



2026:AHC-LKO:40173-DB

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

HABEAS CORPUS WRIT PETITION No. - 187 of 2026

Shabbir (Detune) Thru. His Wife Khairunnisha

.....Petitioner(s)

Versus

State Of U.P. Thru. Prin. Secy. (Home) Lko. And 4
Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Iqbal Ahmad
Counsel for Respondent(s)	:	G.A.

Court No. - 9

**HON'BLE RAJESH SINGH CHAUHAN, J.
HON'BLE DIVESH CHANDRA SAMANT, J.**

1. Heard Mohd. Asif Iqbal, learned counsel for the petitioner, who appeared virtually allegedly from Supreme Court Bar Council, New Delhi and Sri Aniruddh Kumar Singh, learned AGA for the State- opposite parties no.1 to 4.

2. In view of the proposed order, notice to opposite party no.5 is hereby dispensed with.

3. By means of this petition, the petitioner has prayed the following main reliefs:-

"i. Issue a writ, order or direction in the nature of Habeas Corpus directing the release and allow the present petition while declaring the arrest of the petitioner/detainee and his consequential custody and detention as illegal, arbitrary, unconstitutional and ab initio void

ii. Issue a writ/order direction/ Declaring the remand order dated 11.02.2026, (And consequential remand order) passed in a mechanical manner on a printed proforma without judicial application of mind, as illegal and contrary to the law laid down by the Supreme Court of India in Arnesh Kumar v. State of Bihar."

4. At the very outset, learned AGA has provided copy of instructions letter dated 11.02.2026 preferred by Sub Inspector, Police Station- Sadulla Nagar, District- Balrampur intimating the ground of arrest of the

accused, which has been received by him alongwith arrest memo wherein the complete details and reasons of arrest have been indicated. The aforesaid documents/ reasons of arrest as well as arrest memo have not been provided to the accused/ detenue, but to his relative, the same is taken on record.

5. Assailing the aforesaid order, learned counsel for the petitioner has stated that the petitioner has not been provided the ground of arrest but the aforesaid contention is misconceived in view of the aforesaid material provided by the learned AGA.

6. The second ground of challenge is that the remand order has been issued on the printed proforma, whereas it should be issued by the independent judicial application of mind. Notably, in the remand order, the detail of the accused, case crime number, sections of BNS and police station have been written and the next date of remand i.e. 23.02.2026 has been written. So far as the typed proforma is concerned, it only says that in the aforesaid case crime number, the remand of 14 days is granted. Annexure No.2 is an FIR dated 04.02.2026 bearing Case Crime No.0007 of 2026, under Section 74 of BNS and Sections 7/8 of POCSO Act, Police Station- Saidulla Nagar, District- Balrampur wherein the petitioner/ detenue is the sole accused. In the aforesaid FIR, specific allegation of committing the offence has been levelled against the present petitioner. Pursuant to the aforesaid FIR, the petitioner has been arrested on 11.02.2026 at 07:45 A.M. providing him the copy of arrest memo and ground of arrest. In the light of aforesaid facts and circumstances, the remand order may not be treated as illegal inasmuch as all the details of the accused and the case have been written with the signature of the Magistrate and only this much has been indicated that the accused-petitioner is sent for judicial custody for 14 days remand.

7. We have noticed one fact that during investigation, on the basis of material and evidence as well as the statements of the prosecutrix recorded under Sections 180 & 183 BNSS, the allegation relating to rape with a minor girl has been, *prima facie*, established, therefore, charge sheet has been prepared under Section 64(1) of BNS also.

8. Besides, this is a writ petition of habeas corpus and law is trite on the point that the writ of habeas corpus is maintainable only against illegal detention, but in the present case, considering the material available on record and the instructions letter so provided by the learned AGA, arrest of the present petitioner may not be treated as illegal, more particularly, at least detention of the present petitioner is not an illegal detention.

9. Therefore, the writ of habeas corpus is not maintainable. Accordingly, this writ petition is **dismissed**.

10. However, it is always open for the petitioner to avail appropriate remedy before the appropriate court of law.

(Divesh Chandra Samant,J.) (Rajesh Singh Chauhan,J.)

June 4, 2026

RBS/-