2026:AHC:97728-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

HABEAS CORPUS WRIT PETITION No. - 496 of 2026

Monu Gupta

.....Petitioner(s)

Versus

State Of U.P. And 2 Others

.....Respondent(s)

Counsel for Petitioner(s) : Anshul Kumar Gupta, Indra Jit Singh, Sr. Advocate

Counsel for Respondent(s) : G.A.

Court No. - 44

HON'BLE SIDDHARTH, J.
HON'BLE VINAI KUMAR DWIVEDI, J.

1. Heard Sri Anshul Kumar Gupta, counsel for the petitioner and learned A.G.A for State-respondents and perused the material on record.

2. The present habeas corpus writ petition has been filed by learned counsel for the petitioner seeking the following reliefs:-

> *"i. Issue a writ order or direction in the nature of Habeas Corpus directing the respondents to produce as well as to release the corpus/petitioner from their illegal custody, in declaring the arrest, detention and remand of the detenu/petitioner being illegal, null and void in not following the order and direction of the Hon'ble Supreme Court in the case of* ***Mihir Rajesh Vs. State of Maharashtra and another*** *forthwith.*
>
> *ii. Issue any writ, order or direction in the nature of certiorari to quash the Remand order dated 30.03.2026 passed by Additional Chief Judicial Magistrate-5, Prayagraj in Case Crime No. 46 of 2026, P.S.- Cyber Crime, District- Prayagraj so far it relates to the detenu/petitioner i.e., Annexure-2 to the Habeas Corpus petition.*
>
> *iii. Issue a writ, order or direction in the nature of mandamus to initiate departmental enquiry upon the action of errant police officials of respondent no. 1 and respondent no. 2.*
>
> *iv. To award the cost of the petition."*

3. Learned counsel for the petitioner has submitted that on 28.03.2026, petitioner, namely, Monu Gupta (corpus) and Satyendra Kumar Baranwal and other co-accused were illegally arrested. The respondent failed to

comply with the mandatory constitutional requirement of furnishing the grounds of arrest to the petitioner in writing, which is evident from the arrest memo itself. The petitioner was neither supplied written grounds of arrest at the time of arrest nor prior to his production before the learned Remand Magistrate, thereby vitiating the arrest and subsequent remand. The Apex Court recently in ***Mihir Rajesh v. State of Maharashtra & Anr., 2025 SCC OnLine SC 2356*** has categorically held that communication of grounds of arrest in writing is mandatory in all offences and that non-compliance renders the arrest and remand illegal. He has also relied upon the judgement and order passed by this Court in the case of ***Umang Rastogi and Another Vs. State of U.P. and three others, passed in Habeas Corpus Writ Petition No.35 of 2026***. Finally it has been pointed out that remand order dated 30.03.2026 has been passed by learned Magistrate on printed proforma.

4. Learned A.G.A for State-respondents has opposed the submissions made by learned counsel for the petitioner, but could not dispute the aforesaid facts.

5. After considering the above arguments and judgement relied by the learned counsel for the petitioner, we are of the view that the arrest of petitioner and the remand order passed by the Magistrate dated 30.03.2026 are illegal. This Apex Court in ***Gautam Navlakha Vs. National Investigation Agency And Anr. (2022) 13 SCC 542*** has held that a writ of habeas corpus is maintainable where the remand is absolutely illegal or passed mechanically.

6. The aforesaid remand order dated 30.3.2026 are hereby quashed.

7. The above noted habeas corpus writ petition is allowed.

8. Petitioner is directed to be released from custody forthwith without waiting for supply of the certified copy of this order by the C.J.M., Prayagraj.

9. Office is directed to issue certified copy of this order to the petitioner on payment of usual charges.

10. The Remand Magistrate is directed be cautious in future while passing remand orders.

11. The Registrar (Compliance) of this Court is directed to communicate this

order to the District Judge, Prayagraj, within 48 hours.

12. It is open for the respondent to proceed against the petitioner afresh in accordance with law.

April 30, 2026
Rohit

(Vinai Kumar Dwivedi,J.) (Siddharth,J.)

Digitally signed by :-
ROHIT DAS
High Court of Judicature at Allahabad