



2026:AHC-LKO:32273-DB

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

HABEAS CORPUS WRIT PETITION No. - 144 of 2026

Santosh Gupta Thru. Her Nephew Nitin Gupta

.....Petitioner(s)

Versus

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

.....Respondent(s)

Counsel for Petitioner(s) : Aishwarya Saxena, Atul Krishna,
Praveen Kumar Yadav, Rishabh
Chauhan

Counsel for Respondent(s) : G.A.

Court No. - 11

HON'BLE ABDUL MOIN, J.

HON'BLE PRAMOD KUMAR SRIVASTAVA, J.

1. Heard Sri Purnendu Chakravarty, learned Senior Advocate, assisted by Ms. Aishwarma Saxena, Sri Praveen Kumar Yadav, Sri Atul Krishna and Sri Prajwal Harsh, learned counsels for the petitioner and Sri Vinod Kumar Shahi, learned Additional Advocate General, assisted by Sri Shiv Nath Tilahari, learned AGA for the State-respondents no. 1 to 3.

2. Sri S.K. Bhagat, Additional Director General (Crime), U.P, is also present, who has been called by Sri Vinod Kumar Shahi, learned Additional Advocate General.

3. No notice need be issued to the respondent no. 4 taking into consideration the nature of order proposed to be passed.

4. The instant petition has been filed with the following main reliefs:

"(i) issue a writ, order, or direction in the nature of habeas corpus directing the Respondent No. 1 to 3 herein to produce the corpus/petitioner while declaring the detention, arrest, and subsequent remand and custody of the petitioner in connection with the case Crime No. 317 of 2025 registered under Sections 316(2), 316(5), 319(2), 340(2), 336(3), 338, 337, 318(4) BNS (Corresponding Sections 406, 409, 419, 419, 471, 468, 467, 466, 420 IPC) at Police Station Kotwali Nagar, District Balrampur, as unconstitutional, illegal and consequently directing that the Petitioner be released forthwith after

summoning the original record from the court of Learned CJM, Balrampur;

(ii) issue a writ, order, or direction in the nature of certiorari quashing and setting aside, the Order dated 10.04.2026 passed by the Learned Chief Judicial Magistrate, Balrampur in connection with FIR bearing Crime No. 317 of 2025 registered under Sections 316(2), 316(5), 319(2), 340(2), 336(3), 338, 337, 318(4) BNS (Corresponding Sections 406, 409, 419, 419, 471, 468, 467, 466, 420 IPC) at Police Station Kotwali Nagar, District Balrampur (annexed as Annexure No. 1) and all the consequential proceedings arising thereof after summoning the original record from the court of Learned CJM, Balrampur."

5. There is consensus at the bar that the matter in issue is squarely covered by the judgment of this Court in the case of **Manoj Kumar Vs. State of U.P. and Others [2026:AHC-LKO:31073-DB]**.

6. Considering the aforesaid, the writ petition is **allowed**. A writ of habeas corpus is issued declaring the arrest of the petitioner as illegal. The remand order dated 10.04.2026, a copy of which is Annexure-1 to the petition, being consequential to the illegal arrest of the petitioner, as passed by learned Chief Judicial Magistrate, Balrampur, is also set aside. The petitioner be set free forthwith provided he is not wanted in any other case. However, it would be open for the respondents/authorities to proceed against the petitioner in accordance with law.

7. At this stage, Sri Vinod Kumar Shahi, learned Additional Advocate General states that keeping in view the law laid by Hon'ble Supreme Court in the case of **Mihir Rajesh Shah Vs. State of Maharashtra; 2026 (1) SCC 500**, he has issued a letter dated 29.04.2026 to the Additional Chief Secretary (Home), U.P. and Director General of Police, U.P. to strictly follow the directions, as issued by Hon'ble Supreme Court. Sri Shahi also assures that a serious endeavour would be made to ensure that no such arrest is made in the State of Uttar Pradesh without giving the reasons and grounds for arrest to the person being arrested and that such arrest would be strictly in consonance with the provisions of the BNSS, 2023.

8. The aforesaid statement is recorded.

May 4, 2026

kkv/

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