



2026:AHC:63261-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

HABEAS CORPUS WRIT PETITION No. - 294 of 2026

Rajesh Kumar

.....Petitioner(s)

Versus

State Of U.P. And 4 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Imtiaz Husain
Counsel for Respondent(s)	:	G.A.

Court No. - 44

HON'BLE SIDDHARTH, J.

HON'BLE VINAI KUMAR DWIVEDI, J.

1. Heard learned counsel for the petitioner; learned AGA 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. to issue a writ, order or direction, in the nature of Habeas Corpus directing the respondents herein to produce and release the corpus/petitioner from their illegal detention, while declaring the detention, arrest and subsequent remand and custody of the petitioner as unconstitutional, illegal and arbitrary and consequently directing that the Petitioner be released forthwith;

II. to issue a writ, order or direction in the nature of certiorari setting aside the order dated 13.03.2026 passed by the learned Judicial Magistrate, Thakurdwara, Moradabad in Case Crime No. 512 of 2025 under Sections 318(4), 352, 351(3), 338, 336(3) and 340(2) B.N.S. 2023, Police Station Bhojpur, District Moradabad and all consequential proceedings thereof.

III. to issue a writ, order or direction in the nature of Mandamus directing the appropriate authority to initiate departmental proceedings against Respondent No. 5 for failure to disclose the "grounds of arrest" in Clause 13 of the arrest memo, which is contrary to the mandate of law

laid down by this Hon'ble Court in Habeas Corpus Writ Petition No. 35 of 2026 (Umang Rastogi and Another vs. State of U.P. and 3 Others).

IV. to issue any other and further writ, order, or direction, which this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case.

V. To allow the instant petition with costs.

3. Learned counsel for the petitioners has submitted that petitioner was illegally arrested. The respondent No.5 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, thereby vitiating his 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 13.3.2026 has been passed by learned Magistrate on printed proforma.

4. Learned AGA 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 13.3.2026 are illegal. This Apex Court in ***Gautam Navlakha Vs. National Investigation Agency, (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 13.3.2026 is 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.

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

10. The Remand Magistrate is directed be cautious in future while passing remand order keeping in view the direction issued by this Court in ***Habeas Corpus Writ Petition No.209 of 2026, Mohd Harun And Another Vs. State of U.P. and 5 others.***

11. It is open for the respondents to proceed against the petitioner afresh in accordance with law.

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

March 26, 2026

Ruchi Agrahari