

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/SPECIAL CRIMINAL APPLICATION NO. 10785 of 2022**

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**KANJIBHAI TALSHIBHAI MAKWANA**

Versus

**STATE OF GUJARAT**

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Appearance:

MR RAJESH O GIDIYA(5222) for the Applicant(s) No. 1

NOTICE NOT RECD BACK for the Respondent(s) No. 2,3,4

NOTICE UNSERVED for the Respondent(s) No. 5

MS VRUNDA SHAH, APP for the Respondent(s) No. 1

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**CORAM: HONOURABLE MS. JUSTICE VAIBHAVI D. NANAVATI**

and

**HONOURABLE MR. JUSTICE SANDEEP N. BHATT**

**Date : 31/10/2022**

**ORAL ORDER**

**(PER : HONOURABLE MS. JUSTICE VAIBHAVI D. NANAVATI)**

1. Rule. Ms. Vrunda Shah, the learned APP waives service of rule for and on behalf of the respondent No.1 – State.

2. By way of present writ-application under Article 226 of the Constitution of India the writ-applicant who happens to be father of the corpus – Kinjal Kanjibhai Makwana, respondent No.5 herein has prayed for a direction to the respondent authorities to produce the corpus i.e. Kinjal Kanjibhai Makwana, who is minor aged about 14 years and 08 months whose date of birth is 31.12.2007 and who has been illegally taken away and confined by the respondent No.4 and has

further prayed that the custody of corpus – Kinjal Kanjibhai Makwana, respondent No.5 be handed over to the writ-applicant.

3. The matter is taken up for final disposal at the request of learned advocates appearing for the respective parties.

4. Heard Mr. Rajesh Gidiya, the learned advocate appearing for the writ-applicant – father and Ms. Vrunda Shah, the learned APP appearing for the respondent No.1 – State.

5. Earlier notice came to be issued by order dated 11.10.2022. By order dated 19.10.2022 the matter came to be adjourned to 7.12.2022. In the meantime, the learned APP Ms. Vrunda Shah circulated a note that the corpus has been traced and accordingly circulation has been granted today. The corpus – Kinjal Kanjibhai Makwana, respondent No.5 is produced before this Court.

6. We have recorded statement of respondent No.5 - corpus – Kinjal Kanjibhai Makwana, who states that she was forcefully coerced by the respondent No.4 - Mathasuliya Ajitbhai Gagajibhai. Ms. Vrunda Shah, the learned APP states that the respondent No.4 is in custody in view of the FIR registered on 18.9.2022 being C.R.No.I-11210060222194 of

2022 with Varachha Police Station, Dist. Surat for the offence punishable under Section 363 of the Indian Penal Code.

7. The respondent No.5 - corpus – Kinjal Kanjibhai Makwana is ready and willing to go with her parents i.e. father (writ-applicant) – Kanjibhai Talshibhai Makwana and mother – Kailashben K. Makwana, who are present before the Court.

8. In view of above, this writ-application is allowed. The The police authority is ordered to permit the respondent No.5 - corpus – Kinjal Kanjibhai Makwana to go with her parents and the respondent No.5 left the Court room with her parents. Accordingly the rule is made absolute.

**(VAIBHAVI D. NANAVATI,J)**

**(SANDEEP N. BHATT,J)**

K.K. SAIYED