

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/SPECIAL CRIMINAL APPLICATION (HABEAS CORPUS) NO. 4415 of
2024**

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KASMABEN SOMUBHAI SINGADE NANABHAI VASANBHAI BHABORS
DAUGHTER W/O SOMUBHAI KUKARJI SINGADE
Versus
STATE OF GUJARAT & ORS.

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Appearance:

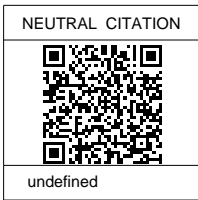
MR AB PANDYA(1602) for the Applicant(s) No. 1
for the Respondent(s) No. 10,11,12,13,14,15,16,17,3,5,6,7,8,9
MR UJAS H PATEL(11804) for the Respondent(s) No. 19
NOTICE SERVED BY DS for the Respondent(s) No. 2,4
NOTICE SERVED TO CONCERNED POLICE STATION HOWEVER, SERVICE
REPORT NOT FILED BY POLICE STATION for the Respondent(s) No. 18
MR. TRUPESH KATHIRIYA, APP for the Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE A.Y. KOGJE
and
HONOURABLE MR. JUSTICE SAMIR J. DAVE

Date : 08/05/2024**ORAL ORDER****(PER : HONOURABLE MR. JUSTICE A.Y. KOGJE)**

1. In furtherance to our order issuing the Notice and subsequent order dated 03-05-2024, the corpus was produced before the Court. Today, once again, the corpus is present before the Court through Sola Police Station.
2. Learned Advocate Mr. Nishith P. Acharya has instruction to appear



on behalf of the respondent No.18.

3. At request of learned Advocates appearing for the respective parties and to interact with the corpus, the matter is taken up in the chamber.

4. The Court has initially interacted with the corpus, where she has indicated that she was not in illegal confinement, but was residing with respondent No.18 out of her free will and has accepted him as her legally wedded husband.

5. The Court has permitted the corpus to interact with the mother, who is also present in the Court and after her interaction with the mother and in presence of learned Advocate for the respective parties, once again, her wish were ascertained and she has indicated that she is confirm in her decision and was at no stage, under any illegal confinement. Record of the case indicates the Date of Birth of the corpus is 01-01-2006, she is major and is at her free will to reside in the company of any person of her choice.

6. At this stage, learned Advocate for the petitioner as well as learned Advocate for the respondents have entered into making submission with regard to the previous petition filed before this Court for quashing of the FIR and the complaint filed by learned Advocate for the petitioner personally against the learned Advocate representing the respondent No.18 and the corpus. To this submission, making any comment would be expand the scope of the present petition, as the Court desires to limit this petition of Habeas Corpus only for the purpose of ascertaining the presence and well being of the corpus, who is present before the Court.



7. In view of the acrimonious situation created by learned Advocate for the petitioner within the chamber of the corpus, the Court finds it desirable to request learned Advocate for the parties to come in the chamber and continue the proceedings with the assistance of learned APP and also to record the statement of the corpus in vernacular to doubly sure of her wishes. The statement is therefore, hereby recorded in vernacular as under, which is made part of the record and is also, reproduced herein:

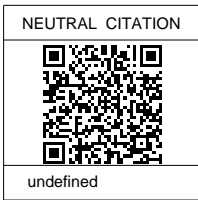
"शनाबेन डो/ओ. सोमर्सींग र्सीगाड, ઉ.વ.૧૮ (જન્મ તારીખ ૦૧/૦૧/૨૦૦૬)

મારે મારા પતિ સાથે જવું છે. હું મારી મરજીથી ગયેલી હતી. મારા પતિનું નામ બીજારામ ઉર્ફે વિજય જોઈતારામ ભીલ (રીસ્પોન્ડન્ટ નં.૧૮) છે. મારે મારી મમ્મી સાથે જવું નથી. હું બે વર્ષથી મારા પતિ સાથે રહુ છું. હું મારા પતિ સાથે મારી મરજીથી ગઈ હતી અને રાજીખુશીથી રહેતી હતી. મારે મારી મમ્મીના ઘરે જવું નથી. મારા બીજા પપ્પા મને મારતા અને મારી મમ્મી મને દારૂ વહેંચાવડાવતી હતી. મારા મમ્મીના વડીલશ્રીએ મને બહાર એવું કહેલું કે, "તું બે વર્ષ ક્યાં હતી ? તું તારી મમ્મી બાજુ બોલજે." મને પી.આઈ. સાહેબે કહ્યું કે, અત્યારે વાત નથી કરવાની. એમ કરીને મને નાસ્તો કરવા બહાર લઈ ગયેલા.

તમને તમારા પતિએ ગોંધી રાખેલા ?

મારા પતિએ મને ક્યારેય ગોંધી રાખેલ નથી. હું રાજીખુશીથી મારા પતિ સાથે રહેતી હતી."

8. After recording of the statement as reproduced herein above, the Court has also inquired from the corpus of her willingness to meet her mother, to which, she has responded that as and when the mother desires to meet her, she is always welcome to meet her at In-laws place.

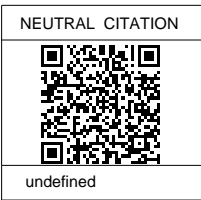


9. Though the petitioner has for the time, expressed that she does not wish to visit the corpus at her In-laws, however, no further observation is made with the hope of bettering of the relation in future.

10. Learned Advocate for the petitioner has submitted that the corpus be sent to Nari Sanrakshan Gruh, Paldi, Ahmedabad, as she apprehends that the corpus may not be able to express by free will. However, as is recorded in order dated 03-05-2024, already such exercise has been undertaken when the corpus was sent to Nari Sanrakshan Gruh, Paldi, Ahmedabad under the protection of Sola Police Station and therefore, the Court has no reason to believe or doubt that the corpus is not expressing out of her free will.

11. At this stage, learned Advocate has once again reiterated his request for regaining of custody of the animals, birds, cow, buffalo, etc. invoking the petition including the principle of "Parents patria". However, when the Court has found that the petition primarily was filed for the purpose of the corpus girl of the petitioner, which issue is now resolved and the statement of the corpus is also recorded, the Court does not deem it fit to further expand the scope in the facts of this case, as it appears to the Court under the guise of the finding of the corpus, the intention behind the petition appears to something else.

12. In view of the aforesaid, as is recorded in the preceding paras, the corpus girl being an adult and appear to be well oriented towards her rights and needs, it is open for the corpus to go in the company of the person of her choice and as is recorded by this Court, at no stage, the



corpus was not under any illegal confinement, so as to invoke jurisdiction of this Court under the writ of habeas corpus.

13. Hence, no further orders are required to be passed. In view of the aforesaid, *the petition stands disposed of accordingly*. Notice is discharged. The corpus be provided with safe passage to the destination of her choice.

(A.Y. KOGJE, J)

(SAMIR J. DAVE,J)

PARESH SOMPURA