



2026:AHC:62976-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD
HABEAS CORPUS WRIT PETITION No. - 295 of 2026

Ai Humaid And Another

.....Petitioner(s)

Versus

State Of U.P. And 2 Others

.....Respondent(s)

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

Court No. - 44

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

Heard Shri Zia Uddin Ahmad learned counsel for the petitioners , learned A.G.A. for the State and perused the record.

The petitioners have approached this court praying for 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 and void for not following the directions of the Hon'ble Supreme Court in Mihir Rajesh vs. State of Maharashtra and Another as well as Umang Rastogi and another vs. State of U.P. and others.

(ii) Issue a writ, order or direction in the nature of certiorari quashing the remand order dated 31.12.2025 and subsequent remand orders passed by learned Additional Chief Judicial Magistrate, Court No.7, Kanpur Nagar."

Learned counsel for the petitioners has submitted that bare perusal of the arrest memo of the petitioners shows that it is in violation of the judgement of this court in the case of **Umang Rastogi and another Vs. State of U.P. and others in Habeas Corpus Writ Petition No.35 of 2026** and also the judgement of Apex Court in the case of **Satendra Kumar Antil Vs. C.B.I. & Another, passed in S.L.P.(Crl.) No. 5191 of 2021**, since the petitioners have been arrested allegedly for committing offences punishable upto or below seven years.

Learned A.G.A. appearing on behalf of the State has not replied to the arguments made by the learned counsel for the petitioners but has pointed

out to the findings recorded by the bail court and has submitted that since bail application was filed by the petitioners, which has been rejected, it is not open for the petitioners to file above noted petition.

Further submissions made by the learned A.G.A. appearing for the State is that in the arrest memo there is very little space for providing information required under Clause-13 of the arrest memo, therefore, all the details required to be given in Clause-13 in the arrest memo was not filled.

After hearing the rival contentions, we find that arrest of the petitioner is clearly in violation of the mandate of this court in **Umang Rastogi and another** (Supra) and the judgement of the Apex Court in the case of **Satendra Kumar Antil** (Supra) and also the judgement of Apex Court in the case of **Arnesh Kumar v. State of Bihar, (2014) 8 SCC 2756**.

The arguments of learned counsel for the State that since petitioners have applied for bail and has failed to get any relief, it is not open for them to file Habeas Corpus Petition is clearly a misconceived. Where the right to life and liberty is infringed in violation of law, arrest and remand of an accused becomes illegal in view of the judgement passed by the Apex Court in the case of **Mihir Rajesh Shah Vs. State of Maharashtra (2025) SCC Online SC, 2531**, hence the habeas corpus petition become maintainable.

The argument of the learned counsel for the State that there is not sufficient space in the memo of arrest for giving details is misconceived. Clause 13 of the arrest memo can be filled by enlarging space in its form or by annexing the documents and information required in sub-clauses of clause 13 on separate sheets attach as annexures to grounds of arrest.

Therefore, we are of the view that arrest, detention and remand order dated 31.12.2025 of the petitioners and subsequent remand orders passed by the Magistrate concerned are absolutely illegal and deserve to be quashed.

The writ petition is **allowed**.

Learned A.G.A. is directed to inform the respondents to release the petitioners from the custody forthwith without waiting for supply of certified copy of this order.

However, it is open for the respondents to proceed against the petitioners again in accordance with law.

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

March 26, 2026
NSC

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