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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CRIMINAL APPLICATION NO. 773 of 2021

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GHASURA RIYAZKHAN JITUBHAI

Versus

STATE OF GUJARAT

=====

Appearance:

MR NK MAJMUDAR(430) for the Applicant(s) No. 1

for the Respondent(s) No. 2,3,4,5,6,7

PUBLIC PROSECUTOR(2) for the Respondent(s) No. 1

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CORAM: HONOURABLE MS. JUSTICE SONIA GOKANI

and

HONOURABLE MS. JUSTICE SANGEETA K. VISHEN

Date : 19/01/2021

ORAL ORDER

(PER : HONOURABLE MS. JUSTICE SONIA GOKANI)

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This is a petition seeking issuance of writ of habeas corpus or any other appropriate writ. The facts are quite glaring and also shocking. We for present, chose not to elaborate any factual matrix to direct the State to produce both Shweta Nisharkhan Ghasura, who is in the police custody from 09.01.2021 and Nisharkhan Ghasura through video conferencing from the District Court, Palanpur. Let it be today at 04:00 p.m.

The Court Master shall make a request to the learned Principal District Judge, Mr.Gohil to present both the persons in his presence through video conference.

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Let the copy of this order be given to the learned Additional Public Prosecutor, Ms.Jirga Jhaveri on immediate basis for her to communicate the same to the concerned police officer.

The Superintendent of Police, Palanpur shall also remain present through the video conference.

(MS SONIA GOKANI, J)

(MS SANGEETA K. VISHEN, J)

M.M.MIRZA



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CORAM:

HONOURABLE MS. JUSTICE SONIA GOKANI

and

HONOURABLE MS. JUSTICE SANGEETA K. VISHEN

Date : 19/01/2021

OPERATIVE ORAL ORDER

(PER : HONOURABLE MS. JUSTICE SONIA GOKANI)

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1. There are various allegations have been made in this petition as well as by way of a separate application made by the brother of Nisarkhan and that also involves some of the parties, who are not before this Court, and therefore, we refrain ourselves from entering into those allegations. However, considering overall facts and circumstances, this is the fittest case to accede to the request of the petitioner and accordingly, we **ISSUE** the following directions:

(i) The order of **REMAND**, Dated: 18.01.2021, passed by the learned Magistrate is **QUASHED** and set aside qua the corpus-Nisarkhan;

(ii) There shall be **IMMEDIATE** release of Ms. Shweta Girishchandra Raval, on her executing personal bond in the sum of Rs.10,000/- before the Court concerned and they shall be at **LIBERTY** to take all legal recourse, including the preferring of a

petition for quashment;

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(iii) Further, Mr. Nisarkhan Jitubhai Ghasura, on his executing personal bond in the sum of Rs.10,000/- with one **SURETY** of the like amount before the Court concerned, shall also be released **FORTHWITH**;

(iv) We **DIRECT** the Range IG concerned to **INQUIRE** into the matter, more particularly, considering the conduct of Respondent Nos. 5 and 6, in whose custody, the couple has been detained for all these days, and report to the DIG;

(v) While conducting such inquiry, the Range IG concerned shall bear in mind that this is the case, where, the undue fervor is shown, on account of this being an inter-religion marriage so also the golden words of the Supreme Court in such matters, where, the issue had come-up, particularly, of honour killing in case of inter-caste / inter-religion marriage in case of '**LATA SINGH VS. STATE OF U.P. & ANOTHER**', (2006) 5 SCC 475 and in case of '**SHAKTI VAHINI VS. UNION OF INDIA & OTHERS**', (2018) 7 SCC 192.

(vi) A request has come on the part of the learned Advocate, Mr. Majmudar, appearing for the petitioner to provide the couple

police protection and we also inquired from the SP, Mr. Duggal, so also the learned PP, Mr. Amin, who have ensured to arrange for the same. Since, Nisarkhan is serving at Surat, and is desirous to go to Surat, SP, Mr. Duggal, and the learned PP, Mr. Amin, has **ENSURED** that they shall **INTIMATE** the Commissioner of Police, Surat, who shall grant the couple protection, initially, for the period of **FOUR WEEKS**, and thereafter, he shall take a call and **SHALL DECIDE**, as to whether the same requires to be continued or not;

(vii) In wake of the fact that the couple is native of Palanpur, as and when they are required to go to Palanpur, at least, one week in **ADVANCE**, they shall make a request to the SP, Palanpur, for providing them police protection, who shall provide them the same;

2. Let a copy of this order be **GIVEN** to the learned APP for her onward communication and due compliance. Rule is made absolute, accordingly.

WEB COPY

(SONIA GOKANI, J)

(SANGEETA K. VISHEN, J)

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