IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CRIMINAL APPLICATION (HABEAS CORPUS) NO. 14283 of 2026

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE ILESH J. VORA

and

HONOURABLE MR. JUSTICE R. T. VACHHANI

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Approved for Reporting	Yes	No

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NIRAV PAWAN CHUGH
Versus
STATE OF GUJARAT & ORS.

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Appearance:
MOKSHAY R VYAS(7453) for the Applicant
MR DARSHAN K BHOJAK(10550) for the Applicant
MR LB DABHI APP for the Respondent No. 1

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CORAM:**HONOURABLE MR. JUSTICE ILESH J. VORA**
and
HONOURABLE MR. JUSTICE R. T. VACHHANI

Date : 08/10/2026

ORAL JUDGMENT
(PER : HONOURABLE MR. JUSTICE ILESH J. VORA)

1. The petitioner Nirav Chugh being a father of corpus – daughter aged about 2 years and 3 months, has invoked the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India, seeking a writ of Habeas Corpus for production and custody of minor daughter presently, residing with respondent no.6 Mansi Nirav Chugh, who is the mother of the child.

2. We have heard learned counsel Mr. M. R. Vyas with Mr. D. K. Bhojak appearing for and on behalf of the petitioner and learned APP Mr. L. B. Dabhi, on advance copy.

3. Brief facts giving rise to file present petition are stated to be as under:

(i) The petitioner married to Mansi Chugh respondent no.6 on 04.09.2016 and out of the said matrimonial relationship, a minor daughter Vedika was born on 10.05.2024 at City Surat.

(ii) It is alleged that the minor daughter aged about 2 years and 3 months is illegally detained by the mother and her parents. In this background, it is alleged that on 28.05.2026, the respondent wife left the matrimonial home and the minor daughter remained with the petitioner till 06.08.2026. That on or about 06.08.2026, the differences arose between the husband and wife with respect to property documents and during the discussions at the home i.e. on 07.08.2026, the minor daughter was removed from the home without the knowledge and consent -expressed or implied by the wife and the entire episode being recorded in the CCTV cameras. The mother of the petitioner took visit the house where the corpus expressed her desire to live with the petitioner and her mother and thereafter, on 10.08.2026, the petitioner father tried to meet and see with the child on mobile, but he was not permitted to see the child. The child was confined within a room by the mother illegally.

(iii) The petitioner the father of the daughter approached the concerned police station on 10.08.2026 and lodged a written complaint with respect to the removal of the minor daughter. The police was non-responsive. The petitioner himself took visit the police station accompanied by an advocate. The petitioner orally informed that no offence is made out because child is with her mother. In that view of the matter, the petitioner addressed a written representation on 11.08.2026, complaining of the conduct of the police and thereafter, on 18.08.2026 to the higher police official of Surat.

(iv) The petitioner husband thereafter served a legal notice upon the wife and her parents for the illegal detention of the daughter, and act of extortion, etc. The notice was replied by the wife and her parents through their advocate on 25.08.2026. In the meanwhile, the petitioner husband has filed a private complaint on 20.08.2026 being Enquiry No.162 of 2026 before the learned Judicial Magistrate First Class, Surat under Section 175(3) of the Bhartiya Nargrik Suraksha Sanhita, 2023 against the wife and her parents, inter alia alleging that the police failed to register the FIR for the act of kidnapping, extortion, attempt to murder, theft, criminal conspiracy, and wrongful confinement, allegedly committed by the wife and her parents, with a further prayer to issue warrant for immediate production of minor daughter before the Court and handover the custody of the daughter to him. Upon receiving the complaint, the Magistrate Court issued notice to the opponent for their reply and hearing. While issuing notice, the Magistrate Court has observed

that "having regard to the facts and circumstances of the present matter, it would not be an appropriate to pass an order for securing the custody of the child as the question of custody of the child is governed by the procedure prescribed under the applicable law and the applicant is at liberty to avail such appropriate remedy before the Competent Forum". The said complaint is pending for its adjudication before the Court of Judicial Magistrate at Surat.

4. In such circumstances, the petitioner father of the minor daughter, by way of the present petition, prays for issuance of writ of Habeas Corpus directing the respondents to produce the minor daughter before the Court as the respondent mother as well as her parents have no right to keep the custody of the minor corpus and he being a natural guardian of the minor, and having regard to the welfare of the child, he may be handed over the custody of her daughter.

5. Mr. Vyas, learned counsel appearing for the petitioner, submitted that the custody of the child was with the petitioner, when the mother had left the matrimonial home and thereafter, without any consent or knowledge of the husband, the corpus being taken away illegally and presently, she is with the wife – mother and grand-maternal parents; thus, since 07.08.2026, the corpus forcibly being taken and detained illegally by the respondents and also refused to access to the child; the complaint filed in the Court at Surat for directing the mother to produce the child before the Court and therefore, the petitioner is constrained to approach before this Court; that the petitioner having all the means to take care of the minor

daughter; he is the practicing chartered accountant, against which, the respondents are not capable of taking proper care of the minor daughter; that the denial of access of daughter to the father prejudices the paternal relationship and the child's welfare and therefore, having regard to the welfare of the child, prima-facie case is made out for issuance of the notice and necessary direction for production of the corpus before this Court.

6. We have considered the submissions made by the learned counsel appearing for the petitioner and carefully perused the material on record.

7. The petitioner seeks issuance of writ of Habeas Corpus for production of his minor daughter aged about 2 years and 3 months and also seeks her custody. Thus, in our opinion, dispute is a custody battle between the parents. It is relevant to note that, the petitioner husband before initiation of the proceedings served a legal notice through Advocate upon the respondent wife and her parents. The legal notice was responded by detailed reply. The petitioner has produced the reply of the notice at Page-99 of this petition. So as to understand the dispute between the husband and wife, the gist of the reply is set out hereunder:

> (1) The wife had denied each and every allegation, averments and contentions made in notice and further alleged that, the same has been false, frivolous, misleading and legally untenable and having been alleged with an ulterior motive to

pressurize and harass.

(2) Without prejudice to the allegation, the contents of para-9 of the notice have been denied and further contended that, the minor daughter has remained with the wife for the purpose of her care, safety and welfare and considering the circumstances prevailing between the parties, the child remained in a safe and proper environment.

(3) That, after the marriage the in-laws caused a mental distress and humiliation to the wife and thereafter, in the year 2021, the wife had started experiencing anxiety related issues and treatment thereof was being taken at the different counseling centers as well as psychiatric doctors of the Surat and thereafter, during January, 2025, the petitioner husband developed a habit of extensively using ChatGPT even for minor and routine manner and would repeatedly engaged with the said platform and gradually husband started forming and fabricating various narratives, which further affected his behaviour and inter-personal relationship with the wife and contributed to the increasing matrimonial discord between the parties. It is specifically alleged that in April, 2025 during the dental treatment with Dr. Pooja Clinic at Surat, the husband developed one sided emotional and romantic attachment towards the doctor and started writing and sending romantic letters to her. In May, 2025, the wife expressed her concern to the husband and his family and requested to refrain from excessive use of ChatGPT. However, behaviour of the husband was not changed and thereafter despite of extensive counseling and medication, the doctor informed that the husband is suffering from Bipolar

> Disorder, Mania and Depression. That on 26.05.2026, the husband was found by the wife viewing pornographic and sexually explicit videos on his mobile, while minor daughter was sleeping beside the wife. Thus, watching such obscene content in the presence of the minor child could have a serious and adverse impact upon her impressionable mind and overall development and while objecting the same, the petitioner husband used abusive language, behaved aggressively and threw household articles at the wife and that too in the presence of the child. This was the reason, compelling the wife to left the house and thereafter, for the sake of daughter and to save the marriage life, she returned to the matrimonial home. The words used by the husband like "mother manipulator" "daughter thief", "mama extortionist", and "father spineless" shows that, this is nothing but the husband's excessive dependence upon ChatGPT.

8. Reverting to the case of the present case, as observed earlier, the dispute as raised here is a custody battle between the parents. It is not in dispute that the minor daughter aged about 2 years and 3 months is presently residing with the respondent No. 6 – mother / wife. However, due to her residence with her parent respondent nos. 4 and 5, it appears that, the petitioner husband has wrongly pleaded that, the custody of the daughter is with grand-maternal parents i.e. respondent nos. 4 and 5.

9. We are conscious about the settled principle of law that in a matter of custody of minor child, the welfare of the child is the paramount consideration and it will override the legal right of either party /

parent.

10. In the facts of the present case, we may profitably refer to and rely the case of **Sarita Sharma Vs. Sushil Sharma, (2000) 3 SCC 14**, wherein, considering the all the aspect relating to the welfare of the children, the Supreme Court while dismissing the writ petition, observed as under:

> "when the minor child is in custody of the mother, such custody cannot be considered unlawful merely because the father seeks custody, and it was not proper for the High Court to have allowed the Habeas Corpus writ application and directed the appellant to handover custody of the children to the respondent and permit him to take them away to USA. What would be in the interest of children requires a full and thorough enquiry and therefore, the High Court should have directed the respondents to initiate appropriate proceedings in which such an enquiry can be held. "

11. Similarly, in the landmark judgment of **Tejaswini Goud Vs. Shekhar Jagdishprasad Tiwari, (2019) 7 SCC 42**, the Supreme Court reiterated that writ of habeas corpus in child custody matter is maintainable only where the custody is unlawful or without authority of law. Even in such cases, the Court must be guided by the paramount consideration of welfare of the child rather than the legal rights of the parties. The Supreme Court further held that, in child custody matters, the ordinary remedy lies only under the Hindu Minority and Guardianship Act, 1956 or the Guardians and Wards Act, 1890. If the court believes

that the matter require a thorough examination of facts, it may choose not to use its extra ordinary jurisdiction and instead instruct the parties to seek relief before competent Civil Court. The relevant paras, 19 and 20 reads as under:

> "19. Habeas corpus proceedings is not to justify or examine the legality of the custody. Habeas corpus proceedings is a medium through which the custody of the child is addressed to the discretion of the court. Habeas corpus is a prerogative writ which is an extraordinary remedy and the writ is issued where in the circumstances of the particular case, ordinary remedy provided by the law is either not available or is ineffective; otherwise a writ will not be issued. In child custody matters, the power of the High Court in granting the writ is qualified only in cases where the detention of a minor by a person who is not entitled to his legal custody. In view of the pronouncement on the issue in question by the Supreme Court and the High Courts, in our view, in child custody matters, the writ of habeas corpus is maintainable where it is proved that the detention of a minor child by a parent or others was illegal and without any authority of law.
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> 20. In child custody matters, the ordinary remedy lies only under the Hindu Minority and Guardianship Act or the Guardians and Wards Act as the case may be. In cases arising out of the proceedings under the Guardians and Wards Act, the jurisdiction of the court is determined by whether the minor ordinarily resides within the area on which the court exercises such jurisdiction. There are significant differences between the enquiry under the Guardians and Wards Act and the exercise of

> powers by a writ court which is of summary in nature. What is important is the welfare of the child. In the writ court, rights are determined only on the basis of affidavits. Where the court is of the view that a detailed enquiry is required, the court may decline to exercise the extraordinary jurisdiction and direct the parties to approach the civil court. It is only in exceptional cases, the rights of the parties to the custody of the minor will be determined in exercise of extraordinary jurisdiction on a petition for habeas corpus."

12. Again, in **Kanika Goel Vs. State of Delhi, (2018) 9 SCC 578**, the Supreme Court held that in petition seeking the writ of Habeas Corpus, the High Court must examine at the threshold whether the minor is in lawful custody of another person (private respondent). Whether the custody is with the mother, the Court may not make any further enquiry or resort to a summary or elaborate enquiry to determine the welfare of the child.

13. Applying the aforesaid principles to the present case, the custody of the minor daughter aged about 2 years and 3 months with the mother – respondent no. 6 cannot termed to be an illegal custody and having regard to the allegations made by the wife, as referred in para-7 of the judgment, we are of the considered opinion that, no case is made out to change the custody of minor daughter and having regard to the nature of dispute between the parties, the issue of custody required thorough enquiry by the competent court as dispute involves detailed disputed facts requiring extensive evidence to be recorded and determined by the competent court.

14. For the aforementioned reasons, in the facts of the present case, we deem it fit not to exercise our extra ordinary jurisdiction. It is open to the parties to avail alternative remedies in accordance with law. In that case, the Court concerned shall decide the application in accordance with law without being influence by the observations made in this order. We further make it clear that, we have not examined or expressed any opinion on the rival claims of the parties regarding permanent or interim custody of the minor child.

15. Accordingly, this application stands dismissed at the admission stage.

(ILESH J. VORA,J)

(R. T. VACHHANI, J)

P.S. JOSHI/DOD/12.10.2026

Original copy of this order has been signed by the Hon'ble Judges.
Digitally signed by: PALLAV SUBHASHCHANDRA JOSHI(HC00177), Principal Pvt. Secretary, at High Court of Gujarat on 12/10/2026 17:05:26