



2026:AHC-LKO:21477-DB

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

HABEAS CORPUS WRIT PETITION No. - 74 of 2026

Ritesh Maurya @ Pankaj Thru. Her Wife Smt.
Deepika Mourya

.....Petitioner(s)

Versus

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

.....Respondent(s)

Counsel for Petitioner(s)	: Asheesh Kumar Tiwari, Anjani Kumar Shukla
Counsel for Respondent(s)	: G.A.

Court No. - 11

HON'BLE ABDUL MOIN, J.

HON'BLE PRAMOD KUMAR SRIVASTAVA, J.

1. At the outset, learned counsel for the petitioner prays for and is permitted to delete Respondent number 5 to 10 during the course of the day.
2. Heard Sri Ashish Kumar Tiwari, learned counsel for the petitioner and learned AGA appearing for respondent number 1, 2, 3 and 4.
3. With the consent of parties, the matter is being decided finally.
4. By means of the instant petition, the petitioner has prayed for the following reliefs:-

*(i) Issue a writ order or direction in the nature of Habeas Corpus directing the respondents to produce and release the corpus / petitioner from their illegal custody, while declaring the arrest, detention and remand of the petitioner as illegal, null and void for not following the directions of the Hon'ble Supreme Court issued in the case of **Mihir Rajesh Shah vs State of Maharastra and another, 2026(1) SCC 500.***

(ii.) Issue a writ, order or direction in the nature of certiorari quashing the remand order dated 10.02.2026 passed by Judicial Magistrate/ Additional Civil Judge (J.D.) Court No.28, Pratapgarh contained as annexure no.6 to this writ petition.

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

(iv.) Issue any other writ, order or direction, which this Hon'ble Court deems fit and proper in the facts and circumstances of the present case.

(v) allow the writ petition with cost in favour of the petitioner.

5. Learned AGA has produced the original case diary which has been

perused by the court.

6. The controversy involved in the petition revolves in a very narrow compass.

7. The contention of learned counsel for the petitioner is that the petitioner has been arrested on 09-02-2026 and the learned Judicial Magistrate has passed a remand order dated 10-02-2026, a copy of which is annexed as Annexure-6 to the petition. The arrest has been occasioned without complying with the mandatory provisions of the judgement of the Hon'ble Supreme Court in the case of **Mihir Rajesh Shah vs State of Maharashtra 2026 (1) SCC 500** and consequently, the arrest and the subsequent remand as granted by the learned Magistrate are vitiated in the eyes of law.

8. In this regard, reliance has been placed by the learned counsel for the petitioner on the judgement of this Court passed in the case of **Shivam Chaurasia vs State of UP and others 2026 AHCLKO 10501 DB**.

9. On the other hand, learned AGA states that a perusal of the arrest memo, a copy of which has been filed in Annexure 3 to the petition, would indicate that the column pertaining to the grounds of arrest (Column 13) is blank and a very cryptic sentence has been indicated so far as it pertains to the reasons for arrest in Column 12.

10. The court has perused the arrest memo per which it also emerges that the column pertaining to the grounds of arrest is blank while a cryptic sentence has been indicated against the reasons for arrest, namely, 'Loot ki ghatna mein sanliptata (aapradhik shadyantra karte huye loot karai gayi)'.

11. In this regard, it would be apt to refer to the judgment of this court in the case of **Shivam Chaurasia (supra)** wherein this Court after considering the law laid down by Hon'ble Supreme Court in the case of **Mihir Rajesh Shah (supra)**, has held as under:-

"20. From a perusal of the judgment of the Apex Court in the case of Mihir Rajesh Shah (supra) it clearly emerges that the Apex Court has categorically held, after considering Article 22 (1) of the Constitution of India, that no person who is arrested shall be detained in custody without being informed of the grounds of such arrest meaning thereby that it casts a mandatory and unexceptional duty on the State to provide the arrested person with the grounds of such arrest. Supply of grounds of arrest have also been held to be grounded in fundamental right of life and personal liberty under Article 21 of the Constitution of India and that requirement of informing the arrested person the grounds of arrest is not a mere formality but a mandatory binding constitutional safeguard which has been included in Part III of the Constitution under the head of "Fundamental Rights".

21. The Apex Court has further held that the grounds of arrest must be furnished in writing in order to attend the true intended purpose of

Article 22 (1) of the Constitution of India and have also held that supply of grounds of arrest is the Constitutional mandate. Thereafter, the Apex Court has held that if the grounds of arrest are not furnished to the arrestee in writing, the non compliance will result in breach of constitutional and statutory safeguards rendering the arrest and remand illegal and the person will be entitled to be set at liberty. The aforesaid procedure has been directed to govern all arrest henceforth i.e with effect from the date of the judgment of the Apex Court which is dated 06.11.2025."

12. From perusal of the aforesaid judgment and the observations made by this court, it emerges that the Apex Court has categorically held after considering Article 22 (1) of the Constitution of India that no person who is arrested shall be detained in custody without being informed of the grounds of such arrest meaning thereby that it casts a mandatory and unexceptionable duty on the State to provide the arrested person the grounds of such arrest. Supply of grounds of arrest have also been held to be grounded in the fundamental right of life and personal liberty under Article 21 of the Constitution of India and that requirement in informing the arrested person the grounds of arrest is not a mere formality but a mandatory binding constitutional safeguard which has been included in Part III of the Constitution under the head of 'Fundamental Rights'.

13. The Hon'ble Supreme Court has further held that if the grounds of arrest are not furnished to the arrestee in writing, the non-compliance will result in breach of constitutional and statutory safeguard rendering the arrest and remand illegal and the person will be entitled to be set at liberty.

14. Thus, even though the remand has been granted by the learned Magistrate vide the order impugned dated 10-02-2026, the same being consequential to the arrest of the petitioner dated 09-02-2026, is also liable to be set aside, keeping in view the law laid down by the Hon'ble Supreme Court in the case of **Mihir Rajesh Shah (supra)** as well as the judgment of the Hon'ble Supreme Court in the case of **Gautam Navlakha vs. National Investigation Agency- 2022(13) SCC 542**.

15. As already discussed above, the arrest memo pertaining to grounds of arrest is blank while the reasons for arrest record a cryptic sentence which would clearly run against the settled proposition of law as laid down by Hon'ble Supreme Court in the case of **Mihir Rajesh Shah (supra)** and this Court in the case of **Shivam Chaurasia (supra)** which would thus vitiate the arrest as well as the remand order.

16. Further, as the original records have been produced by the respondents consequently there would not be any occasion for calling for a counter-affidavit keeping in view the law laid down by the Hon'ble Supreme Court in the case of **Union of India and others vs. Shiv Raj and others- 2014(6)**

SCC 564, wherein the Hon'ble Supreme Court has held as under:-

"In a case where on the basis of submissions advanced in the court on behalf of the parties the court summons the original record to find out the truth, pleadings remain insignificant."

17. Keeping in view the aforesaid discussion, the writ petition is **allowed**. A writ in the nature of habeas corpus is issued, declaring the arrest of the petitioner as illegal. The remand order dated 10-02-2026, being consequential to illegal arrest, is also set aside.

18. The petitioner be set free provided he is not wanted in any other case.

19. However, it would be open for the respondents to proceed in accordance with law. The records i.e. the case diary nos. CD-1 to CD-15 have been perused and returned back to the learned AGA.

March 25, 2026

A. Katiyar

(Pramod Kumar Srivastava,J.) (Abdul Moin,J.)