

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CRIMINAL APPLICATION (HABEAS CORPUS) NO. 2940 of
2026**

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AASIF HABIBMIYA MIYANA
Versus
STATE OF GUJARAT & ORS.

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Appearance:

MR HANNAN A QURESHI(11351) for the Applicant(s) No. 1
MS MONALI H BHATT, APP for the Respondent(s) No. 1

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CORAM: HONOURABLE MR.JUSTICE N.S.SANJAY GOWDA
and
HONOURABLE MR.JUSTICE D. M. VYAS

Date : 09/03/2026

ORAL ORDER

(PER : HONOURABLE MR.JUSTICE N.S.SANJAY GOWDA)

1. During our previous interaction with the petitioner, the corpus and also the parents of the corpus, it was forthcoming that the marriage of the petitioner with the corpus was yet to be solemnized and the intended marriage with the corpus would have to be undertaken under the Special Marriage Act.
2. We had informed the petitioner that having regard to the fact that he has stated that he is in relationship with the corpus, the financial security of the corpus was at risk in the event any unfortunate contingency arises in future.
3. In response, the petitioner has filed an Additional Affidavit, which reads as follows:

“Aasif Habibmiya Miyana, Aged: 22, Sex: Male, Occupation: Business, Having address as; Dela Navasavat, Mehsana-384001, the petitioner herein, do hereby solemnly affirm and state as under:

1. That I am the Petitioner in the above-captioned Habeas Corpus Writ Petition and am fully conversant with the facts and circumstances of the case. I am competent to swear this affidavit.
2. That I am in a live-in relationship with Patni Shital D/o Manojbhai. We have been living together as partners with mutual consent and understanding.
3. That I am ready and willing to deposit a sum of Rs. 3,00,000/- (Rupees Three Lakhs only) in favour of Patni Shital D/o Manojbhai before this Hon'ble Court.
4. That the said amount of Rs. 3,00,000/- may be kept in Fixed Deposit in any Nationalized Bank or as per the directions of this Hon'ble Court for a period of 3 (three) years from the date of deposit.
5. That I have no objection if the said Fixed Deposit along with accrued interest is disbursed in favour of either party, namely myself or Patni Shital D/o Manojbhai, after the completion of 3 (three) years, as per the directions of this Hon'ble Court or as may be mutually agreed upon between the parties.
6. That the aforesaid deposit is being made as a mark of my commitment and bonafide intention towards Patni Shital D/o Manojbhai and to ensure her financial security.
7. That I am ready and willing to initiate proceedings for registration of marriage with Patni Shital D/o Manojbhai under the Special Marriage Act, 1954.
8. That I undertake to complete all necessary formalities, including giving notice to the Marriage Officer under Section 5 of the Special Marriage Act, 1954, and to comply with all statutory requirements for solemnization of marriage.
9. That I shall ensure that the marriage is solemnized in accordance with law within a reasonable period as may be directed by this Hon'ble Court or as mutually agreed upon.
10. That no legal impediment exists from my side for solemnization of the said marriage, and I fulfill all conditions prescribed under Section 4 of the Special Marriage Act, 1954.
11. That I am ready and willing to take complete care of Patni Shital D/o Manojbhai after the solemnization of marriage.

12. That I undertake to provide for her maintenance, residence, and all necessities of life according to my means and capacity.
13. That I shall treat her with dignity, respect, and ensure her well being in all respects.
14. I am making these undertakings voluntarily, without any force, coercion, or undue influence.
15. That in view of the above undertakings and my willingness to fulfill all obligations towards Patni Shital D/o Manojbhai, this Hon'ble Court may be pleased to:
 - a. Accept the deposit of Rs. 3,00,000/- to be kept in Fixed Deposit for 3 years;
 - b. Direct the appropriate authority to facilitate the registration of our marriage under the Special Marriage Act, 1954;
 - c. Pass such other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.
16. I have gone through a copy of the application and I solemnly affirm that what is stated in para 1-14 and 16 is true to my own knowledge and is true to the best of my information and belief and para no.15 is the prayer."

4. By this affidavit, the petitioner is essentially depositing a sum of Rs.3 lacs in the name of the corpus for a period of three years. Though in the affidavit, it is stated that either of them would be entitled to get interest that would accrue on the fixed deposit, at our instance, the petitioner agrees that interest on the said deposit will be disbursed exclusively to the corpus. It was also made clear that in the event. the corpus is put to any kind of separation in future, the entire amount of Rs.3 lacs would be handed over to her for her financial security. The petitioner and his counsel are agreeable to this suggestion.

5. In view of the fact that the corpus also states that she wishes to reside with the petitioner and she was not under

any kind of illegal confinement, it would be appropriate to accept her submission as it would create a security for the corpus in the event anything goes wrong in future.

6. In the interregnum, we would also wish to ensure that the petitioner marries with the corpus, which requires a notice of intended marriage under Section 5 of the Special Marriage Act, which would consume some time, we, therefore, deem it appropriate, at present, to permit the petitioner to deposit a sum of Rs.3 lacs in the Registry of this Court and the Registry shall invest the said amount in any nationalized bank in the name of the corpus with the mandate to the bank that the interest on the fixed deposit would be disbursed only to the corpus.

7. Further, the petitioner, as undertaken by him, shall give a notice of intended marriage with the corpus and conclude the entire process within a period of 6 weeks from today.

8. The authorities are directed to process the application of the petitioner and the respondent of the intended marriage and ensure that all the requirements are concluded and the marriage is solemnized in accordance with law.

9. It is stated before us that the corpus does not have a bank account. In that view of the matter, the Registry is directed to ensure that the bank account is opened in the name of the corpus and interest of fixed deposit to be made as noticed above is credited to that account periodically.

10. The petitioner undertakes to deposit the sum of Rs.3 lacs in the Registry of this Court today.

11. The Registry to accept the same and issue necessary acknowledgment and put a copy of the said acknowledgment in our record.

12. Re-list the matter on **24.04.2026**. Till then, the corpus shall continue to be in the Woman Protection Home at Ahmedabad. The corpus shall, however, be permitted to accompany the petitioner for the purposes of ensuring that she is married under the provisions of the Special Marriage Act.

13. In case, the corpus is required to apply for any certificates, such as birth certificate or school leaving certificate, she may apply for the said certificates through the petitioner or his counsel and if such application is filed, the concerned authorities shall act upon the same and provide the certificates immediately.

Sd/-
(N.S.SANJAY GOWDA,J)

Sd/-
(D. M. VYAS, J)

OMKAR