



2026:AHC:126153-DB

Order Reserved On:-29.05.2026.

Order Delivered On:-08.06.2026.

HIGH COURT OF JUDICATURE AT ALLAHABAD

HABEAS CORPUS WRIT PETITION No. - 683 of 2026

Mohd. Akib

.....Petitioner(s)

Versus

Union Of India And 2 Others

.....Respondent(s)

Counsel for Petitioner(s)	: Kaustubh Tewari, Umesh Chandra Shukla
Counsel for Respondent(s)	: Kuldeep Kumar, A.S.G.I., C.S.C., Dhananjay Awasthi

In Chamber:-

HON'BLE SIDDHARTH, J.

HON'BLE VINAI KUMAR DWIVEDI, J.

(Per Hon'ble Siddharth, J.)

1. Heard Sri Amit Daga, learned Senior Counsel assisted by Sri Kaustubh Tewari, learned counsel for the petitioner; Sri Shahsi Prakash Singh, learned Additional Solicitor General of India assisted by Sri Dhananjay Awasthi and Sri Kuldeep Kumar, learned counsel for the respondent no.3; learned AGA for State-respondent no.2 and perused the material brought on record of writ petition and counter-affidavit.

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

"i. Issue a writ, order or direction in the nature of Habeas Corpus, declaring the detention, arrest, remand and custody of petitioner as illegal and arbitrary by quashing the order dated 25.03.2026 passed by Learned Special Chief Judicial Magistrate, Meerut in Case No. 13 of 2026, under Sections 132(1)(b), 132(1)(c), 132(1)(f), 132(1)(1) & 132(1)(i) of C.G.S.T Act, 2017 relating to Department D.G.G.I Zonal Unit Meerut, District-Meerut.

Issue a writ, order or direction in the nature of mandamus commanding the Respondent No.2 to release the petitioner (detenue) forthwith from judicial custody (illegally detained in District Jail Meerut Since 25.03.2026 in relation to Case No. 13 of 2026, Under Sections 132(1)(b), 132(1)(c), 132(1)(f), 132(1)(1) & 132(1) (i) of C.G.S.T Act, 2017, relating to Department D.G.G.I Zonal Unit Meerut, District-Meerut).

iii. Issue any other writ, order or direction which this Hon'ble Court may deem fit and proper under the circumstances of the present case.

iv. Award the cost of the Petition to the Petitioner."

3. Learned Senior Counsel for the petitioner submits that from the arrest memo as well as other documents it appears that petitioner arrived at DGGI Office at Meerut Zonal Unit, Meerut on 24.03.2026, for recording of his statement. He was arrested vide Arrest memo dated 25.03.2026 prepared by Sanjay Singh, Intelligence Officer at Office of the Principal Commissioner, CGST, DGGI, Meerut Zonal Unit, Meerut, on the apprehension that he may have committed offences under section 132(1)(b), 132(1)(c), 132(1)(f), 132(1)(1) & 132(1) (i) of CGST Act, 2017. There is no evidence on record which goes to show that the petitioner(detinue) conspired in the commission of crime in question and conspired with co-accused for embezzling the amount ITC. Thus the petitioner (detinue) cannot be prosecuted under Section 132(1)(b), 132(1)(c), 132(1)(f), 132(1)(l) & 132(1) (i) of C.G.S.T Act, 2017, even with the aid of Section 61(2) B.N.S., 2023. The perusal of the summons and memo of arrest would suggest that there is no "reason to believe" which could have justified the arrest of the petitioner. The arrest of petitioner has been made in a mechanical manner the whims of the officials and not as per the requirements of Section 69 of the CGST Act, 2017.

4. Furthermore the fact that the petitioner avoided the summons and visited the office of D.G.G.I., Dehradun, from where he was illegally transferred to the office of D.G.G.I. Meerut Zonal Unit, Meerut. In addition to this, the officers of D.G.G.I., Meerut Zone, had already seized all the relevant documents and evidences which were in possession of the petitioner, thus it was impossible for him to have tampered with it, thus the arrest of the petitioner is in violation of the guidelines for arrest and bail issued by the GST-Investigation Wing vide Instruction no. 2/2022-23 [GST Investigation] dated 17.08.2022. The punishment prescribed for the alleged offence under Section 132 of CGST is less than seven years, therefore arrest has to be strictly in accordance to the provisions of Section 35 BNSS. Consequently, the satisfaction for "reason to believe" or 'suspicion' that the said person has committed an offence and the necessity for an arrest has to be recorded by the concerned officer. Any non-compliance would certainly entitle the accused to released as laid down by the Hon'ble Supreme Court in the matter of **Satendra Kumar Antil vs C.B.I. and another's 2026 INSC 115** The petitioner duly responded to the summons and himself appeared before the authority to co-operate with the investigation, hence there was no justification to arrest him without recording any cogent or justifiable reasons.

5. It has been further submitted by learned counsel for petitioner that in furtherance of the search and seizure dated 12.02.2026 concerned authorities of DGGI, Zonal Unit, Meerut perused the entire material collected during the search and after showing statement of petitioner and other accused persons, namely, Samyak Jain, Abhishek Jain and Ankur Jain, arrived at a conclusion that Shri Abhishek Jain, Shri Samyak Jain and Shri Ankur Jain, appear to be responsible for huge evasion by passing on Fake ITC of Rs. 422,28,80,736/- and claiming fraudulent refund of Rs. 18,22,35,156/-. With said observation/conclusion, Shri Saurav Pawar, Senior Intelligence Officer,

Directorate General of Goods and Services, Tax Intelligence, Meerut Zonal Unit had instituted complaint before the court of learned special Chief Judicial Magistrate, Meerut under relevant Sections of CGST Act, 2017 on 10.04.2026 against three persons aforesaid and not the petitioner. Said Complaint got registered and numbered as Complaint no. 124/9 of 2026 "Directorate General of Goods and Services, Tax Intelligence, Meerut Zonal Unit, Meerut Vs. Abhishek Jain and Others. Prior to moving aforesaid complaint the concerned authorities of DGGI, Zonal Unit Meerut scrutinized and analyzed all the material and documentary evidence and moved complaint against above named accused persons. Since the concerned authorities did not find any incriminating substance against petitioner and failed to attribute specific role of petitioner during inquiry thus, no complaint was moved by the authorities against the petitioner. Since entire material collected by the authorities of DGGI, Zonal Unit Meerut had already been analyzed and scrutinized and no role of applicant was mentioned in complaint filed by the Concerned authority in the same ITC fraud and he has not been arrayed as accused in the complaint moved by the DGGI, Zonal Unit Meerut, Meerut, thus petitioner deserves mercy of this Hon'ble Court and directed to be released on bail. The alleged firm of petitioner i.e., M/s A to Z solutions did not receive refund claim. If the case of the prosecution is taken on its face value then also the alleged amount which is stated to have been received by the petitioner is 4.8 Crores, which is less than the amount mentioned in Section 132(1) (i), therefore the D.G.G.I. was not empowered to detain the petitioner in pursuance to the alleged ITC fraud.

6. As per Section 132 (5) which states that the offences specified in clause (a) or clause (b) or clause (c) or clause (d) of Sub Section (1) and punishable under clause (i) of that Sub Section shall be cognizable and non-bailable and clause (i) of Section 132 states that in cases where the amount of tax evaded or the amount of input tax credit wrongly availed or utilized or the amount of refund wrongly taken exceeds five hundred lakh rupees, with imprisonment for a term which may extend to five years and with fine. A bare perusal of the aforesaid clauses of Section 132 clearly states that if an offence under the Section exceeds five hundred lakh rupees then it is a cognizable and non-bailable offence otherwise any other offence which is below five hundred lakh rupees will be a non-cognizable and bailable offence. The offences under which petitioner (detenue) was arrested and put before learned Magistrate for grant of remand is bailable in view of Section 132(3) of CGST Act, 2017 thus the order dated 25.03.2026, granting remand of petitioner (detenue) in alleged crime, passed by Learned Magistrate as well as subsequent orders passed for extension/grant of remand of petitioner (detenue) in alleged crime are not only unreasoned, illegal but also against the mandatory provisions of the Act and arbitrary and thus the detention of petitioner (detenue) in alleged crime is absolutely illegal in the eye of law.

7. It has been finally submitted that due to illegal detention, the fundamental right of the petitioners guaranteed under Article 21/22(i) of the Constitution of India has been

violated without any genuine reasons.

8. Learned counsel for the respondent nos.1 and 3 has submitted the petitioner has been implicated in this case on the basis of information gathered against him disclosing his involvement in this case along with co-accused. He has further submitted that the petitioner is although not named in the complaint filed by the department, but he has close relationship with the accused named in the complaint and was involved in commission of the offence alleged against him. He has submitted that the procedure of arrest and detention was followed by the respondent in arresting the petitioner and there is no illegality in the same. Along with counter-affidavit. Copy of the "reasons to believe", "arrest memo", "grounds of arrest" and "jama nash" of the petitioner have been brought on record and the counsel has sought to justify the arrest of the petitioner on the basis of the aforesaid documents.

9. We have heard learned counsel for the parties and perused the material on record before us. From the uncontroverted pleadings of record, it is clear that the petitioner was arrested in Dehradun and produced before the remand Magistrate at Meerut, but there is no order of transit remand brought on record by the respondents. It is well settled law that without obtaining in transit remand of an accused from the remand Magistrate where he was arrested, he cannot be produced before the remand Magistrate of different State. With reference to the requirement of transit anticipatory bail the principle has been explained by the Apex Court in the Case of **Priya Indoria Vs. State of Karnataka 2024 SCC 749.**

10. We find that along with counter-affidavit, the arrest memo of the petitioner has been brought on record as Annexure CA-2, but it does not disclose the place of arrest of the petitioner at Dehradun, in violation of the judgment of the Apex Court in the case of **D.K. Basu Vs. State of West Bengal AIR 1997 SC 610.** We further find that in the arrest memo, there is no mentioning about the "ground of arrest" is as annexure to the "arrest memo". However, endorsement of the petitioner has been taken in writing that he has been furnished with the grounds of arrest and reasons to believe in writing. In the "Jama Talashi" of the petitioner there is no mention of any recovery from the petitioner and all the columns are blank absolutely.

11. We further find from paragraph No. 64.2 of the judgment of Apex Court in the case of **Radhika Agarwal v. Union of India and Others 2025 INSC 272** that as per the circular dated 13.1.2025, grounds of arrest must be explained to the arrested persons and also be furnished to him in writing as an Annexure to the arrest memo. In this case we find that in the arrest memo, there is no mention of any annexure. Therefore, it appears that opposite party nos. 1 and 3 have not complied with their own circular dated 13.01.2025 by furnishing to the petitioner the "grounds of arrest" along with the arrest memo as its annexure. On this account also we find that the remand order of petitioner is illegal.

12. In view of the above consideration, the arrest and detention of petitioner is held to be illegal and he is directed to be released forthwith.

13. Habeas corpus petition is **allowed**.

14. Copy of this order shall be issued by the office today.

15. However, it shall be open to the respondents to proceed against the petitioner afresh, strictly in accordance with law, if so warranted.

June 8, 2026
Abhishek

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