

AFR



2026:AHC-LKO:31073-DB

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

HABEAS CORPUS WRIT PETITION No. - 137 of 2026

Manoj Kumar Thru. His Son Mudit Kumar

.....Petitioner(s)

Versus

State of U.P. Thru. Prin. Secy. Home Deptt. U.P. Lko. and 4 others

.....Respondent(s)

Counsel for Petitioner(s) : Akhilesh Kumar Tripathi, Prashant
Tiwari
Counsel for Respondent(s) : G.A.,

Court No. - 11

**HON'BLE ABDUL MOIN, J.
HON'BLE PRAMOD KUMAR SRIVASTAVA, J.**

1. Personal affidavit of the Additional Chief Secretary (Home), Government of U.P. filed today in Court is taken on record.
2. Heard learned counsel for the petitioner, learned AGA for respondents no.1 to 4 and perused the records including the case diary as produced by the learned AGA.
3. There is consensus at the bar that the facts of the case including the points in dispute and the consideration of the same has already been made by this Court vide order dated 24.04.2026. For the sake of convenience, the order dated 24.04.2026 is reproduced below:-

"1. Heard learned counsel for the petitioner and learned AGA appearing for the respondent nos.1 to 4. Perused the records produced by the learned AGA.

2. No notice be issued to respondent no.5, who is the complainant.

3. By means of the instant petition in the nature of habeas corpus, the petitioner has prayed for the following reliefs:-

"(i) issue a writ, order of direction in the nature of Habeas Corpus declaring the petitioner's arrest & detention illegal, pass an order setting aside the remand order dated 28.01.2026 passed by the Additional Chief Judicial Magistrate-III, Unnao in Case Crime No.244 of 2024, Police Station Asiwani, District Unnao and direct the respondent No.1, 2, 3 and 4 to release the petitioner forthwith, in the interest of justice.

(ii) Issue any other writ, order or direction which this Hon'ble Court may deem fit and proper in the circumstances of the case.

(iii) Award the cost of the writ petition to the petitioner."

4. Admittedly, the First Information Report was lodged against the petitioner as FIR No. 244 of 2024, dated 03.09.2024, at Police Station-Asiwani, District- Unnao by the Respondent No. 4/complainant.

5. In pursuance thereof, the petitioner has been arrested on 27.01.2026. A copy of the arrest memo is annexed as annexure no.3 to the petition. The reasons for arrest have been indicated in Column no.13 of the arrest memo, which only indicates about the aforesaid case crime number being lodged against the petitioner.

6. The learned Magistrate vide its order dated 28.01.2026 has granted remand to the petitioner. The petitioner filed an application for anticipatory bail vide Anticipatory Bail Application No.3614 of 2025 in re: Manoj Vs. State of U.P. before the learned District & Sessions Judge, Unnao, which has been rejected vide order dated 07.01.2026, a copy of which is annexed as annexure no.6 to the petition.

7. The primary and legal ground raised by the learned counsel for the petitioner in the instant petition of habeas corpus challenging his illegal arrest is based on the judgment of the Hon'ble Supreme Court in **Mihir Rajesh Shah Vs. State of Maharashtra; 2026 (1) SCC 500**, wherein the Hon'ble Supreme 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. This 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 the requirement of informing the arrested person of 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".

8. For the sake of convenience, relevant observations of the Hon'ble Supreme Court in the case of **Mihir Rajesh Shah (Supra)** are reproduced below:-

"28. It was said that any breach of the constitutional safeguards provided under Article 22 would vitiate the lawfulness of arrest and subsequent remand and entitle the arrested person to be set at liberty. The relevant portion in *Prabir Purkayastha* [*Prabir Purkayastha v. State (NCT of Delhi)*, (2024) 8 SCC 254 : (2024) 3 SCC (Cri) 573] is reproduced herein: (SCC pp. 276 & 278, paras 19-21 & 28-29)

"19. Resultantly, there is no doubt in the mind of the court that any person arrested for allegation of commission of offences under the provisions of UAPA or for that matter any other offence(s) has a fundamental and a statutory right to be informed about the grounds of arrest in writing and a copy of such written grounds of arrest have to be furnished to the arrested person as a matter of course and without exception at the earliest. The purpose of informing to the arrested person the grounds of arrest is salutary and sacrosanct inasmuch as this information would be the only effective means for the arrested person to consult his advocate; oppose the police custody remand and to seek bail. Any other interpretation would tantamount to diluting the sanctity of the fundamental right guaranteed under Article 22(1) of the Constitution of India.

20. The right to life and personal liberty is the most sacrosanct fundamental right guaranteed under Articles 20, 21 and 22 of the Constitution of India. Any attempt to encroach upon this fundamental right has been frowned upon by this Court in a catena of decisions. In this regard, we may refer to the following observations made by this Court in *Roy V.D. v. State of Kerala* [*Roy V.D. v. State of Kerala*, (2000) 8 SCC 590 : 2001 SCC (Cri) 42] : (SCC p. 593, para 7)

'7. The life and liberty of an individual is so sacrosanct that it cannot be allowed to be interfered with except under the authority of law. It is a principle which has been recognised and applied in all civilised countries. In our Constitution, Article 21 guarantees protection of life and personal liberty not only to citizens of India but also to aliens.'

Thus, any attempt to violate such fundamental right, guaranteed by Articles 20, 21 and 22 of the Constitution of India, would have to be dealt with strictly.

21. The right to be informed about the grounds of arrest flows from Article 22(1) of the Constitution of India and any infringement of this fundamental right would vitiate the process of arrest and remand. Mere fact that a charge-sheet has been filed in the matter, would not validate the illegality and the unconstitutionality committed at the time of arresting the accused and the grant of initial police custody remand to the accused.

28. The language used in Article 22(1) and Article 22(5) of the Constitution of India regarding the communication of the grounds is exactly the identical. Neither of the constitutional provisions require that the "grounds" of "arrest" or "detention", as the case may be, must be communicated in writing. Thus, interpretation to this important facet of

the fundamental right as made by the Constitution Bench while examining the scope of Article 22(5) of the Constitution of India would ipso facto apply to Article 22(1) of the Constitution of India insofar as the requirement to communicate the grounds of arrest is concerned.

29. Hence, we have no hesitation in reiterating that the requirement to communicate the grounds of arrest or the grounds of detention in writing to a person arrested in connection with an offence or a person placed under preventive detention as provided under Articles 22(1) and 22(5) of the Constitution of India is sacrosanct and cannot be breached under any situation. Non-compliance of this constitutional requirement and statutory mandate would lead to the custody or the detention being rendered illegal, as the case may be."

31. The relevant portion of Vihaan Kumar [Vihaan Kumar v. State of Haryana, (2025) 5 SCC 799 : (2025) 2 SCC (Cri) 762] is reproduced herein: (SCC pp. 814-15, 817 & 822-23, paras 15, 21 & 40-42)

"15. The view taken in Pankaj Bansal [Pankaj Bansal v. Union of India, (2024) 7 SCC 576 : (2024) 3 SCC (Cri) 450] was reiterated by this Court in Prabir Purkayastha [Prabir Purkayastha v. State (NCT of Delhi), (2024) 8 SCC 254 : (2024) 3 SCC (Cri) 573] . In paras 28 and 29, this Court held thus: (Prabir Purkayastha case [Prabir Purkayastha v. State (NCT of Delhi), (2024) 8 SCC 254 : (2024) 3 SCC (Cri) 573] , SCC p. 278)

'28. The language used in Article 22(1) and Article 22(5) of the Constitution of India regarding the communication of the grounds is exactly the identical. Neither of the constitutional provisions require that the "grounds" of "arrest" or "detention", as the case may be, must be communicated in writing. Thus, interpretation to this important facet of the fundamental right as made by the Constitution Bench while examining the scope of Article 22(5) of the Constitution of India would ipso facto apply to Article 22(1) of the Constitution of India insofar as the requirement to communicate the grounds of arrest is concerned.

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21. An attempt was made by the learned Senior Counsel appearing for the first respondent to argue that after his arrest, the appellant was repeatedly remanded to custody, and now a charge-sheet has been filed. His submission is that now, the custody of the appellant is pursuant to

the order taking cognizance passed on the charge-sheet. Accepting such arguments, with great respect to the learned Senior Counsel, will amount to completely nullifying Articles 21 and 22(1) of the Constitution. Once it is held that arrest is unconstitutional due to violation of Article 22(1), the arrest itself is vitiated. Therefore, continued custody of such a person based on orders of remand is also vitiated. Filing a charge-sheet and order of cognizance will not validate an arrest which is per se unconstitutional, being violative of Articles 21 and 22(1) of the Constitution of India. We cannot tinker with the most important safeguards provided under Article 22.

N. Kotiswar Singh, J. (supplementing)?I had the benefit of going through the draft opinion of my esteemed Brother Hon'ble Mr Justice Abhay S. Oka and I concur with the analysis and conclusions arrived at. However, I wish to add a few lines in supplement to the aforesaid opinion.

41. The issue on the requirement of communication of grounds of arrest to the person arrested, as mandated under Article 22(1) of the Constitution of India, which has also been incorporated in the Prevention of Money Laundering Act, 2002 under Section 19 thereof has been succinctly reiterated in this judgment. The constitutional mandate of informing the grounds of arrest to the person arrested in writing has been explained in Pankaj Bansal [Pankaj Bansal v. Union of India, (2024) 7 SCC 576 : (2024) 3 SCC (Cri) 450] so as to be meaningful to serve the intended purpose which has been reiterated in Prabir Purkayastha [Prabir Purkayastha v. State (NCT of Delhi), (2024) 8 SCC 254 : (2024) 3 SCC (Cri) 573] . The said constitutional mandate has been incorporated in the statute under Section 50CrPC (Section 47 of the BNSS). It may also be noted that the aforesaid provision of requirement for communicating the grounds of arrest, to be purposeful, is also required to be communicated to the friends, relatives or such other persons of the accused as may be disclosed or nominated by the arrested person for the purpose of giving such information as provided under Section 50-ACrPC. As may be noted, this is in the addition of the requirement as provided under Section 50(1)CrPC.

42. The purpose of inserting Section 50-A CrPC, making it obligatory on the person making arrest to inform about the arrest to the friends, relatives or persons nominated by the arrested person, is to ensure that they would be able to take immediate and prompt actions to secure the release of the arrested person as permissible under the law. The arrested person, because of his detention, may not have immediate and easy access to the legal process for securing his release, which would otherwise be available to the friends, relatives and such nominated persons by way of engaging lawyers, briefing them to secure release of the detained person on bail at the earliest. Therefore, the purpose of communicating the grounds of arrest to the detenu, and in addition to his relatives as mentioned above is not merely a formality but to enable the detained person to know the reasons for his arrest but also to provide the necessary opportunity to him through his relatives, friends or

nominated persons to secure his release at the earliest possible opportunity for actualising the fundamental right to liberty and life as guaranteed under Article 21 of the Constitution. Hence, the requirement of communicating the grounds of arrest in writing is not only to the arrested person, but also to the friends, relatives or such other person as may be disclosed or nominated by the arrested person, so as to make the mandate of Article 22(1) of the Constitution meaningful and effective failing which, such arrest may be rendered illegal."

(emphasis in original)

35. In *Joginder Kumar v. State of U.P.* [*Joginder Kumar v. State of U.P.*, (1994) 4 SCC 260 : 1994 SCC (Cri) 1172] , this Court while framing guidelines regarding the rights of an arrested person has observed that the existence of a power to arrest and the justification to use such power are two different aspects. The person making arrest must be able to justify the arrest with reasons apart from his power to do so. Arrest of a person can cause irreversible damage to his reputation in the society as well as his self-esteem, therefore, arrest cannot be made in a routine manner. The police officer making an arrest must be cautious while arresting a person and ought to satisfy himself after a reasonable investigation to justify the person's complicity and also the effect as well as the need of arrest. This Court has further observed that except in heinous offences, arrest must be avoided.

37. The mandate contained in Article 22(1) of the Constitution of India is unambiguous and clear in nature, it provides that the arrested person must be informed of the grounds of arrest as soon as they can be. It further provides that the arrested person has the right to defend himself by consulting a legal practitioner of his choice. This constitutional mandate has been effectuated by the legislature in Section 50CrPC (now Section 47 of BNSS 2023) which provides that an arrested person shall be forthwith communicated with the grounds of his arrest.

41. The purpose of securing legal assistance before remand is not merely symbolic, but it is to ensure that the accused is afforded an effective opportunity to oppose the prayer for police custody and to place before the Magistrate any circumstances that may warrant refusal or limitation of such custody. If the accused is not represented through a counsel, he/she should be made aware that he/she is entitled for legal aid. As far as possible, it shall be ensured that every accused person is represented by an advocate, if he is not able to avail such assistance, he should be given free legal aid. A three-Judge Bench of this Court in *Ashok v. State of U.P.* [*Ashok v. State of U.P.*, (2025) 2 SCC 381 : (2025) 1 SCC (Cri) 744] held that an accused who is not represented by an advocate is entitled for free legal aid at all material stages starting from remand.

43. Section 167CrPC (now Section 187 of BNSS 2023) while dealing with remand provides for a positive mandate on the police officer to forward the accused to the Magistrate before expiry of such period as fixed under Section 57CrPC (now Section 58 of BNSS 2023) when investigation cannot be completed in twenty-four hours. It further mandates that the Magistrate to not authorize the detention of accused unless he is physically produced before him. The purpose of this provision mandating the production of accused before Magistrate for exercise of the power of remanding him to custody under this section is with the dual purpose. First, ensuring physical presence of the accused and second to afford him an opportunity to be heard. The intent of this provision is not merely to be heard at the stage of remand but to be represented by the counsel of his choice. Thereafter, the duty is cast upon the Magistrate to apply his judicial mind to the material produced before him, hear the accused or the counsel representing him to determine whether the accused should be remanded to police custody or should be detained at all within the parameters prescribed in Section 167CrPC (Section 187 of BNSS 2023). The Magistrate is not acting as a post office simply putting a stamp of approval to the remand papers as presented before him. In *Manubhai Ratilal Patel v. State of Gujarat* [Manubhai Ratilal Patel v. State of Gujarat, (2013) 1 SCC 314 : (2013) 1 SCC (Cri) 475] this Court held that it is obligatory on the part of the Magistrate to satisfy himself whether the materials placed before him justify such a remand.

45. A plain reading of Article 22(1) of the Constitution of India shows that the intent of the Constitution makers while incorporating the provisions was not to create any exceptional circumstances, instead it reads as "No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest?.", it casts a mandatory unexceptional duty on the State to provide the arrested person with the grounds of such arrest with the objective to enable that person to be able to defend himself by consulting a legal practitioner of his choice. This mandate of Article 22(1) is notwithstanding any exception. This Court has made it explicit that the constitutional obligation under Article 22 is not statute-specific and it is grounded in fundamental right of life and personal liberty under Article 21 of the Constitution of India, therefore making it applicable to all offences including those under the Penal Code, 1860 (now BNS 2023).

46. The requirement of informing the arrested person the grounds of arrest, in the light of and under Article 22(1) of the Constitution of India, 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. Thus, if a person is not informed of the grounds of his arrest as soon as maybe, it would amount to the violation of his fundamental rights thereby curtailing his right to life and personal

liberty under Article 21 of the Constitution of India, rendering the arrest illegal.

48. As mentioned above, it has been held while dealing with the mode of communicating the grounds of arrest so as to serve the intended purpose of the constitutional mandate that the language used in Articles 22(1) and 22(5) regarding communication of the grounds is identical and therefore the interpretation of Article 22(5) shall ipso facto apply to Article 22(1). The grounds of arrest must be furnished in writing, in order to attend the true intended purpose of Article 22(1). Reference at this stage may be made to the Constitution Bench judgment of this Court in *Harikisan* [*Harikisan v. State of Maharashtra*, 1962 SCC OnLine SC 117] wherein while dealing with Article 22(5) of the Constitution of India in the context of the right of a detainee to be made aware of the grounds of arrest, it has been held that the same should be furnished in a language which he can understand and in a script which he can read, if he is a literate person.

50. Further, the above judgment has been reiterated and followed by this Court in *Lallubhai Jogibhai Patel v. Union of India* [*Lallubhai Jogibhai Patel v. Union of India*, (1981) 2 SCC 427 : 1981 SCC (Cri) 463 : (1982) 52 Comp Cas 543] wherein it has been reaffirmed that grounds of detention must be communicated to the detenu in writing in a language which he understands.

51. On perusal of the above two judgments, it turns out that mere communication of the grounds in a language not understood by the person arrested does not fulfil the constitutional mandate under Article 22 of the Constitution of India. The failure to supply such grounds in a language understood by the arrestee renders the constitutional safeguards illusory and infringes the personal liberty of the person as guaranteed under Articles 21 and 22 of the Constitution of India. The objective of the constitutional mandate is to place the person in a position to comprehend the basis of the allegations levelled against him and it can only be realised when the grounds are furnished in a language understood by the person, thereby enabling him to exercise his rights effectively.

52. From the catena of decisions discussed above, the legal position which emerges is that the constitutional mandate provided in Article 22(1) of the Constitution of India is not a mere procedural formality but a constitutional safeguard in the form of fundamental rights. The intent and purpose of the constitutional mandate is to prepare the arrested person to defend himself. If the provisions of Article 22(1) are read in a restrictive manner, its intended purpose of securing personal liberty would not be achieved rather curtailed and put to disuse.

55. *This Court is of the opinion that to achieve the intended objective of the constitutional mandate of Article 22(1) of the Constitution of India, the grounds of arrest must be informed to the arrested person in each and every case without exception and the mode of the communication of such grounds must be in writing in the language he understands.*

57. *The second issue which requires consideration is when grounds of arrest are not furnished either prior to arrest or immediately after the arrest, would it vitiate the arrest for non-compliance of the provisions of Section 50CrPC (now Section 47 of BNSS 2023) irrespective of certain exigencies where furnishing such grounds would not be possible forthwith.*

58. *It is by now settled that if the grounds of arrest are not furnished to the arrestee in writing, this non-compliance will result in breach of the constitutional and statutory safeguards hence rendering the arrest and remand illegal and the person will be entitled to be set at liberty. The statute is silent with regard to the mode, nature or the time and stage at which the grounds of arrest has to be communicated. Article 22 says "as soon as may be" which would obviously not mean prior to arrest but can be on arrest or thereafter. The indication is as early as it can be conveyed. There may be situations wherein it may not be practically possible to supply such grounds of arrest to the arrested person at the time of his arrest or immediately.*

62. *We thus hold, that, in cases where the police are already in possession of documentary material furnishing a cogent basis for the arrest, the written grounds of arrest must be furnished to the arrestee on his arrest. However, in exceptional circumstances such as offences against body or property committed in flagrante delicto, where informing the grounds of arrest in writing on arrest is rendered impractical, it shall be sufficient for the police officer or other person making the arrest to orally convey the same to the person at the time of arrest. Later, a written copy of grounds of arrest must be supplied to the arrested person within a reasonable time and in no event later than two hours prior to production of the arrestee before the Magistrate for remand proceedings. The remand papers shall contain the grounds of arrest and in case there is delay in supply thereof, a note indicating a cause for it be included for the information of the Magistrate.*

64. *In view of the above, we hold with regard to the second issue that non-supply of grounds of arrest in writing to the arrestee prior to or immediately after arrest would not vitiate such arrest on the grounds of non-compliance with the provisions of Section 50CrPC (now Section 47 of BNSS 2023) provided the said grounds are supplied in writing within*

a reasonable time and in any case two hours prior to the production of the arrestee before the Magistrate for remand proceedings.

68. *We are cognizant that there existed no consistent or binding requirement mandating written communication of the grounds of arrest for all the offences. Holding as above, in our view, would ensure implementation of the constitutional rights provided to an arrestee as engrafted under Article 22 of the Constitution of India in an effective manner. Such clarity on obligation would avoid uncertainty in the administration of criminal justice. The ends of fairness and legal discipline therefore demand that this procedure as affirmed above shall govern arrests henceforth."*

9. *Recently the Hon'ble Supreme Court in the judgment of **Dr Rajinder Rajan vs Union of India : 2026 Live Law (SC) 327** has also held that the grounds of arrest must be furnished in writing to the arrested person, in order to attend the true intended purpose of Article 22(1) of the Constitution of India. As such it is apparent that supply of grounds of arrest to the person being arrested is a constitutional mandate. The Hon'ble Supreme Court has also held that if the grounds of arrest are not furnished to the arrestee in writing, the non-compliance will result in breach of the constitutional and statutory safeguards hence rendering the arrest and remand illegal and the person will be entitled to be set at liberty. The aforesaid directions in the case of **Mihir Rajesh Shah (Supra)** have been directed to govern all arrests with effect from the date of judgment of the Hon'ble Supreme Court, which is 06.11.2025.*

10. *Thus considering the aforesaid it is apparent that since the pronouncement of the judgment on 06.11.2025, the respondents authorities are required to adhere to the directions which have been issued by the Hon'ble Supreme Court in the case of **Mihir Rajesh Shah (Supra)** meaning thereby that if the grounds of arrest are not furnished to the arrestee in writing, this non-compliance will result in breach of the constitutional and statutory safeguards hence rendering the arrest and remand illegal.*

11. *Perusal of the grounds of arrest, a copy of which has been annexed as annexure-3 to the petition, would indicate that the said grounds of arrest are only indicating about the case crime number which has been lodged against the petitioner without indicating the grounds on which the petitioner is sought to be arrested.*

12. *Hon'ble Supreme Court recently in the case of **Dr Rajinder Rajan (supra)** after considering **Mihir Rajesh Shah (Supra)** has held as under:-*

20. *It is no longer res integra that supplying the grounds of arrest to the accused in writing before the arrest or, in a given case, under exceptional circumstances, immediately thereafter, is the mandate of the constitutional guarantees provided under Article 22(1) read with Article 21 of the Constitution of India. The ratio of the judgment in **Mihir***

Rajesh Shah (supra) conclusively holds that any deviation from the above principle would lead to the arrest of the accused being declared illegal entitling such accused to be released forthwith.

13. Interestingly, indication of the case crime number in the memo of arrest without indicating the grounds of arrest has been considered by the Apex Court in the case of **Dr. Rajinder Rajan (supra)** wherein the ground taken by the authorities was that as the case crime number has been mentioned in the memo of arrest that would suffice. However, the Apex Court was of the view that supplying the ground of arrest to the accused in writing before the arrest is a mandate of Constitutional guarantees provided under Article 22 (1) read with Article 21 of the Constitution of India and that any deviation from the principles laid down by the Apex Court in the case of **Mihir Rajesh Shah (supra)** would lead to the arrest of accused being declared illegal entitling such accused to be released forthwith.

14. Thus, it is apparent that the petitioner has been arrested on 27.01.2026 without complying with the procedure as directed by the Hon'ble Supreme Court in the case of **Mihir Rajesh Shah (Supra)**, meaning thereby that the arrest of petitioner with effect from 27.01.2026 is illegal. The remand order which has been granted by the learned Magistrate dated 28.01.2026, is based on the illegal arrest of the petitioner and is thus also liable to be set-aside, keeping in view the judgment of this Court in the case of **Shivam Chaurasiya Vs. State of U.P. and Others; 2026:AHC-LKO:10501-DB**, wherein, in a similar matter, this court has held as under:-

"27. So far as the argument of the learned AGAs that as the petitioner is now in custody in pursuance to the remand order passed by the learned Magistrate and thus the illegality, if any, in the arrest gets obliterated which argument has been advanced on the basis of the judgment of the Apex Court in the case of **Mihir Rajesh Shah (supra)**, the same merits to be rejected inasmuch as it is a settled proposition of law that once the edifice goes the super structure collapses meaning thereby that in case the arrest itself is declared illegal even if the remand order has been passed, the same would also be rendered bad keeping in view the law laid down by the Apex Court in the case of **Mihir Rajesh Shah (supra)**."

15. On the other hand, the learned AGA does not dispute the judgments of the Hon'ble Supreme Court in the cases of **Mihir Rajesh Shah (Supra)** and **Dr Rajinder Rajan (supra)** and **Shivam Chaurasiya (Supra)**, and the principles of law as laid down in the aforesaid judgments.

16. Considering the aforesaid, we are of the view that this petition deserves to be allowed. The fact that the petitioner has been in jail since 27.01.2026, and as already observed above, his continued incarceration would be in violation of the law laid down by the Hon'ble Supreme Court in the case of **Mihir Rajesh Shah (Supra)**.

17. However, before allowing the writ petition we are of the view that the writ petition deserves to be allowed with exemplary costs, particularly

*when the petitioner has lost his personal liberty on account of an illegal act on the part of the authorities, who have failed to follow the law laid down by the Hon'ble Supreme Court in the case of **Mihir Rajesh Shah (Supra)**, wherein it was categorically held that informing a person of the grounds of arrest is not a mere formality but a mandatory, binding constitutional safeguard. Thus, it is apparent that the authorities have flagrantly violated the constitutional safeguards provided by the Hon'ble Supreme Court in the case of **Mihir Rajesh Shah (Supra)**. Thus, it is apparent that the petitioner has lost his personal life and liberty for no fault on his part but on account of the authorities not following the Constitutional safeguards directed to be followed by the Apex Court.*

18. Considering the aforesaid, we direct the Additional Chief Secretary, Home, Government of U.P. i.e the respondent no. 1 to submit a reply as to why exemplary costs should not be awarded to the petitioner for his illegal incarceration in jail from 27.01.2026 until the present date, comprising a period of almost three months.

19. Let the reply be filed within three days.

20. List this case on 29.04.2026 at 02:15 PM.

21. In the event the reply is not submitted, the Additional Chief Secretary, Home, Government of U.P, Lucknow shall appear in person, along with all relevant records, to assist the Court.

22. The learned AGA shall communicate this order to the Additional Chief Secretary (Home) forthwith, without waiting for a certified copy.

23. The A.G.A. shall again produce the records including case diary etc. on the date fixed."

4. From the perusal of the aforesaid order dated 24.04.2026, it emerges that the petitioner has approached this Court being aggrieved by his arrest and illegal detention and the remand order dated 28.01.2026.

5. The sheet anchor of the argument of the learned counsel for the petitioner is the judgment of the Hon'ble Supreme Court in the case of **Mihir Rajesh Shah versus State of Maharashtra : 2026 (1) SCC 500** wherein the Hon'ble Supreme Court, after considering Article 22(1) of the Constitution of India, has held that no person who is arrested shall be detained in custody without being informed of the grounds of such arrest. The grounds of arrest have also been perused and considered by this Court in the order dated 24.04.2026 and this court has recorded a categorical finding in the said order, after considering the judgment of the Hon'ble Supreme Court in the case of **Dr. Rajinder Rajan versus Union of India : 2026 LiveLaw (SC) 327**, that the arrest of the

petitioner on 27.01.2026 has been made without complying with the procedure as directed by the Hon'ble Supreme Court in the case of **Mihir Rajesh Shah (Supra)** meaning thereby that the arrest of the petitioner on 27.01.2026 is illegal. It is further recorded that the remand order granted by the learned Magistrate dated 28.01.2026, being based on the illegal arrest of the petitioner, is also liable to be set aside keeping in view the judgment of this Court in the case of **Shivam Chaurasiya vs. State of U.P. and others : 2026:AHC-LKO:10501-DB**. This Court was also of the view that the writ petition deserves to be allowed with exemplary cost and consequently directed the Additional Chief Secretary (Home) to submit his reply as to why exemplary cost should not be awarded to the petitioner for his illegal incarceration in jail since 27.01.2026 till date comprising of a period of almost three months.

6. At the outset, learned AGA states that the petitioner still continues to remain in jail and has not been released despite the observations made in the order dated 24.04.2026.

7. As regards the reply pertaining to explaining as to why exemplary cost should not be awarded learned AGA has filed the personal affidavit of the Additional Chief Secretary (Home).

8. The Court is constrained to observe that the Additional Chief Secretary (Home) has failed to file a reply with regard to submission of a reply as to why exemplary costs should not be imposed rather has concluded in the penultimate paragraph of the personal affidavit i.e. paragraph 14, that prompt action has been taken by the State authorities in compliance of the order dated 24.04.2026 and necessary steps have been initiated including seeking a detailed report from Director General of Police. It has further been indicated that the matter is under active consideration of the Government and appropriate action shall be taken in accordance with law upon receipt of the report. It thus appears that Additional Chief Secretary (Home) has not even cared to go through the order of this Court dated 24.4.2026 which, as we have already indicated above, required him to file a reply as to why exemplary cost should not

be imposed for the illegal incarceration of the petitioner in jail for almost three months.

9. As already indicated above, the personal affidavit of the Additional Chief Secretary (Home) indicates that appropriate action is being taken or shall be taken after receipt of the report and the personal affidavit does not even contain a whisper regarding the explanation as to why exemplary cost should not be imposed. If this is the non-application of mind at the end of the highest authority of the Home Department i.e. Additional Chief Secretary (Home), we can well understand as to how the other authorities of the State are working!!!

10. Accordingly, considering the aforesaid, more particularly when no reply has been filed with regard to explaining as to why exemplary costs should not be imposed, the Court is of the view that while allowing the writ petition, keeping in view the detailed consideration of the facts including the judgments on the relevant point pertaining to the arrest of the petitioner since 27.1.2026, some exemplary cost should also be imposed as the life and personal liberty of the petitioner has been curtailed by the respondent authorities/State in gross violation of the law laid down by the Hon'ble Supreme Court in the case of **Mihir Rajesh Shah (Supra)**.

11. Further, despite the order of this court dated 24.4.2026, the respondent authorities have failed to wake up from their slumber and the illegal incarceration of the petitioner still continues.

12. Keeping the aforesaid discussion, the Court now proceeds to consider as to the amount of costs which are to be awarded to the petitioner for his illegal incarceration in jail for more than three months as of date.

13. In this regard, it would be apt to refer to the judgment of the Hon'ble Supreme Court in the case of **Rini Johar and Another versus State of Madhya Pradesh and Others: 2016 (11) SCC 703**, wherein in a case of the petitioners having been arrested without complying with the procedural requirements, the Hon'ble Supreme Court was of the view

that as the arrest was in violation of the due procedure, seriously jeopardizing the dignity of the arrested petitioners consequently, in view of their illegal arrest for a period of 17 days and three weeks for the petitioners, the Hon'ble Supreme Court awarded compensation of Rupees Five Lakhs each to the petitioners to be paid by the State Government. For the sake of convenience, relevant observations of the Hon'ble Supreme Court in the case of **Rini Johar (supra)** are reproduced below:-

“23.....It is also clear that liberty of the petitioner was curtailed in violation of law. The freedom of an individual has its sanctity. When the individual liberty is curtailed in an unlawful manner, the victim is likely to feel more anguished, agonized, shaken, perturbed, disillusioned and emotionally torn. It is an assault on his/her identity. The said identity is sacrosanct under the Constitution. Therefore, for curtailment of liberty, requisite norms are to be followed. Fidelity to statutory safeguards instil faith of the collective in the system. It does not require wisdom of a seer to visualize that for some invisible reason, an attempt has been made to corrode the procedural safeguards which are meant to sustain the sanguinity of liberty. The investigating agency, as it seems, has put its sense of accountability to law on the ventilator. The two ladies have been arrested without following the procedure and put in the compartment of a train without being produced before the local Magistrate from Pune to Bhopal. One need not be Argus – eyed to perceive the same. Its visibility is as clear as the cloudless noon day. It would not be erroneous to say that the enthusiastic investigating agency had totally forgotten the golden words of Benjamin Disraeli:

“I repeat that all power is a trust – that we are accountable for its exercise – that, from the people and for the people, all springs and all must exist.”

24. We are compelled to say so as liberty which is basically the splendor of beauty of life and bliss of growth, cannot be allowed to be frozen in such a contrived winter. That would tantamount to comatosing of liberty which is the strongest pillar of democracy.

*25. Having held thus, we shall proceed to the facet of grant of compensation. The officers of the State had played with the liberty of the petitioners and, in a way, experimented with it. Law does not countenance such kind of experiments as that causes trauma and pain. In *Mehmood Nayyar Azam v. State of Chhattisgarh-(2012) 8 SCC 1*, while dealing with the harassment in custody, deliberating on the concept of harassment, the Court stated thus:-*

*“22. At this juncture, it becomes absolutely necessary to appreciate what is meant by the term “harassment”. In *P. Ramanatha Aiyar’s Law Lexicon, 2nd Edn.*, the term “harass” has been defined thus:*

“Harass.—‘Injure’ and ‘injury’ are words having numerous and comprehensive popular meanings, as well as having a legal import. A line may be drawn between these words and the word ‘harass’, excluding the latter from being comprehended within the word ‘injure’ or ‘injury’. The synonyms of ‘harass’ are: to weary, tire, perplex, distress, tease, vex, molest, trouble, disturb. They all have relation to mental annoyance, and a troubling of the spirit.”

The term “harassment” in its connotative expanse includes torment and vexation. The term “torture” also engulfs the concept of torment. The word “torture” in its denotative concept includes mental and psychological harassment. The accused in custody can be put under tremendous psychological pressure by cruel, inhuman and degrading treatment.”

26. *In the said case, emphasizing on dignity, it has been observed:-*

“36.....The majesty of law protects the dignity of a citizen in a society governed by law. It cannot be forgotten that the welfare State is governed by the rule of law which has paramountcy. It has been said by Edward Biggon “the laws of a nation form the most instructive portion of its history”. The Constitution as the organic law of the land has unfolded itself in a manifold manner like a living organism in the various decisions of the court about the rights of a person under Article 21 of the Constitution of India. When citizenry rights are sometimes dashed against and pushed back by the members of City Halls, there has to be a rebound and when the rebound takes place, Article 21 of the Constitution springs up to action as a protector....”

27. *In the case at hand, there has been violation of Article 21 and the petitioners were compelled to face humiliation. They have been treated with an attitude of insensibility. Not only there are violation of guidelines issued in the case of D.K. Basu vs. State of W.B. (1997) 1 SCC 416, there are also flagrant violation of mandate of law enshrined under Section 41 and Section 41-A of CrPC. The investigating officers in no circumstances can flout the law with brazen proclivity. In such a situation, the public law remedy which has been postulated in Nilabati Behera vs. State of Orissa - (1993) 2 SCC 746, Sube Singh v. State of Haryana-(2006) 3 SCC 178, Hardeep Singh v. State of M.P. - (2012) 1 SCC 748 comes into play. The constitutional courts taking note of suffering and humiliation are entitled to grant compensation. That has been regarded as a redeeming feature. In the case at hand, taking into consideration the totality of facts and circumstances, we think it appropriate to grant a sum of Rs.5,00,000/- (rupees five lakhs only) towards compensation to each of the petitioners to be paid by the State of M.P. within three months hence. It will be open to the State to proceed against the erring officials, if so advised.”*

14. Keeping the aforesaid discussion, the writ petition is **allowed**. A writ of habeas corpus is issued declaring the arrest of the petitioner as illegal.

The remand order dated 28.1.2026 being consequential to the illegal arrest is also set aside. The petitioner be set free provided he is not wanted in any other case. However, it would be open for the respondents to proceed in accordance with law.

15. Further, considering the illegal arrest of the petitioner since 27.1.2026 which continues even as of date i.e. 29.4.2026 and his illegal incarceration in jail being of more than three months, the Court is of the view that exemplary costs quantified at Rupees Ten Lakhs are also imposed on the State authorities.

16. The said cost shall be paid at the first instance by the State Government with the liberty to recover the same from the officials who were responsible in accordance with law. The said cost shall be paid to the petitioner within four weeks from the date of receipt of a certified copy of this order.

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

April 29, 2026

A. Katiyar