

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CRIMINAL APPLICATION (HABEAS CORPUS) NO. 12282 of
2026****KATHAN BHAGIRATH NAYAK
Versus
STATE OF GUJARAT & ORS.**

Appearance:

**MR.ASHISH N PANDYA(9802) for the Applicant(s) No. 1
PUBLIC PROSECUTOR for the Respondent(s) No. 1****CORAM: HONOURABLE MS. JUSTICE SANGEETA K. VISHEN
and
HONOURABLE MR.JUSTICE UTKARSH THAKORBHAI
DESAI****Date : 21/08/2026****ORAL ORDER****(PER : HONOURABLE MS. JUSTICE SANGEETA K. VISHEN)**

1. Mr Anuj Kumar Pandey, learned advocate appearing for Mr Ashish N. Pandya, learned advocate for the petitioner submitted that there are series of litigation filed between the petitioner and the respondent no.4.

2. It is submitted that the petitioner and the respondent no.4 got married in the year 2019 and they are having two daughters, namely, 'Shanvi' and 'Pranvi'. 'Shanvi' was born on 30.09.2020 while, 'Pranvi' was born on 23.12.2024. It is submitted that the respondent wife left the matrimonial house on 06.09.2024. The custody of the younger daughter 'Pranvi' is with the respondent wife; however, the elder daughter 'Shanvi' has remained with the petitioner. It is submitted that the proceedings were initiated before the Family Court, Ahmedabad in the year 2024 seeking custody under the Guardians and Wards Act, 1890. The respondent wife has approached the Hon'ble Apex Court seeking the transfer; however,

the application was rejected and the matter is still pending consideration with the Family Court. It is further submitted that section 9 application seeking restitution of the conjugal rights under the Hindu Marriage Act, 1955 was preferred. Again the respondent wife has approached the Hon'ble Apex Court. The Hon'ble Apex Court has issued the notice; however, owing to the process not being paid, the petitioner is not in receipt of the notice. The Hon'ble Apex Court has granted the stay of the proceedings.

3. It is further submitted that as this was not sufficient, the respondent wife, preferred an application before the learned Judicial Magistrate First Class under the provisions of Protection of Women from Domestic Violence Act, 2005. During the pendency, application under section 21 was filed seeking interim custody which was rejected vide order dated 30.04.2026. Against which, the respondent wife being aggrieved, has preferred an appeal and the learned Additional Sessions Judge, Karad has passed an order by which, the petitioner was directed to hand over the custody of the 'Shanvi' on 23.05.2026 to the respondent wife and the respondent wife, was under an obligation of the judicial order to return the custody on 31.05.2026. Instead of returning the custody, the respondent wife to the surprise of the petitioner, registered First Information Report on 29.05.2026 against the petitioner and his family members. It is submitted that despite there was an order passed by the Court, directing the returning of the custody, the respondent wife has continued with the custody which would definitely be an illegal detention by the respondent wife.

4. Mr Utkarsh Sharma, learned Additional Public Prosecutor to take instructions.

5. List the matter on 25.08.2026.

(SANGEETA K. VISHEN,J)

RAVI P. PATEL

(UTKARSH THAKORBHAI DESAI, J)