

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CRIMINAL APPLICATION (HABEAS CORPUS) NO. 9926 of 2026**

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RAWAT BHUMIKA GAJENDRASINGH D/O RAWAT GADJENDRASINGH
Versus
STATE OF GUJARAT & ORS.

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Appearance:

MR. HARSH M UPADHYAY(17556) for the Applicant(s) No. 1
 BAILABLE WARRANT NOT RECEIVED BACK for the Respondent(s) No. 4,5
 BAILABLE WARRANT UNSERVED for the Respondent(s) No. 3
 MR.RAJESH B SONI(2632) for the Respondent(s) No. 4,5
 NOTICE SERVED BY DS for the Respondent(s) No. 2
 NOTICE UNSERVED for the Respondent(s) No. 3
 PUBLIC PROSECUTOR for the Respondent(s) No. 1

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CORAM: HONOURABLE MS. JUSTICE SANGEETA K. VISHEN
and
HONOURABLE MR.JUSTICE UTKARSH THAKORBHAI
DESAI

Date : 20/08/2026**ORAL ORDER****(PER : HONOURABLE MS. JUSTICE SANGEETA K. VISHEN)**

This Court, on 14.07.2026, has passed following order:-

“Mr Harsh M. Upadhyay, learned advocate for the petitioner submitted that the marriage of the petitioner with the respondent no.3 has taken place on 29.11.2017 and the boy, namely, Shikhar was born on 01.12.2022. The petitioner and the respondent no.3 were staying together in Bangalore; however, differences arose between them, which led the petitioner to come back to Baroda. Since October 2025, the corpus was with the petitioner; however, in an unruly manner, on 06.07.2026, the respondent no.3 went to the Rangoli Pre-school and snatched the child without any intimation or information of the petitioner.

2. It is submitted that such a conduct on the part of the respondent no.3, is nothing, but overreaching the law and taking away the custody. It is submitted that circumventing the procedure, would be impermissible and hence, the captioned writ petition.

3. Mr Rohan Raval, learned Additional Public Prosecutor for the respondents, upon instructions from Rajeshkumar Abhaji, ASI, Laxmipura police station, Vadodara city stated before this Court that the respondent no.3 is in contact with the police officer and he shall remain present before this Court at the earliest.

4. List the matter on 15.07.2026. Let the respondent no.3 together with the corpus remain present before this Court tomorrow, i.e. 15.07.2026."

2. The matter, was thereafter, kept on 15.07.2026. A request was made by the learned Additional Public Prosecutor that it has been assured that the respondent no.3 shall remain present; however, it was *prima facie* found that the respondent is continuously changing location together with the son.

3. Again, the matter was kept on 17.07.2026 and 20.07.2026. As the Court was left with no option, on 23.07.2026, had passed the following order:-

"1. Mr.Parth Jani learned advocate for Mr.Harsh M. Upadhyay learned advocate for the applicant has tendered the draft amendment. The same is directed to be taken on record. Let the amendment be carried out forthwith. Once the amendment is carried out, let there be a NOTICE to the newly added respondent nos.4 and 5 returnable on 03.08.2026.

2. On 14.07.2026, this Court, has recorded the attempt put by the respondent no.3 of circumventing the procedure rather overreaching the law. Time was allowed to the learned Additional Public Prosecutor and it was reported that although the respondent assured cooperation, he has been continuously changing his location with his son. Further time was allowed to the respondent, however, the respondent chose to continue to avoid the Court proceedings. On 20.07.2026, this Court, having left with no option, has passed the following order:

"1. Heard Mr Harsh M. Upadhyay, learned advocate for the petitioner. It is submitted that the private respondent has taken away the child circumventing the Court proceedings. It is submitted that the course adopted by the respondent no.3 is not proper. Even after this Court, has on 14.07.2026 requested the learned Additional Public Prosecutor to take instructions, the respondent no.3 appears to have been avoiding the Court proceedings. This Court, on 14.07.2026 has passed the order recording the fact as well as the conduct of the respondent no.3.

2. Acceding to the request of the learned Additional Public Prosecutor, this Court, on 15.07.2026 has adjourned the matter to 16.07.2026 and thereafter, today. It has been informed that the respondent no.3 is intentionally and with a view to avoiding the Court proceedings is changing the location.

3. Issue notice to the respondents, returnable on 23.07.2026. Mr Rohan Raval, learned Additional Public Prosecutor waives service of notice on behalf respondent no.1. For rest of the respondents, direct service is permitted.

4. On the next returnable day, if the Court finds that the respondent no.3 is avoiding the Court proceedings, this Court with a view to procuring the presence of the respondent no.3 shall issue a bailable / non-bailable warrant."

3. Today also, the situation is as it is. Series of orders passed by this Court, clearly give an impression that the respondent no.3 is avoiding the Court proceedings, only with a view to see that the child is not produced before this Court. Having left with no option and as cautioned in the order dated 20.07.2026, let there be a bailable warrant in the sum of Rs.10,000/- issued to respondent no.2. Direct service through concerned police station is permitted."

4. A Note for Speaking to Minutes was filed for correction in the order dated 23.07.2026 and this Court, on 30.07.2026 has passed the following order:

"1. The captioned note for speaking to minutes is filed with a request that in the order dated 23.07.2026, inadvertently, in paragraph no. 3, the bailable warrant in the sum of Rs.10,000/- is issued to respondent no.2 instead of respondent no.3 who is circumventing the procedure and avoiding the production of corpus.

2. In view of the above, acceding to the request of Mr.Shreyansh Sharma learned advocate on behalf of Mr.Harsh Upadhyay learned advocate for the petitioner, in the order dated 23.07.2026, in the second last line of paragraph 3, instead of 'to respondent no.2' the same shall read as 'to respondent no.3'.

3. Rest of the order shall remain as it is. Fresh writ be issued accordingly.

4. The note for speaking to minutes stands disposed of."

5. Thereafter, on 03.08.2026, as the respondent no.3 did not respect the Court's notice, bailable warrant was issued to respondent no.3 and since it was not served, time was sought. The order dated 03.08.2026, reads thus:-

"This Court, has time and again passed orders observing that the respondent no. 3 is avoiding the court proceedings. As the respondent no. 3 was not remaining present, this Court, was left with

no option but to issue bailable warrant; however, owing to inadvertent mistake, bailable warrant was issued in the sum of Rs.10,000/- to respondent no.2. Necessary correction was allowed vide order dated 30.07.2026.

2. Mr.Rohan Raval, learned Additional Public Prosecutor states that the bailable warrant is yet to be served. Request is made for a short date.

3. Mr.Girish Patel, learned Advocate states that he has received instructions to appear on behalf of respondent nos. 4 and 5. Request is made for some time.

4. Acceding to the request made by Mr.Rohan Raval, learned Additional Public Prosecutor so also Mr.Girish Patel, learned Advocate appearing for respondent nos. 4 and 5, list the matter on 06.08.2026."

6. On 07.08.2026, learned advocate for the respondent nos.4 and 5 had made a statement before this Court and has expressed his inability to appear. The order dated 07.08.2026, reads thus:-

"1. This Court has prima facie gathered the impression that the respondent no. 3 is leaving no stone unturned to avoid the production of corpus before this Court.

2. Mr.Girish Patel, learned Advocate states that initially he was approached by the respondent nos. 4 and 5; however, till date no instructions are provided by them coupled with claiming ignorance about any information regarding the respondent no.3. It is stated that in absence of any Vakalatnama he is unable to enter appearance and he would not be appearing for respondent nos. 4 and 5.

3. Mr.Utkarsh Sharma, learned Additional Public Prosecutor states that fresh bailable warrant in the name of respondent no. 3 is issued and necessary steps shall be taken at the earliest. Request is made for a short date.

4. List the matter on 14.08.2026. Needless to clarify that the respondent-authorities shall produce the corpus immediately and preferably before the next date of hearing."

7. The orders passed by this Court starting from 14.07.2026 till 07.08.2026 would suggest that the respondent no.3 has left no stone unturned to see that he avoids Court hearing and production of the corpus. Hence, the Court had to pass the following order on 14.08.2026:-

"1. The captioned writ petition is filed by the petitioner-mother seeking direction to the respondent no. 2 to produce the corpus who is in the custody of respondent no. 3. While inviting the attention of this Court to page 13 (Annexure "C"), it is stated that the custody of the minor corpus has been taken away forcefully and without any prior intimation to the petitioner and that too from the Play-school.

2. On 14.07.2026, when the matter was heard, the learned Additional Public Prosecutor, upon instructions from the ASI, Lakshmipura Police Station, Vadodara informed that the respondent no.3 is in contact with the police officer and he shall remain present before this Court at the earliest. The matter therefore was adjourned to 15.07.2026. On that day, the court was informed that despite extending assurance that he shall remain present, the respondent no. 3 is continuously changing his location together with the corpus. Acceding to the request of the learned Additional Public Prosecutor, the matter was adjourned from time to time; however, the respondent no. 3 has till date not appeared before this Court or engaged any lawyer. With a view to giving an opportunity to respondent no.3, this Court, issued a formal notice on 20.07.2026 by passing the following order:

"1. Heard Mr Harsh M. Upadhyay, learned advocate for the petitioner. It is submitted that the private respondent has taken away the child circumventing the Court proceedings. It is submitted that the course adopted by the respondent no.3 is not proper. Even after this Court, has on 14.07.2026 requested the learned Additional Public Prosecutor to take instructions, the respondent no.3 appears to have been avoiding the Court proceedings. This Court, on 14.07.2026 has passed the order recording the fact as well as the conduct of the respondent no.3.

2. Acceding to the request of the learned Additional Public Prosecutor, this Court, on 15.07.2026 has adjourned the matter to 16.07.2026 and thereafter, today. It has been informed that the respondent no.3 is intentionally and with a view to avoiding the Court proceedings is changing the location.

3. Issue notice to the respondents, returnable on 23.07.2026. Mr Rohan Raval, learned Additional Public Prosecutor waives service of notice on behalf respondent no.1. For rest of the respondents, direct service is permitted.

4. On the next returnable day, if the Court finds that the respondent no.3 is avoiding the Court proceedings, this Court with a view to procuring the presence of the respondent no.3 shall issue a bailable / non-bailable warrant."

3. The notice could not be served to the respondent no. 3 as he has been continuously avoiding the court proceedings by changing

location with the corpus. Having left with no option, this Court, vide order dated 23.07.2026, issued a bailable warrant in the sum of Rs.10,000/-. In the intervening period, the respondent nos. 4 and 5, the parents of respondent no. 3 were also joined and this Court had issued notice to them making it returnable on 03.08.2026. The order dated 23.07.2026, reads thus:

“1. Mr.Parth Jani learned advocate for Mr.Harsh M. Upadhyay learned advocate for the applicant has tendered the draft amendment. The same is directed to be taken on record. Let the amendment be carried out forthwith. Once the amendment is carried out, let there be a NOTICE to the newly added respondent nos.4 and 5 returnable on 03.08.2026.

2. On 14.07.2026, this Court, has recorded the attempt put by the respondent no.3 of circumventing the procedure rather overreaching the law. Time was allowed to the learned Additional Public Prosecutor and it was reported that although the respondent assured cooperation, he has been continuously changing his location with his son. Further time was allowed to the respondent, however, the respondent chose to continue to avoid the Court proceedings. On 20.07.2026, this Court, having left with no option, has passed the following order:

“1. Heard Mr Harsh M. Upadhyay, learned advocate for the petitioner. It is submitted that the private respondent has taken away the child circumventing the Court proceedings. It is submitted that the course adopted by the respondent no.3 is not proper. Even after this Court, has on 14.07.2026 requested the learned Additional Public Prosecutor to take instructions, the respondent no.3 appears to have been avoiding the Court proceedings. This Court, on 14.07.2026 has passed the order recording the fact as well as the conduct of the respondent no.3.

2. Acceding to the request of the learned Additional Public Prosecutor, this Court, on 15.07.2026 has adjourned the matter to 16.07.2026 and thereafter, today. It has been informed that the respondent no.3 is intentionally and with a view to avoiding the Court proceedings is changing the location.

3. Issue notice to the respondents, returnable on 23.07.2026. Mr Rohan Raval, learned Additional Public Prosecutor waives service of notice on behalf respondent no.1. For rest of the respondents, direct service is permitted.

4. On the next returnable day, if the Court finds that the respondent no.3 is avoiding the Court proceedings, this Court with a view to procuring the presence of the respondent no.3 shall issue a bailable / non-bailable warrant.”

3. Today also, the situation is as it is. Series of orders passed by this Court, clearly give an impression that the respondent no.3 is avoiding the Court proceedings, only with a view to see that the child is not produced before this Court. Having left with no option and as cautioned in the order dated 20.07.2026, let there be a bailable warrant in the sum of Rs.10,000/- issued to respondent no.3. Direct service through concerned police station is permitted.”

4. Mr.Girish Patel, learned Advocate on 03.08.2026 informed that he has received instructions to appear on behalf of respondent nos. 4 and 5; however, on the next date i.e. on 07.08.2026, Mr.Girish Patel, learned Advocate had expressed reservation stating that the respondent nos. 4 and 5 are not providing the instructions and claiming ignorance about any information regarding respondent no. 3. As he was not in receipt of Vakalatnama, the Court was informed that he would not be representing them. The said fact is recorded in the order dated 07.08.2026.

5. Pertinently, the bailable warrant was issued vide order dated 23.07.2026 read with order dated 30.07.2026. It was reported that the bailable warrant had remained unserved owing to the non-availability of the respondent no.3. Further time was allowed, upon the request being made by the learned Additional Public Prosecutor on 03.08.2026. As the bailable warrant had remained unserved on 07.08.2026, the matter was adjourned for today.

6. Today, Ms.Shruti Pathak, upon instructions from N.H.Solanki, Police Sub-Inspector, Lakshmipura Police Station, Vadodara has reported that despite putting strenuous efforts, the respondent no. 3 is not traceable rather he is continuously changing location and hence, the respondent authorities are unable to serve the bailable warrant. Ms.Shruti Pathak, learned Additional Public Prosecutor has tendered a report and as per the report, the bailable warrant was received on 06.08.2026 by the concerned police station and an e-mail was sent to the concerned Shambuganj Police Station, Bihar so also Malleshwar Police Station, Bangalore, Karnataka for the purpose of serving the bailable warrant. The report further states that after taking necessary approval, the Police Constable and Head constable have been sent on 09.08.2026 and the investigation is going on. It further suggests that the respondent no. 3 is a member of OYO Hotels; however, there are no details of booking available. The report is directed to be taken on record.

7. From the orders passed by this Court time and again, clearly the respondent no. 3 has been avoiding the court proceedings since one month and this Court has gathered an impression that the respondent no.3 has shown scant regards to the court proceedings. If by next date of hearing the respondent no. 3 does not enter appearance, the possibility of this Court issuing non-bailable warrant to the respondent no.3 may not be ruled out.

8. The respondent nos. 4 and 5 though have been served, also have not entered appearance till date. Let there be bailable warrant issued

in the sum of Rs.10,000/- each to respondent nos. 4 and 5.

9. List the matter on 18.08.2026.”

8. The matter was kept on 18.08.2026 and this Court, accepting the request of the learned advocate, who claimed that he was appearing for respondent nos.4 and 5, has passed the following order:-

“Mr.R.B.Soni learned advocate, states that he has received instructions to appear on behalf of respondent nos.4 and 5 and shall be filing his Vakalatnama today itself. Mr.R.B.Soni learned advocate states that a short date may be provided so as to enable him to take proper and accurate instructions. Mr.R.B.Soni states that he shall instruct respondent nos.4 and 5 to remain present before this Court on the next date of hearing.

List the matter on 24.08.2024.”

9. Today, with great difficulty and after putting strenuous efforts, the respondent authorities could get the custody of the corpus, who has now been produced today at around 5 p.m. It is not in dispute that the child was with the mother since October 2025; however, on 06.07.2026 (Annexure-C, page 13), the child, according to the petitioner, was forcefully taken away, which allegation is denied by the respondent no.3. Hence, the mother has been deprived of the child’s custody since close to two months.

10. List the matter tomorrow, i.e. on 21.08.2026. Let the temporary custody of the child be with the mother till tomorrow.

(SANGEETA K. VISHEN,J)

(UTKARSH THAKORBHAI DESAI, J)

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