is admittedly a Bangladeshi National. She shows us the statement of Mr.

Dadamiya Khan recorded by the State Police Officials of the Mankhurd Police Station during the enquiry conducted under the Foreigners Act, 1946 and related Central Government Resolution dated 02nd May 2025. We have perused the said statement. In the said statement, Mr. Dadamiya Khan categorically stated that he is a Bangladeshi national and has crossed over to India from the Banafol border as there was no employment available in Bangladesh.

7. Ms. Jagtap, however, submits that minor daughters namely Petitioner Nos. 2 and 3 are already released in the care and custody of their mother Mrs. Mariyam Khan. Both counsel for the Respondents on instructions state that the investigation is ongoing and an inquiry is to be conducted under the relevant provisions of the Foreigners Act, 1946 as well as Government Resolution dated 02nd May 2025 issued by the Central Government and for this purpose, the Petitioners are required to attend the concerned officer as and when called upon, to record their statement and establish their identity/citizenship. For this purpose, the Petitioners are

required to be available within the jurisdiction of the State, and are required to attend the concerned official of the Police Station and participate in the inquiry.

8. We have heard the counsel for all the parties and perused the documents with their assistance.

9. Considering the ages of the Petitioner Nos. 2 and 3 and also the age of Petitioner No.1 which is only 18 years, we do not find it necessary for the Petitioners to be detained in custody for the purpose of the inquiry, which is to be conducted.

10. In this view of the matter, the Respondents are directed to release the Petitioner No.1 from detention forthwith. The Petitioner Nos. 2 and 3 are already released and shall not be taken into custody again without prior permission of this Court.

11. It is made clear that the Petitioners shall not leave the jurisdiction of this Court without the express permission of this Court and shall make themselves available as and when

called by the concerned officer conducting the inquiry under the Foreigners Act, 1946 read with Government Resolution dated 02nd May 2025, for the purpose of the inquiry.

12. The Petitioner No.1 and Mrs. Mariyam Khan i.e. biological mother of Petitioners No.2 and 3 shall also furnish the details of their place of residence with their mobile numbers if any and any other mode of communication through which the inquiry officer can communicate with them.

13. There is one page of the passport allegedly issued to Mr. Dadamiya Khan placed on record of the Petition. In this regard, learned APP submits that the passport may have been issued to Mr. Dadamiya, on the basis of forged documents. The Respondents may consider initiating appropriate enquiry in the issuance of the passport to Mr. Dadamiya, by the Regional Passport Office concerned, and take necessary action against any person, if found to be negligent or complicit in the same.

14. Stand over to 06th June 2025 for reporting compliance.

15. All parties to act on an authenticated copy of this order.

(Firdosh P. Pooniwalla, J.)

(Dr. Neela Gokhale, J)