

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL APPEAL (CANCELLATION OF BAIL) NO. 2228 of 2023**

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KAJALBEN JITENDRA RATHOD

Versus

STATE OF GUJARAT & ANR.

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Appearance:

MR MOUSAM R YAGNIK(3689) for the Appellant(s) No. 1

MR M. R. AJMERI(12139) for the Opponent(s)/Respondent(s) No. 2

MR HARDIK SONI, ADDL. PUBLIC PROSECUTOR for the
Opponent(s)/Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE NIKHIL S. KARIEL**Date : 17/08/2026****ORAL ORDER**

1. Heard learned advocate Mr.Mousam Yagnik appearing on behalf of the appellant, learned Additional Public Prosecutor Mr.Hardik Soni appearing on behalf of the respondent - State and learned advocate Mr.M.R.Ajmeri appearing on behalf of the respondent no.2.

2. The present appeal has been preferred by the appellant - original complainant inter alia requesting this Court to recall order dated 08.07.2022 passed by this Court, more particularly, on the ground that the respondent no.2 - original applicant has breached his undertaking whereby the original applicant had undertaken before this Court to withdraw proceedings under Section 9 of the Hindu Marriage Act and to

cooperate with the complainant to pursue the proceedings under Section 13(B) of the Hindu Marriage Act.

3. Learned advocate Mr.Yagnik would draw the attention of this Court to order passed by the learned Family Court, Jetpur dated 17.03.2026 in Family Suit No.29/2025 preferred by both the parties and whereas, it is pointed out that the suit is dismissed for default on account of non-appearance of complainant no.2 - Anilbhai Bhanubhai Sarvaiya i.e. respondent no.2 herein.

4. This Court had also directed learned advocate Mr.Ajmeri to ensure presence of the respondent no.2 - original accused before this Court and whereas, it would appear that learned advocate Mr.Ajmeri also states his helplessness in making sure that respondent no.2 is present in the Court.

5. Considering that the respondent no.2 has continuously breached the orders of this Court and whereas, since it appears that the bail had been granted to the original applicant - respondent no.2 herein based upon the undertaking given by the respondent no.2, to this Court, at the first instance, let aailable warrant be issued to the

present respondent no.2.

6. Hence, the Investigating Authority shall execute a bailable warrant against the respondent no.2 and whereas, the learned Trial Court shall release the accused - respondent no.2 upon the accused furnishing bail bond of Rs.50,000/-.

7. The matter is listed on 24.08.2026, on which date, the original applicant - respondent no.2 is expected to remain present before this Court and whereas, the Investigating Authority shall ensure that necessary actions are taken in that regard.

Bhoomi

(NIKHIL S. KARIEL,J)