HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

C.P. No.S-410 of 2026
[Mst. Maria vs. Babar]

Petitioner:	Through Mr. Kewal Kumar, Advocate, a/w petitioner
Respondent:	Through Ms. Tasleem Pasha, Advocate, a/w respondent
Date of hearing	05.11.2026
Date of Decision	05.11.2026

O R D E R

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ADNAN-UL-KARIM MEMON J:- Through this petition, the petitioner seeks suspension and modification of the impugned judgment dated 07.07.2026 to the extent of overnight and extended custody, in the paramount interest and welfare of the minor.

2. The petitioner, mother of minor Baby Maryam Noor, has filed this Constitutional Petition challenging the judgment dated 07.07.2026 passed by the learned 1st Additional Sessions Judge/Guardian Appellate Court, Tando Allahyar, in G&W Appeal No.02 of 2026, whereby the visitation schedule of the minor with her father (respondent) was modified to grant him overnight custody.

3. The respondent/father initially filed G&W Application No.52 of 2024 under Sections 10 and 25 of the Guardians and Wards Act, 1890, seeking custody of the minor. The learned Guardian Court, vide order dated 13.05.2025, dismissed the application but allowed visitation on alternate Sundays, Eid occasions and the minor's birthday, subject to furnishing a PR bond of Rs.10,00,000/-. Both parties challenged the order, but their appeals were dismissed by the learned Appellate Court on 06.08.2025. Thereafter, the father filed Constitutional Petition No.S-399 of 2025, which was disposed of by this Court on 19.12.2025 with directions for modification of the visitation schedule. Accordingly, the learned Guardian Court, after hearing the parties and recording the minor's statement, revised the meeting schedule. However, the father again challenged the revised schedule through G&W Appeal No.02 of 2026, which was allowed vide impugned judgment dated 07.07.2026. Under the impugned judgment, the father was granted interim custody of the minor for 24 hours on the second and fourth weekends of each month, the second and third days of both Eids, 15 days during summer vacations and three days during winter vacations, besides six hours on the day following her birthday.

He was also directed to furnish a PR bond of Rs.50,00,000/- and bear pick-and-drop expenses.

4. The petitioner's case is that the impugned visitation schedule disregards the welfare and expressed wishes of the minor, aged about 10½ years, who categorically refused to accompany or stay with her father when her statement was recorded by the Guardian Court. It is further contended that the petitioner has remained the minor's sole caregiver since birth, while the father resides alone and is allegedly involved in drug addiction and other objectionable activities, raising serious concerns regarding the minor's safety and well-being during overnight custody.

5. The learned counsel for the petitioner contends that the extensive visitation schedule is likely to cause emotional and psychological distress and adversely affect the minor's education and routine. She seeks modification of the impugned judgment by restricting visitation to once a month within the Court premises under the supervision of the Guardian Court, excluding overnight custody and extended stays during summer and winter vacations.

6. I have heard the learned counsel for the parties and perused the available record.

7. The paramount consideration in matters relating to custody and visitation of a minor is always the welfare and best interests of the child, which must prevail over the competing rights and wishes of the parents. Although the father has a legitimate right to maintain contact with his minor daughter, such right cannot be exercised in a manner that compromises her emotional well-being, safety, education or settled routine. The minor, being approximately understanding age, is sufficiently mature for her expressed wishes to be taken into consideration, though such wishes are not, by themselves, conclusive. However, she expressed her wish to live with her mother.

8. In the present case, her categorical reluctance to accompany her father, coupled with the concerns raised by the petitioner regarding overnight and extended custody, calls for a cautious and child-sensitive approach. In such circumstances I am of the considered view that overnight custody and prolonged stays during vacations, without adequately assessing the minor's comfort and welfare, may not be conducive to her best interests at this stage.

9. Accordingly, the impugned judgment dated 07.07.2026 is modified to the extent that the respondent/father shall be entitled to meet the minor as per directions once a month within the premises of the Guardian Court, under the supervision of the learned Guardian Judge or a designated officer, for a reasonable period to be determined by the Guardian Court. No overnight custody or extended vacation

custody shall be permitted. The Guardian Court shall periodically assess the minor's comfort, response and welfare and may suitably reconsider the visitation arrangement in accordance with her age, wishes and best interests. Needless to observe that the respondent shall be afforded an opportunity to develop a healthy and cordial relationship with his daughter without causing her any emotional distress.

10. The petition stands disposed of in the above terms. There shall be no order as to costs.

JUDGE

Sajjad Ali Jessar