

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. 3
DS AFF.NOT FILED (N) 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
MR ROHAN RAVAL, APP 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 : 14/08/2026**ORAL ORDER****(PER : HONOURABLE MS. JUSTICE SANGEETA K. VISHEN)**

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.

(SANGEETA K. VISHEN,J)

(UTKARSH THAKORBHAI DESAI, J)

SINDHU NAIR