

Sushant Sharma vs U.T. Chandigarh on 10 February, 2025

Author: Sanjay Kumar

Bench: Sanjay Kumar

2025 INSC 204

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. OF 2025
(arising out of SLP (CrI.) No. 14618 of 2024)

SUSHANT SHARMA

VERSUS

U.T. CHANDIGARH & ORS.

O R D E R

Leave granted.

This is an unfortunate case where the father of ‘X’ (name suppressed) filed the present appeal claiming that he is not being allowed to interact and meet with ‘X’. The impugned judgment dated 20.09.2024 referred to the report of the Court Commissioner, who had interacted with ‘X’, etc. By the order dated 25.10.2024, this Court has passed the following order:

“xxx xxx xxx The petitioner, Sushant Sharma, will be allowed to interact and be with his son.

However, the child will not be allowed to be taken out of the country.

All other persons who were meeting and interacting with the child earlier will also be permitted to interact with him.

The assets belonging to the child will not be alienated, transferred or encumbered till the next date of hearing.

xxx xxx xxx” There has been substantial compliance with the aforesaid order though applications have been filed making allegations and counter allegations. It is submitted on behalf of respondent No. 4, Damini Goswamy, that she has not been permitted to meet ‘X’. We would only observe that she may be permitted to meet ‘X’.

In order to prevent any untoward incident, we deem it appropriate to appoint Mr. Chritarth Palli, learned Advocate-on- Record, who is present in Court, as a Court Commissioner, who will oversee

and ensure the installation of CCTV cameras, with video- recording facility for a period of 96 hours, at appropriate locations designated by him in the house. The expenses for installation of the CCTV cameras will be borne by respondent No. 3, Kalindi Hamal. Mr. Chritarthi Palli, the Court Commissioner, will be paid appropriate lodging and boarding expenses in addition to an amount of 1,00,000/- (Rupees one lakh only), which amounts shall be paid by the appellant, Sushant Sharma.

The appellant has stated to have already moved before the Guardianship Court, Chandigarh under the Persons with Disabilities Act, 2016,¹ where the proceedings are pending. There are civil suits pending inter-se the parties with regard to certain other assets, etc. The interim order dated 25.10.2024 passed by this Court shall continue to operate till it is modified, vacated or affirmed by the Court under the 2016 Act. We request the said Court to take up the proceedings for hearing expeditiously. The Court would be entitled to take the help of Counselor(s), if required and necessary.

Further, we clarify that we have not examined the question of applicability of the National Trust for Welfare of Persons with 1For short, “2016 Act”.

Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999, and the rules and regulations framed thereunder. This issue, it is stated, is pending for examination in a writ petition before the High Court of Punjab and Haryana at Chandigarh.

It is also clarified that the observations made in this order and in the earlier order dated 25.10.2024 are tentative and prima facie and the same will not be treated as final and binding findings, as already recorded above. It is open to the Guardianship Court under the 2016 Act or any other enactment, if applicable, to modify, vacate or amend the directions. Further the aforesaid directions will not, in any way, deter any other jurisdictional tribunal or forum, where proceedings are pending, from passing orders in accordance with law.

It is also directed that the respondents shall not raise any technical objection with regard to the nomination for appointment of an attorney by the appellant, Sushant Sharma.

Recording the aforesaid, the appeal is allowed and disposed of in the above terms.

Pending application(s), if any, shall stand disposed of.

.....CJI.

(SANJIV KHANNA)J. (SANJAY KUMAR) NEW DELHI;

FEBRUARY 10, 2025.

IN THE SUPREME COURT OF INDIA CRIMINAL APPELLATE JURISDICTION CRIMINAL APPEAL NO. OF 2025 (arising out of SLP (Crl.) No. 14618 of 2024) SUSHANT SHARMA

APPELLANT(S) VERSUS U.T. CHANDIGARH & ORS. RESPONDENT(S) O R D E R Leave granted.

This is an unfortunate case where the father of the child (name suppressed) filed the present appeal claiming that he is not being allowed to interact and meet with the child. The impugned judgment dated 20.09.2024 referred to the report of the Court Commissioner, who had interacted with the child, etc. By the order dated 25.10.2024, this Court has passed the following order:

“xxx xxx xxx The petitioner, Sushant Sharma, will be allowed to interact and be with his son.

However, the child will not be allowed to be taken out of the country.

All other persons who were meeting and interacting with the child earlier will also be permitted to interact with him.

The assets belonging to the child will not be alienated, transferred or encumbered till the next date of hearing.

xxx xxx xxx” There has been substantial compliance with the aforesaid order though applications have been filed making allegations and counter allegations. It is submitted on behalf of respondent No. 4, Damini Goswamy, that she has not been permitted to meet the child.

In order to prevent any untoward incident, we deem it appropriate to appoint Mr. Chritarth Palli, learned Advocate-on- Record, who is present in Court, as a Court Commissioner, who will oversee and ensure the installation of CCTV cameras, with video- recording facility for a period of 96 hours, at appropriate locations designated by him in the house. The expenses for installation of the CCTV cameras will be borne by respondent No. 3, Kalindi Hamal. Mr. Chritarthi Palli, the Court Commissioner, will be paid appropriate lodging and boarding expenses in addition to an amount of 1,00,000/- (Rupees one lakh only), which amounts shall be paid by the appellant, Sushant Sharma.

The parties are stated to have already moved the Court under the Guardians and Wards Act, 1890,² where proceedings are pending. There are civil suits pending inter-se the parties with regard to certain other assets, etc. The interim order dated 25.10.2024 passed by this Court shall continue to operate till it is modified, vacated or affirmed by the Court under the 1890 Act. We request the said Court to take up the proceedings for hearing expeditiously. The Court would be entitled to take the help of Counselor(s), if required and necessary.

Further, we clarify that we have not examined the question of applicability of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities ²For short, “1890 Act”.

Act, 1999, and the rules and regulations framed thereunder. This issue, it is stated, is pending for examination in a writ petition before the High Court of Punjab and Haryana at Chandigarh.

It is also clarified that the observations made in this order and in the earlier order dated 25.10.2024 are tentative and prima facie and the same will not be treated as final and binding findings, as already recorded above. It is open to the Court under the 1890 Act or any other enactment, if applicable, to modify, vacate or amend the directions. Further the aforesaid directions will not, in any way, deter any other jurisdictional tribunal or forum, where proceedings are pending, from passing orders in accordance with law.

It is also directed that the respondents shall not raise any technical objection with regard to the nomination for appointment of an attorney by the appellant, Sushant Sharma.

Recording the aforesaid, the appeal is allowed and disposed of in the above terms.

Pending application(s), if any, shall stand disposed of.

.....CJI.

(SANJIV KHANNA)J. (SANJAY KUMAR) NEW DELHI;

FEBRUARY 10, 2025.