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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/SPECIAL CRIMINAL APPLICATION NO. 881 of 2022

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SANDIPKUMAR MANUBHAI PATEL
Versus
STATE OF GUJARAT

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Appearance:

MS AMITA S SHAH(2691) for the Applicant(s) No. 1
DS AFF.NOT FILED (N) for the Respondent(s) No. 2,3,4,5
MS JIRGA JHAVERI, ADDL. PUBLIC PROSECUTOR for the Respondent(s)
No. 1

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CORAM: HONOURABLE MS. JUSTICE SONIA GOKANI
and
HONOURABLE MRS. JUSTICE MAUNA M. BHATT

Date : 02/02/2022
ORAL ORDER

(PER : HONOURABLE MS. JUSTICE SONIA GOKANI)

1. This is a petition preferred under Article 226 of the Constitution of India where the husband has approached this Court seeking the custody of the corpus from the illegal confinement of the respondent no.4.
2. The prayers sought for are as follows: -

“(A) Your Lordships may be pleased to issue a writ of Habeas Corpus or any other appropriate writ, order or direction directing the respondents No.2 and 3 to produce corpus Pritiben before this Hon'ble Court and further the Hon'ble Court may be pleased to set herself free from illegal confinement of respondent No. 4 and give the custody of Pritiben to the petitioner.

(B) During the pendency and final disposal of this petition Your Lordships may be pleased to direct the respondent authorities to submit action taken report

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and to produce corpus Pritiben before this Hon'ble Court.

(C) Your Lordships may be pleased to grant any other and further relief that may be deemed fit and proper in the interest of justice."

3. This Court on 24.01.2022 while issuing notice passed the following order: -

"1. Ms. Amita Shah, learned advocate represents the petitioner. The petitioner is the husband of corpus named Pritiben. It is the case of the petitioner that the wife is illegally detained by respondent No.4, who is the father of the corpus. It is also contended that the corpus is the legally wedded wife of the petitioner and the certificate, in support of his submissions, is also annexed. A complaint for detaining the corpus is also made before the Himmatnagar police station, District: Banaskantha.

2. Considering the submissions, issue notice returnable on 02.02.2022. Ms. Jirga Jhaveri, learned Additional Public Prosecutor, waives service of notice of rule for and on behalf of the respondent-State.

3. Direct service through concerned police is permitted."

4. Today, the corpus is brought before this Court. She initially resisted while she was at the office of the lawyer engaged by her father, but, later the Court had insisted on her going to the office of Registrar, City Civil and Sessions Court. The second half when we spoke to her, she had shown her willingness after talking to the petitioner and the Registrar Mr. Joshi. She expressed her wish to join the petitioner.

5. We could notice that she was petrified and was more

familiar by the fact that the family of hers was hoping for exchange marriage as her brother is yet to be married. We called her father who was present at the City Court who was more adamant about the unsustainability of this marriage without any basis or foundation. He also confirmed that he is more inclined to ensure that the marriage of her daughter is happen in exchange so that her son also gets married.

5.1. Depletion of sex ratio in the State of Gujarat results into more and more such cases coming up to the Court where on one hand birth of the daughter is not acceptable and on the other hand with depletion of the ratio, the marriages are essentially the exchange marriages which takes place regardless of will, wish, emotion and the age.

6. Noticing the fact that the marriage is performed with the will and wish of the corpus and she was not permitted to leave her parental home because of the extreme pressure of the family and her concern for her brother, while allowing this petition and directing the corpus to join the petitioner, we accede to the request of learned advocate Ms. Amita Shah that the petitioner and the corpus shall need to be given the police protection at least for the period of 8 weeks.

6.1. As the petitioner shall be staying with the corpus at

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Dhanera, Banaskantha, Mr. Duggal, the Superintendent of Police, Banaskantha will ensure providing the police protection without any loss of time which shall, as mentioned, continue initially for a period of 8 weeks and thereafter the SP shall take a call and may continue thereafter.

6.2. As for initial period of 5 to 6 days, the couple is staying at Idar, let the initial police protection shall be provided at Idar, Sabarkantha. Learned APP shall ensure coordinating with the SP, Sabarkantha for necessary protection.

6.3. Presently we have made a request to Mr. Joshi, Registrar, City Civil and Sessions Court to ensure that the couple is left in police-van at Idar.

6.4. The Full Time Secretary, Idar Taluka Legal Services Authority shall also render best of the assistance wherever it is approached by the couple.

7. We have conveyed very firmly to the father of the corpus - respondent no.4 that any attempt to take the law in the hands will be stringently viewed. If anything of that sort is noticed, the police may take appropriate actions.

8. It is hoped and learned advocates on both the sides will ensure that no untoward incident happen merely because two

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adult persons have chosen to marry on their own will and are starting their life together.

9. The present petition is disposed of accordingly.

10. Copy of this order be given to learned APP for onward communication and due execution of the order.

(SONIA GOKANI, J)

(MAUNA M. BHATT, J)

Bhoomi

