



2026:AHC:128686-DB

Reserved On :- 18.06.2026

Delivered On :- 23.06.2026

**HIGH COURT OF JUDICATURE AT ALLAHABAD
HABEAS CORPUS WRIT PETITION No. - 753 of 2026**

Nitin Rajesh

.....Petitioner(s)

Versus

Central Goods And Service Tax Commissioner

.....Respondent(s)

Counsel for Petitioner(s)	: Mohit Singh, Subir Lal, Sr. Advocate
Counsel for Respondent(s)	: Dhananjay Awasthi

In Chamber

HON'BLE SIDDHARTH, J.

HON'BLE VIVEK SARAN, J.

(Delivered By Hon'ble Siddharth, J.)

1. Heard Sri Mohit Singh, learned counsel for the petitioner; Sri Nithish Kumar Srivastava, Advocate holding brief of Sri Dhananjay Awasthi, learned counsel for the respondent and perused the material on record.

2. The writ petition has been filed praying for following reliefs :-

"(i) Issue an appropriate writ, order or direction in the nature of Habeas Corpus directing the Respondent to produce the corpus/ petitioner before this Hon'ble Court and declare the arrest, detention, remand and continued custody of the petitioner in Case No.1490-A/ 2026, under Sections- 19 (1) (b) & 19 (1) (1)) of Central Excise Act, 1944, Commissionerate Meerut, as illegal, arbitrary, unconstitutional and violative of Article 21 and 22 of the Constitution of India and consequently direct the release of the petitioner.

(ii) Issue an appropriate writ, order or direction in the nature of Certiorari quashing the impugned Remand Order dated 14.05.2026 (Annexure No.5) passed by the Remand Magistrate / Special C.J.M. Meerut, in Case No.1490-A/ 2026, under Sections- 19 (1) (b) & 19 (1) (i) of Central Excise Act, 1944, Commissionerate Meerut.

(iii) Issue and appropriate writ, order or direction in the nature of mandamus to directing the respondent to forthwith release the petitioner

and not give effect to any consequential proceedings arising out of the illegal arrest, detention and remand;

(iv) Issue and appropriate writ, order or direction which this Hon'ble Court may deem fit and proper under the facts and circumstances of the present case;

(v) To award the cost of the writ petition to the petitioner."

3. Learned counsel for the petitioner submits that the petitioner was arrested without following the Government Circulars regarding mentioning of DIN and compliance of the provisions relating to arrest as contained in Section 35 of BNSS, 2023. The petitioner specifically pleaded relating to ante-timed mentioning of DIN on the document generated by the Department, thereby revealing a case of illegal and malicious prosecution of the petitioner.

4. Shockingly while the petitioner was in jail in connection with the aforesaid offence, the officials of respondent department, on the same set of facts and allegations proceeded to arrest the petitioner in connection with the present case i.e. Case No.1490A/ 2026, under Sections 19 (1) (b) & 19 (1) (i) of Central Excise Act, 1944, that too without conducting any search and seizure under the relevant provisions of Central Excise Act, 1944.

5. The brief profile of the petitioner was generated, without mentioning any DIN for his alleged prosecution under the Central Excise Act, 1944, that too without mentioning the factum of his prior arrest on 24.04.2026.

6. The officials of the Respondent Department initiated the proceedings under the pretext that free movement of the petitioner may adversely affect the investigation of the case, in as much as, he may tamper with the evidence or induce, threat or promise to any person acquainted with the facts of the case, so as to prevent him from disclosing such facts to the Investigating Official and that his arrest was deemed necessary for fair investigation of the case under the Central Excise Act, 1944.

7. Alleged approval dated 11.05.2026 does not mention any DIN, nor does it take note of the prior arrest of the petitioner way back on 25.4.2026. The entire reasons for according the approval of the arrest of the petitioner are clearly illusionary, arbitrary and illegal, in as much as, the petitioner was

already in jail and as such there was no occasion for him to either tamper with the evidences or influence the witnesses, nor was he in a position to create any obstacle in the proper investigation of the case. Thus, the entire proceedings are vitiated in the eyes of law. Surprisingly despite the aforesaid approval dated 11.5.2026 mentioning about the strict compliance of the guidelines issued by the Board on 23.12.2019 & 17.8.2022 there is no mention of any DIN in the said communication, thereby making the same to be non-est in the eyes of law, as own binding circular of the department have not been followed, making the arrest to be illegal in the eyes of law. Shockingly the entire grounds of arrest are palpably illegal, as it relied upon the material collected in the earlier case, for which the petitioner is sought to be prosecuted in case no.1490/ 2026 under the Health Security Se National Security Cess Act, 2025 and is already languishing in jail since 25.4.2026

8. The grounds disclosed is that there exist reasonable apprehension that the petitioner may tamper with the evidence, influence witnesses, or impede further investigation, if not taken into custody. The said grounds are apparently illusionary and arbitrary, as the petitioner who is already languishing in jail is not in a position to either tamper with the evidences or influence the witnesses or to hamper further investigation. Thus, the entire exercise is clearly an eye wash actuated to somehow make the petitioner languish behind the bars. Even the reasons to believe contained in the said document are evasive and illusionary, being based upon absolutely false and incorrect facts. No proceeding u/s 12 (f) of Central Excise Act, 1944, relating to Search and Seizure has been initiated, nor there is any justifiable reason for seeking remand of the petitioner at such a belated stage without mentioning any urgency there for. Once none of the provisions of Central Excise Act, 1944, have been taken recourse of at the time of alleged search, seizure and preparation of Panchname, then the subsequent arrest of the petitioner for violation of the provisions of Central Excise Act, 1944, is per-se illegal and bad in the eyes of law.

9. The power to arrest as conferred u/s 13 has been mechanically and arbitrarily taken recourse to, thereby vitiating the arrest of the petitioner. There is no seal or signature of the Principal Commissioner of Central Excise or the Commissioner, Central Excise either on the Grounds of Arrest or on the reasons to believe, thereby making the same to be unauthenticated

and unsigned document rendering the arrest of the petitioner to be illegal. No witnesses have been mentioned in the document alleged to have been served upon the petitioner i.e., 'grounds of arrest' or 'reasons to believe' nor the brief profile of the petitioner generated by the respondent department describes any supporting document as an Annexure, nor any arrest memo was drawn.

10. The officials of respondent department have all through misrepresented concealing the factum of prior arrest of the petitioner way back on 25.04.2026. There is no consideration of the said aspect of the matter in either of the reasons to believe or the alleged approval by the Commissioner or the grounds of arrest, thereby vitiating the arrest proceedings of the petitioner. The remand order is absolutely illegal and mechanical on the face of it, as there was no occasion for the Remand Magistrate to grant the remand of the petitioner, once the reasons for seeking remand were palpably false and incorrect on the face of it. The Remand Magistrate committed illegality apparent on the face of record in ignoring the fact that neither any search or seizure proceedings were conducted under the Central Excise Act, 1944, nor the approval of the Commissioner or Grounds of Arrest or Reasons to Believe take notice of the fact that the petitioner is already in jail and that he in no manner could have interfered with the investigation or tamper with the witnesses / evidences. The petitioner has been merely made the sign upon the documents while he was being produced before the Court/Remand Magistrate without even making him aware of the actual 'grounds of arrest' of 'reasons to believe' recorded by the respondent official.

11. The aforesaid facts prove that the petitioner has been arrested and deprived of his liberty without following due process of law therefore violating his fundamental right to life and liberty secured under Article 21 of the Constitution of India. The detention of the petitioner is illegal in toto.

12. Learned counsel for the respondent has submitted that the petitioner was not illegally detained since 14.05.2026 nor he was detained in illegal custody. The department has duly complied before arrest of petitioner. Reliance on the judgment of the Supreme Court in the case of ***Satendra Kumar Antil Vs. C.B.I. & Another, passed in S.L.P.(Crl.) No. 5191 of 2021, judgement dated 11.7.2022*** is wholly misplaced.

13. The reasons to believe were duly recorded by the authorities prior to effecting the arrest of the petitioner. The grounds of arrest were duly

prepared and served upon the petitioner in accordance with the procedure prescribed under law.

14. After hearing the rival submissions and perusing the material brought on record, we find that there is specific assertion in the writ petition regarding the non-generation of DIN on the documents issued by the department in connection with the alleged prosecution under the Central Excise Act. The said assertion has not been specifically denied by the respondents. There is also no specific averment regarding compliance with the departmental guidelines in that regard. Further, the "Reasons to Believe" placed on record appear to be vague and evasive. It is also noteworthy that neither the grounds of arrest nor the "Reasons to Believe" bear the seal or signature of the Principal Commissioner of Central Excise/Commissioner, Central Excise. Prima facie, the remand order appears to have been passed in a mechanical manner without due application of mind and, therefore, cannot be sustained in law.

15. We further find that the respondent has averred in paragraph 37 of the counter affidavit that provision of Section 35 (3) of B.N.S.S are not mandatory, which cannot be accepted. In the counter affidavit, no document showing the date and time of generation of DIN has been brought on record, hence it is not clear when the grounds of arrest were prepared in the absence of DIN. It is not clear whether any family member or friend of the petitioner was informed about the arrest of petitioner and hence there appears to be violation of Section 48 of B.N.S.S while according to approval of arrest of the petitioner, the Commissioner has directed the authorized Officer to inform the family members of the accused and therefore, it appears that no such information was given to the family members of petitioner prior to or at the time of his arrest. The DIN mentioned over grounds of arrest is hand written and is thus in violation of circular dated 23.12.2019. No notice under Section 35(3) of B.N.S.S was ever served on petitioner when the offences alleged under Section 9(1)(b) and 9(1)(i) of Central Excise Act are punishable for maximum period of 7 years.

16. In view of the foregoing discussion and for the reasons recorded hereinabove, we are of the considered opinion that the arrest, detention and remand of the petitioner are illegal and cannot be sustained in the eyes of law. The petitioner shall be set at liberty forthwith, unless wanted in any other case.

17. Let a certified copy of this order be issued to the petitioner by the office during the course of the day.

18. It shall, however, be open to the respondent to proceed against the petitioner afresh strictly in accordance with law.

June

23,

2026

Rohit

(Vivek Saran,J.) (Siddharth,J.) (Vivek Saran,J.) (Siddharth,J.)