IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CRIMINAL APPLICATION (HABEAS CORPUS) NO. 14285 of 2026

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BHARATIBEN KANJUBHAI DODIYA ALIAS REHANABEN TAUHID PATHAN

Versus

STATE OF GUJARAT & ORS.

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Appearance:
MS. PRATIBHA R KUMAVAT(17552) for the Petitioner(s) No. 1
MR. DARSHIL N PRAJAPATI(16427) for the Respondent(s) No. 4,5
MR.KISHAN PRAJAPATI(7074) for the Respondent(s) No. 4,5
NOTICE SERVED for the Respondent(s) No. 2,3
MR MANAN MAHETA, APP for the Respondent(s) No. 1

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CORAM:**HONOURABLE MS. JUSTICE GITA GOPI**
and
HONOURABLE MR.JUSTICE L. S. PIRZADA

Date : 15/10/2026
ORDER
(PER : HONOURABLE MS. JUSTICE GITA GOPI)

1. The petition has been filed by the mother of the corpus, who is aged about 10 years. Learned advocate Ms. Pratibha Kumavat has referred to the notarized document of divorce dated 8.11.2023. According to the deed of divorce, the corpus is the child out of their wedlock. The petitioner has two daughters from her earlier marriage. According to the deed, it had been decided by the parties that the corpus would remain with the present petitioner. Advocate Ms. Kumavat submitted that when the corpus was admitted in the hospital as was suffering from jaundice, the respondent no.5 father visited the hospital and took away the corpus and then the petitioner had called the police. Thereafter, the petitioner has made a representation to the police twice.

2. Respondent no.5 has appeared before this Court along with the corpus and is represented by learned advocate Mr. Darshil Prajapati who seeks permission to file Vakalatnama. If so, the same be taken on record. Respondent no.5 father has submitted that when he visited the hospital, the corpus wanted to join him, so he had taken the corpus along with him.

3. It has been brought to our notice by learned advocate Ms. Kumavat that many criminal cases are filed against respondent no.5. Learned advocate Mr. Darshil Prajapati has submitted that many FIRs are registered against the present petitioner too and that the petitioner has remarried.

4. Countering the arguments, Ms. Kumavat has submitted that the FIR was lodged against her when she was married to respondent no.5. Ms. Kumavat further submitted that since the notice was served for the corpus to remain present, Diu police went against the petitioner and action has been taken.

5. We do not want to enter into the criminal cases filed against both the parties. The petitioner as well as respondent no.5 are the parents of the corpus. As per the notarized deed of divorce executed between the parties, the custody of the corpus was agreed to be handed over to the petitioner and through the divorce deed, respondent no.5 has also voluntarily handed over the custody of the corpus to the petitioner. Though the corpus at present is with the father, his custody would be considered illegal unless the father would

take any order from the Family Court.

6. In the result, we order that the custody of the corpus be given to the petitioner today itself.

7. Rakhi Parmar, step sister of the corpus is present before this Court. As per the learned advocate Ms. Kumavat, the petitioner was held up in a case and from morning was before the Collector and that she has on her way to the Court. During the Court proceedings, we have even talked with the petitioner through WhatsApp call and at that time, she was at Bhavnagar. We are not sure whether the petitioner would be able to attend the Court before the closing hours and since the custody of the corpus is ordered to be given to the petitioner, we direct that in case the petitioner would not be in a position to reach the Court by 05:00 p.m., then, the Court Master to exercise the process of handing over the corpus to the petitioner.

8. Accordingly, the petition stands disposed of.

(GITA GOPI,J)

(L. S. PIRZADA, J)

Maulik

Original copy of this order has been signed by the Hon'ble Judges.
Digitally signed by: MAULIK RAJESH PANDYA(HC00205), PRINCIPAL PRIVATE SECRETARY, at High Court of Gujarat on 15/10/2026 17:13:08