IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CRIMINAL APPLICATION NO. 2916 of 2020

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RABADA (THAKOR) BHARATBHAI NANJIBHAI

Versus

STATE OF GUJARAT

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Appearance:

MR RB THAKOR(6743) for the Applicant(s) No. 1

for the Respondent(s) No. 2

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

MS JIRGA JHAVERI, ADDL. PUBLIC PROSECUTOR(2) for the Respondent(s) No. 1

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CORAM:**HONOURABLE MS. JUSTICE SONIA GOKANI**

and

HONOURABLE MR. JUSTICE N.V.ANJARIA

Date : 16/09/2020

ORAL ORDER

(PER : HONOURABLE MS. JUSTICE SONIA GOKANI)

1. On 02.09.2020 the order passed by this Court deserves reproduction: -

"1. Pursuant to the order passed by this Court on

28.08.2020, which is as under :-

> *"1. This Court, while issuing notice on 20.07.2020, passed the following order:*
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> > *"1. This is a petition under Article 226 of the Constitution of India seeking issuance of the writ of habeas corpus directing the respondent State to produce the daughter of the present applicant, who is allegedly kidnapped by respondent No.3 and her parents.*
> >
> > *2. We have heard learned advocate Mr. R.B. Thakor for the applicant, and also perused the material on the record and the First Information Report lodged on 09.07.2020 before the Santej police station being First Information Report No.1121602520022 for the offence under sections 363, 366 of the Indian Penal Code lodged against respondents No.3 and others. The Corpus is of 17 years of age. 3.Notice returnable on 30.07.2020. Ms. Jirga Jhaveri, learned Additional Public Prosecutor waives service of notice for and on behalf of respondents No.1 and 2. Respondents No.3 and 4 shall be served by respondent No.2."*
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> *2. On 18.08.2020, Dy.S.P. was directed to take-over the investigation and SP was asked to oversee the same. Learned APP, on oral report, indicates that so far the corpus is not found.*
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> *3. Let this matter be posted for hearing on 11TH SEPTEMBER, 2020. On the next date, either the*

corpus shall be produced or the SP, Mehsana, himself, shall REMAIN PRESENT before this Court through video onference."

2. The corpus is brought before this Court today. She has not as yet completed 18 years. She maintained all through out that she is not ready to join her parents. The boy with whom she was found also has not completed 21 years of age. She is also not desirous of continuing her formal education. However, she appears to be interested in vocational training, more particularly, in learning to prepare different cuisines or enrolling herself in on-line classes.

3. This Court has heard learned advocate Ms.Thakore appearing for the petitioner, who also attempted to send a link to the parents, who could join and their persuasion has not worked so far. Ld.Adv. Mr. Thakore has made a request that, if she is being sent to the women protection home, the same be at a place, closure to her residence so that parents may have a chance to meet her. Learned Additional Public Prosecutor Ms. Jhaveri, on instructions, submits that Palanpur District does have a Women Protection Home and earlier in relation to other matters, girls have been sent there.

4. Noticing the young age of the corpus, and also her strong resistance to join parent, who also join through the video conference and tried to persuade her, we deem it appropriate to send her to Women Protection Home, Gandhinagar for carrying out her medical examination, including her Covid-19 virus so also recording her version under Section 164 of the CR.P.C

5. She will be sent to the Women Protection Home after

her RT-PCR test and in the event of she testing positive, she shall be kept at the Civil Hospital, Gandhinagar. Under no circumstances, her custody shall remain at police station. Let a good care be taken and for her vocational training in the area of her interest, she may be permitted to join on-line classes and she may be permitted to pursue the same if they are arranged at women protection home. If the parents are desirous of seeing her, with her wish, she can be permitted to meet them for better cordial terms. She shall be produced before this Court after two weeks.

6. S.O. to 16.09.2020."

2. Today the corpus has been brought before this Court. She has, on her own willingness, joined the parents after she was housed at the Women Protection Home. She appears to be happy with the parents and the parents when presented through video conference arranged from the Court at Kalol in presence of learned Additional District Judge Mr. Poojara have ensured not to get her married before she turns major. Let the undertaking of both the parents in that regard be filed before the Registry within two weeks.

3. The Welfare Officer from the Women and Child Welfare Department shall visit the residence of the corpus for a period of nine months every six weeks. The officer shall also counsel

the parents and also persuade them for either formal education of the corpus or the vocational training.

4. Corpus having joined the parents and the parents further ensued to file the undertaking before this Court, by placing our appreciation for the assistance rendered by learned Judge who made the arrangement for production of corpus from Kalol, the matter is being disposed of.

5. If the undertaking is not furnished as stipulated, the Registry shall bring the said fact to the notice of this Court.

6. This petition is disposed of with the above directions.

(SONIA GOKANI, J)

(N.V.ANJARIA, J)

MISHRA AMIT V./Bhoomi