



2026:AHC:61606-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

HABEAS CORPUS WRIT PETITION No. - 264 of 2026

Saleem And Another

.....Petitioner(s)

Versus

State Of U.P. And 5 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Rahul Gaur
Counsel for Respondent(s)	:	G.A.

Court No. - 44

HON'BLE SIDDHARTH, J.

HON'BLE VINAI KUMAR DWIVEDI, J.

1.Counter affidavit filed by learned A.G.A. is taken on record.

2.Heard Shri Rahul Gaur, learned counsel for the petitioners, learned A.G.A. and perused the record.

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

i. Issue a writ order or direction in the nature of Habeas Corpus directing the respondents herein to produce and release the corpus/petitioner No. 1 from their illegal custody, while declaring the arrest , detention and remand of the petitioner no.1 as illegal, null & void for not following the directions of the Hon'ble Supreme Court in Mihir Rajesh Vs. State of Maharastra & another.

ii. Issue a writ, order or direction in the nature of certiorari quashing the impugned remand order dated

26.07.2025 passed by C.J.M. Meerut in Case Crime No.225 of 2025, under Sections 8C/20/B(ii) C/29 of N.D.P.S. Act. 1985 and sections 111, 317(2), 345(3),338, 336(3), 340(2), 3(5) B.N.S.2023 Police Station-Daueala, District Meerut.

iii. Issue a writ, order or direction in the nature of mandamus to initiate departmental enquiry upon the errant police officials of respondent no. 1.

iv. Issue any other writ, order or direction, which this Hon'ble Court may deems fit and proper under the facts and circumstances of the present case, otherwise the petitioners shall suffer irreparable loss and injury.

V. Award the cost to the petitioners.

4. Learned counsel for the petitioners has submitted that on 26.07.2025, petitioner no.1 was illegally arrested. The respondent No. 4 has failed to comply with the mandatory constitutional requirement of furnishing the grounds of arrest to the petitioner no.1 in writing, which is evident from the arrest memo(brought on record as annexure C.A.-1 by learned A.G.A.) itself. The petitioner no.1 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 its 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 26.7.2025 has been passed by learned Magistrate on printed proforma.

5. Learned AGA for State-respondents has opposed the submissions made by learned counsel for the petitioners, but could not dispute the aforesaid facts. Petitioner no.1 has criminal history of 15 cases to his credit, which have been explained in paragraph-46 of the petition.

6. After considering the above arguments and judgement relied by the learned counsel for the petitioners, we are of the view that the arrest of petitioner no.1 and the remand order passed by the Magistrate dated 26.7.2025 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 order is absolutely illegal or passed mechanically.

7. The aforesaid remand order and arrest memo dated 26.7.2025 are hereby quashed.

8. The above noted habeas corpus writ petition is

allowed.

9. Petitioner no.1 is directed to be released from custody forthwith without waiting for supply of the certified copy of this order.

10. Office is directed to issue certified copy of this order to the petitioner no.1 on payment of usual charges, by tomorrow.

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

12. It is open for the respondents to proceed against the petitioner no.1 afresh in accordance with law.

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

March 25, 2026

Atul kr. sri.