

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CRIMINAL APPLICATION (HABEAS CORPUS) NO. 8368
of 2025**

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DHIRUBHAI AMTUBHAI KOLADARA

Versus

STATE OF GUJARAT & ORS.

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Appearance:

MR S D MOGHARIYA(11273) for the Applicant(s) No. 1
 MR DIPEN K DAVE(3296) for the Respondent(s) No. 3
 MR HEMANT B RAVAL(3491) for the Respondent(s) No. 11,12
 MR MOHAMMEDNAZIR A BAGBAN(12411) for the Respondent(s) No.
 11,12
 NOTICE SERVED for the Respondent(s) No. 2,4,5,6,7,9
 NOTICE UNSERVED for the Respondent(s) No. 8
 MS. MONALI H. BHATT, APP for the Respondent(s) No. 1
 SAJID Y KARIYANIYA(9619) for the Respondent(s) No. 10

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

Date : 18/12/2025

ORAL ORDER

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

[1] This writ petition has unraveled an intriguing set of facts, which is shocking, if true.

[2] Dhirubhai Amtubhai Koladara, the petitioner herein (hereinafter referred to as "the father") filed this petition seeking issuance of a writ of habeas corpus directing the authorities to secure the presence of his daughter, Manishaben, who was aged about 17 years, before this Court, since he believed that she had been illegally confined by respondent Nos.3 to 7.

[3] In this petition, the father states that his daughter Manishaben had gone missing and he later came to know that she had gone away with the Jaypalbhai (Respondent No.3). He has stated that she came back after some time and a settlement took place. However, he submits that on 27.01.2025, he was informed by his relatives that Jaypalbhai had once again abducted Manishaben. The father, thereafter, lodged a complaint, on the basis of which an FIR was registered on 10.03.2025. It is, thus, clear that according to the father, Manishaben went missing on 27.01.2025, and the father lodged a complaint nearly two months thereafter, on 10.03.2025.

[4] The father also states in his petition that Jaypalbhai was arrested on 10.04.2025 and was remanded to judicial custody, but yet, he did not reveal the location of Manishaben. He has also stated in his petition that he made a representation to the Superintendent of Police on 13.05.2025 for taking steps to trace his daughter, but she had not been traced. He also states that the police, after investigation, have in fact filed a charge-sheet against Jaypalbhai on 09.06.2025.

[5] Interestingly, in this representation, the father has stated that Manishaben had eloped with Jaypalbhai on three occasions and despite the fact that Manishaben was a minor, the police had not registered any case against Jaypalbhai under the provisions of the Protection of Children from Sexual Offences (POCSO) Act, 2012.

[6] On 16.06.2025, i.e, about seven days after the filing of the charge-sheet, the present petition has been filed seeking a writ of habeas corpus, The averments in the writ petition are essentially based on the premise that Manishaben had been abducted by Jaypalbhai and had been missing for the past five months.

[7] This Court ordered notice of this writ petition on 20.06.2025. On 26.06.2025, a statement was made by the police that the 4th respondent, Bharatbhai (uncle of Jaypalbhai), had been arrested and was in judicial custody. Thus, on the basis of the complaint of the father, the police arrested Jaypalbhai, initially, and subsequently also his uncle. Both of them are stated to be in custody, as of now.

[8] On 06.10.2025, Manishaben was produced before this Court, and after interacting with her, this Court recorded her submissions and passed an order in the following terms:-

"1. Dhirubhai Koladara has presented this petition contending that his daughter Manisha, who is aged about 17 years as of now, is in the illegal confinement of Jaypalbhai @ Japu - third respondent herein.

2. In the petition, it is averred that Manisha was abducted by Jaypal on 27.01.2025 and despite his best efforts, the petitioner could not trace Manisha. He has averred that he came to know that Jaypal had abducted her and hence he had lodged an FIR on 10.03.2025 and a case was accordingly registered against Jaypal under Sections 137(2) and 87 of BNS, 2023.

3. Ms. Jirga Jhaveri, learned APP submits that pursuant to this FIR, Jaypal has been taken into custody and is still lodged in jail. It is stated that the bail application filed by him was withdrawn reserving liberty to Jaypal to file a fresh bail petition in the event Manisha was traced. It is also forthcoming from the records that a charge-sheet has also been filed against Jaypal and the same is pending adjudication.

4. On notice being served, the State has today secured the presence of corpus Manisha. On interacting with her, it is forthcoming that she had actually eloped with Jaypal in the month of January 2025 and had voluntarily returned to the petitioner but the petitioner refused to take her back and instead entrusted her custody to his two uncles Bhupatbhai and Harjibhai, residents of village Dholia and Palasana respectively. Manisha also states that Bhupatbhai and Harjibhai, thereafter, proceeded to sell her for a sum of Rs. 2 lakhs to one Navinbhai Tejabhai Maruniya. She also states that a farce of a marriage was conducted in the sense that garlands were exchanged and vermilion was put on her forehead thereby signifying that she was the wife of Navinbhai. She further goes on to narrate that she was continuously abused by Navinbhai and he repeatedly reminded her that she was not procured for free and that he had paid a price to procure her. She submits that she thereafter got in touch with Jaypal and requested him to free her from her misery and Jaypal accordingly agreed to do so. He however insisted that they take the assistance of his uncles - respondent nos. 4 & 5. She submits that she was thereafter liberated by Jaypal and was with him.

5. The petitioner was present during this interaction and when confronted with this version of Manisha, he candidly admitted all the assertions made by her except the fact that he had received any sum from Navinbhai. In our view, the petitioner having admitted the assertions of Manisha that when she came back after eloping with Jaypal, he refused to take her and instead entrusted her custody to Bhupatbhai and Harjibhai would indicate that his action as a father was irresponsible and unpardonable. If Manisha had eloped earlier and had returned to his custody, it is clear that she was not under the illegal confinement of anybody. Further more, when the petitioner admits that his two uncles had found a match for her and he had agreed for the said match knowing fully well that she was still a minor, it is clear that the petitioner was not acting in the interest of his daughter but at somebody else's behest.

6. *It is forthcoming from the records that on the basis of the complaint of the petitioner, criminal proceedings have been lodged against Jaypal and he is languishing in jail. Since Manisha has now appeared before us and has narrated the events that have happened, in our view, Jaypal would be at liberty to seek quashing of the proceedings, more particularly, since Manisha has stated before us that Jaypal had not abducted her and she had voluntarily gone with Jaypal to escape the agony that she was in by virtue of she being sold to Navinbhai.*

7. *Manisha is still a minor, and therefore keeping the background of the above facts in mind, we are not inclined to permit her to be sent in the custody of the petitioner and we feel that interest of justice will be served if Manisha is allowed to stay at Children Home for Girls at Rajkot till the disposal of this petition.*

8. *We are also of the view that this is a case in which the process of the court has been abused by the petitioner, his two uncles Bhupatbhai and Harjibhai and also by Navinbhai who claims to have purchased Manisha for a sum of Rs. 2 lakhs. We therefore deem it appropriate to implead them as party respondent nos. 10, 11 & 12. Let notice of this petition and a copy of this petition be served upon them through the concerned police station with a direction that respondent nos. 10, 11 & 12 shall be personally present.*

9. *The matter be relisted on 16.10.2025.*

10. *On the next date of hearing, Manisha as well as the petitioner shall personally remain present before this court."*

[9] As could be seen from the above, Manishaben, during her interaction, admitted that she had eloped with Jaypalbhai in the month of January 2025, but she stated that she had voluntarily returned to her father. However, her father refused to take her back and instead entrusted her custody to her two Granduncles, Harjibhai (Respondent No.10) and Bhupatbhai (Respondent No.11). Shockingly, Manishaben stated that her Granduncles had sold her for a sum of Rs 2 lakhs to Navinbhai (Respondent

No.12), and a marriage was conducted by putting vermilion on her forehead, signifying that she had been given away in marriage to Navinbhai. She also stated that she was continuously abused by Navinbhai and unable to bear the harassment, she had got in touch with Jaypalbhai and had requested him to free her from her misery. She also states that Jaypalbhai acceded to her request and came and rescued her from the hands of Navinbhai. These statements were made by Manisha in the presence of her father-the petitioner and he also admitted that all her assertions (except the assertion that he had received money) were true.

[10] The statement of Manisha, if true, indicate that the father knowing fully well that Manishaben had eloped on three earlier occasions (according to the complaint given by him to the Superintendent of Police), had nevertheless handed over her custody to his two uncles namely Harjibhai (Respondent No 10) and Bhupatbhai (Respondent No 11).

[11] This fact has however not been stated in the writ petition and these came to the knowledge of this Court only when Manishaben made these allegations. The father had also not indicated in the petition that Manishaben went missing from the custody of his two uncles, and instead an innocuous statement was made in the writ petition that he was informed by his relatives that Manishaben had been abducted by Jayapalbhai.

[12] It is expected that a person, especially being the father of a minor girl, who approaches this Court, and that too seeking a writ of habeas corpus, narrates the complete set of facts. A person such as the petitioner who is the father of a minor girl cannot be selective in the narration of facts before this Court.

[13] As already stated above, by the order dated 06.10.2025 taking into consideration that Manishaben was about 17 years old, this Court directed her to be lodged at the Children's Home for Girls at Rajkot and also proceeded to order the impleadment of her two Granduncles Harjibhai and Bhupatbhai and also Navinbhai, who had purportedly purchased Manishaben for a sum of Rs.2 lakhs and was alleged to have married her by putting vermilion on her forehead.

[14] The two Granduncles namely Harjibhai & Bhupatbhai and Navinbhai entered appearance through learned counsel and also filed a reply.

[15] Harjibhai, the Granduncle of Manisha, in his affidavit, has stated that the petitioner-father had called upon him in January regarding Manishaben's elopement with Jaypalbhai and due to this, there were frayed tempers between him and Manishaben and in order to avoid any further confrontation between the father and daughter, he had taken Manishaben to stay with him. He has stated that about 10 days thereafter, the father came and took back Manishaben, and even then, he advised the father

not to take any extreme steps and not to get into a quarrel with Manishaben. He has, thereafter, gone on to state that he was not in touch with either the father or the daughter, but he came to know subsequently that the father had lodged a complaint regarding abduction of Manishaben.

[16] Harjibhai has denied the assertion of Manishaben that she had been sold to Navinbhai for a sum of Rs.2 lakhs. It is stated that these assertions are made with a malicious intent to ensure a settlement regarding the FIR that had been lodged by the complainant. An allegation is made that Manishaben appeared before the Court only after the bail application of Jaypalbhai was withdrawn, and an assertion is made that Manishaben had been found in the house of the relative of Jaypalbhai, which requires to be inquired into.

[17] Thus, Harjibhai categorically denies the assertion of the corpus, Manishaben, that she was handed over to Navinbhai on receiving a sum of Rs. 2 lakhs. Harjibhai, in fact, states that there was no communication of any kind with him after he handed over custody of Manishaben to her father in January.

[18] Bhupatbhai, the 11th respondent, against whom allegations were made by Manishaben, has also filed an affidavit, which is not very clear. It would therefore be better to reproduce the affidavit:-

"AFFIDAVIT OF RESPONDENT NO 11

I Tharesa Bhupatbhai Virjibhai Age: 65 years, Occup-Farming, Male, Resi: Jayprakash Nagar, Street No-16/17 Corner, Bhagvatipara Main Road, Rajkot-360003

Do here by state on solemn state that

1. I am in this petition respondent No. 11 and father of the corpus has filed this petition. The petitioner daughter Manisha, who is aged about 17 years went with one Jayapbhai @ Japu. As she was minor and F.I.R has been also lodged on dated 27-01-2025.

2. With the love and affection of the Jaypalbhai @Japu she went and no amount was taken from the Navinbhai Tejabhai Maruniya. Even she was staying with her uncle only to save with Jaypalbhai @ Japu she was sent to her uncle's house.

3. Even no marriage has been performed and she was kept with him as she was wanted to go with Jaypalbha @ Japu. It is also respectfully submitted that no amount was taken by the present respondent and others. Even due love and affection she has stated like that.

4. Now she is also ready and willing to go with her father as she has not completed 18 years. When she will complete her age as per her wish and will she can marry with her like person. Being an uncle I will wish her best future.

5. Even there is no any intention to sale her on money. As being a minor she was eloped with one person Jaypalbhai @ Japu Manisha was sent to her uncle's house. Moreover father only made engagement with the Navinbhai.

6. Even she is minor again she left her uncle home and went with the Jaypal. It is very clear that she was not kept with Navinbhai against her wish and will. As Manisha is minor and for that no marriage can be performed with Navinbhai Tejabhai Maryniya. Manishben is minor and she has taken decision with her own and adolescent for that only engagement is made.

7. Even no father can sale her daughter to any person. Manisha was sent to her uncle house only to save from the Jaypal. As she doesn't know her good and feature. Even no vermilion was put on her forehead and no relatives or other persons were called in the marriage and no arrangement is made for food and etc."

[19] A reading of this affidavit would indicate that Bhupatbhai basically wishes to state that in order to save Manishaben from Jaypalbhai, she was made to stay with her Granduncle. It is specifically denied that no amount was taken from Navinbhai for handing over Manishaben to him, and he also goes on to state that Manishaben is ready and willing to go with her father as she had not completed 18 years. He also goes on to state that as and when she completes 18 years, she would be married to a person of her choice and that he would wish her a good future.

[20] It is rather surprising that when Manishaben has categorically stated before us that she does not wish to go with her father, in the light of the events that have transpired in her life, Bhupatbhai, nevertheless, states that Manishaben is ready and willing to go with her father. He also denies that any marriage took place between Manishaben and Navinbhai.

[21] Navinbhai, the 12th respondent to whom Manishaben is alleged to have been sold, has also filed an affidavit, which is also as confusing as the affidavit filed by Bhupatbhai. The affidavit is rather a verbatim repetition of the affidavit of Bhupatbhai and this affidavit would indicate his marriage was not performed with Manishaben and no amount was given to the father. He, however, interestingly states as follows:-

*“6. Even she is minor again she left her uncle home and went with the Jaypal. It is very clear that she was not kept with Navinbhai against her wish and will. As Manisha is minor and for that no marriage can be performed with Navinbhai Tejabhai Maryniya. **Manishben is minor and she has taken decision with her own and adolescent for that only engagement is made.**”*

[22] It is therefore clear that Navinbhai, while admitting that Manishaben is still a minor, also admits that he was engaged to her. Thus, the involvement of Navinbhai in relation to the matrimonial alliance of Manishaben is admitted. Bhupatbhai, her Granduncle, also states that Manishaben had taken a decision on her own to get engaged to Navinbhai.

[23] A reading of these three affidavits would indicate serious contradictions. While one Granduncle disowns virtually the entire set of allegations and is silent about the engagement of Manishaben with Navinbhai, the other Granduncle, i.e., the 11th respondent states that Manishaben herself took the decision, and therefore the engagement was conducted. Navinbhai, the alleged fiance also reiterates this assertion that Manishaben, a 17 year old, took a decision on her own to get engaged. It is inconceivable that when complaints were lodged and were pending regarding Jaypalbhai having abducted Manishaben, who is a minor, the two Granduncles could have permitted the engagement of this minor girl with Navinbhai.

[24] The father has thereafter filed a further affidavit-in-reply. It would be beneficial to reproduce the entire affidavit:-

"FURTHER AFFIDAVIT IN REPLY (REJOINDER) OF THE PETITIONER

1. I, Dhirubhai Amthubhai Koladara, Male, Aged: 42 years, residing at the address stated in the cause title, the Petitioner herein, do hereby solemnly affirm on oath and state as under:

2. I, state that I have preferred the captioned petition as my daughter (corpus) who is minor had eloped with Respondent No. 3. Thereafter an FIR came to be registered with Sayla Police Station, Dist: Surendranagar on 10.03.2025 and thereafter Respondent No.3 was taken into custody on 10.04.2025 and charge sheet came to be filed on 31.05.2025.

3. I, state that since my daughter could not be found I, made representation dated 13.05.2025 to Superintendent of Police Surendranagar and further it was my apprehension that my daughter was in unlawful custody of Respondent No. 4 to 7 who are relatives of Respondent No.3 and therefore were acting on behest of family members of Respondent no.3

4. Thereafter, Respondent no.3 preferred an application for regular bail before this Hon'ble Court vide CRMA No. 13020 of 2025 which was withdrawn vide order dated 30.09.2025 reserving liberty in favor of the respondent no.3 to file bail application after corpus is found.

5. I, state that it was only after the bail of the Respondent no.3 was withdrawn corpus was produced before this Hon'ble Court. I, request the Hon'ble Court to look into aspect that as R-3 was in custody and after withdrawal of bail application at whose behest the corpus was produced which would indicate that R-4 to R7 and family members of R3 are acting hand in glove.

6. I, state that corpus informed this Hon'ble Court after my daughter came back to me as a father I tried to make her understand that not to run away in future with anyone. **However, my daughter was adamant and informed that she will again go with R-3. To avoid this, I had sent my daughter to R-10 and R-11.**

7. I, further state that R-10 in para 3 in his reply 10 has not stated that correct facts. **I state that I had never gone to take my daughter from R-10 and R-11. Rather it was R-10 and R-11 who called and informed me that they have found a**

suitable groom (R-12) for my daughter for engagement and they being my relatives they decided everything and I was never informed by them anything about who the groom is and was kept in dark. I, further state that R-10 and R-11 informed me that my daughter does not want me attend any function therefore I had not visited.

8. I, further state that it was in shock as corpus made statement before this Hon'ble Court that R-12 who is twice the age of the corpus and was corpus was sold to her for Rs. 2,00,000/- and R-12 abused the corpus.

9. I, state that I had only agreed R-10 and R-11 for getting my daughter engaged to have peaceful family life ahead and avoid any embarrassment in future. I state that I was not aware that my daughter was sold for Rs. 2,00,000/- neither I have received any amount.

10. I, was in agony as R-10 and R-11 who are my relatives kept me in dark and committed such and act.

11. I, state that what is stated herein above is true and correct to the best of my knowledge and I am filing this affidavit without any threat, coercion or influence."

[25] As can be seen from the above, the father admits that Manishaben had come back to his house and he had made attempts to make her understand that she should not run away in future with anyone. However, since she was adamant that she would go with Jaypalbhai, he had sent her to his Granduncles, i.e., respondent Nos.10 and 11.

[26] Firstly, the fact that the father admits that Manishaben had come back to him by itself would indicate that she was not abducted. Secondly, the fact that she insisted that she would go with Jaypalbhai would also indicate that there was no element of abduction by Jaypalbhai. This affidavit also makes it clear that,

in order to avoid Manishaben from eloping once again, the father did, in fact, hand over custody of Manishaben to his two Granduncles, i.e., respondent Nos.10 and 11.

[27] The most surprising aspect of this affidavit is that the father admits that his Granduncles, i.e., respondent Nos.10 and 11 had called him and informed him that they had found a suitable groom in respondent No.12 and they had decided on everything since they were relatives. The father, in fact, goes on to proclaim that he was never informed of anything about who the groom and was kept totally in the dark. He even goes to the extent of saying that Manishaben had informed respondent Nos.10 and 11 that she did not want the presence of her father in the engagement.

[28] It is, thus, evidently clear that the father while admitting that he had entrusted the custody of his daughter to his grand uncles, was nevertheless, trying to basically distance himself from the entire transaction relating to the matrimonial alliance of Manishaben with Navinbhai and this was obviously only to save his own skin.

[29] The father has also expressed his shock about the statement made by his daughter that she was sold to Navinbhai who was twice as old as Manishaben, for sum of Rs.2 lakhs. He, however, admits that he had agreed to the engagement of his daughter as proposed by respondent Nos.10 and 11 so as to

ensure that his daughter would have a peaceful life ahead of her.

[30] In our view, this affidavit of the father, basically, admits of the fact that custody of the minor daughter was handed over by the father to respondent Nos.10 and 11, and respondent Nos.10 and 11 had found a groom in respondent No.12 and had also got an engagement done of Manishaben with Navinbhai (respondent No.12). Manishaben, on the other hand, stated before us that a farce of a marriage was conducted, in the sense, that vermilion was put on her forehead indicating a marriage.

[31] As already observed above, it is simply inconceivable that when the father was lodging complaints and litigating before this Court regarding the abduction of his minor daughter, who was only aged about 16 and a half years old, by Jayapalbhai, at the same time, his Granduncles had gone on and secured a groom in respondent No.12, and to this alliance, the father had signified his consent.

[32] It is clear from these set of assertions, if true, that Manishaben, a minor girl, was agreed to be given in marriage (according to respondent Nos.10 to 12 and also the petitioner-father) to a person who was twice her age, whereas, according to Manishaben, a farce of a marriage was conducted.

[33] if the allegations are indeed true, it is patently obvious that the life of a minor girl was dealt with in the most callous manner by her father and also her Granduncles. It must be stated here that the life of a minor girl cannot be dealt with in such a manner by anyone, much less by her father and by her Granduncles, i.e., the petitioner and respondent Nos.10 and 11. In fact, if these allegations are found to be true, they would clearly establish commission of serious criminal offences by the petitioner and respondent Nos.10 to 12. Furthermore, if there has been any sexual offence committed by respondent No.12 on the minor corpus-Manishaben, that would also attract the stringent provisions of the POCSO Act, 2012.

[34] Faced these set of assertions forthcoming from the minor girl and the averments made in the affidavits filed by respondents 10 to 12, it is our view that the appropriate course of action would be to direct the jurisdictional Police Inspector to conduct a thorough and comprehensive investigation into the entire set of assertions made by Manishaben before this Court and submit a report to us within a period of four weeks for our further consideration. It is also ordered that the concerned Superintendent of Police shall personally supervise the investigation to be conducted by the Police Inspector.

[35] If, on such investigation, the police find that respondent Nos. 10 to 12 and petitioner have indeed committed offences against the minor girl, they may by themselves initiate appropriate criminal proceedings against them.

[36] Re-list on 21.01.2026 for further consideration and for passing further orders that may be necessary pursuant to the report to be submitted by the Police.

[37] In the meantime, the corpus shall continue to stay in the Children Home for Girls at Rajkot, as ordered earlier.

(N.S.SANJAY GOWDA, J.)

(D. M. VYAS, J.)

DHARMENDRA KUMAR