

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

NOTICE SERVED for the Respondent(s) No. 2,4,5,6,7,9

NOTICE UNSERVED for the Respondent(s) No. 8

MS JIRGA JHAVERI, ADDL PUBLIC PROSECUTOR for the Respondent(s)
No. 1

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CORAM: HONOURABLE MR.JUSTICE N.S.SANJAY GOWDA

and

**HONOURABLE MR.JUSTICE UTKARSH THAKORBHAI
DESAI**

Date : 06/10/2025

ORAL ORDER

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

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 It is stated that the bail application filed by him was withdrawn reserving liberty to Jaypal to file a fresh bail petition in the event Manisha was traced.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.

(N.S.SANJAY GOWDA,J)

(UTKARSH THAKORBHAI DESAI, J)

DIVYA