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WP-15777-2026

IN THE HIGH COURT OF MADHYA PRADESH  
AT INDORE

BEFORE

HON'BLE SHRI JUSTICE VIJAY KUMAR SHUKLA

&amp;

HON'BLE SHRI JUSTICE ALOK AWASTHI

ON THE 8<sup>th</sup> OF MAY, 2026WRIT PETITION No. 15777 of 2026*SABAH ANTULAY**Versus**THE STATE OF MADHYA PRADESH*

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Appearance:

*Shri Ali Kaashif Khan Deshmukh, learned counsel for the petitioner.*

*Shri Sonal Gupta, learned Additional Advocate General for the  
respondent(s) / State.*

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ORDER

*Per. Justice Alok Awasthi*

The petitioner has filed the present petition under Article 226 of the Constitution of India seeking writ in the nature of habeas corpus alleging that he is under illegal detention of the respondent / authority.

02. Facts of the case reveal that the three persons namely; Salman, Imtiaz & Johar Hussain were apprehended on 03.12.2024 and from their possession 64.70 kg meat of wild species (Blackbucks & Chikara), one country-made pistol with cartridges, mobile phones and a vehicle were found. Thereafter, the accused were arrested and the case was registered at Forest Crime Case No.237/2022 on 21.08.2025. Thereafter, on the memorandum statement of these accused persons, the present appellant was



arrested on 27.10.2025.

03. Learned counsel for the petitioner argued that the petitioner has nothing to do with this crime. He has been arrested only on the basis of those three persons from whose possession meat and other articles were recovered. There is no recovery from the petitioner and he has no nexus with the alleged offence. It is further submitted that the ground of arrest has not been informed to the petitioner which is mandatory under the laws. In support of the contention, reliance has been placed upon several judgments delivered by the Apex Court in the cases of *Pankaj Bansal v/s Union of India (UOI) & Others reported in (2024) 7 SCC 576*, *Prabir Purkayastha v/s State (NCT of Delhi) Neutral Citation : 2024 INSC 414*, *Vihaan Kumar v/s State of Haryana & Others reported in (2025) 5 SCC 799*, *Mihir Rajesh Shah v/s State of Maharashtra & Others Neutral Citation : 2025 INSC 1288*, *Satender Kumar Antil v/s Central Bureau of Investigation & Another reported in 2026 SCC OnLine SC 162* and a prayer has been made that the State Authorities be directed to release the petitioner forthwith.

04. Learned Additional Advocate General for the respondents / State has opposed the aforesaid prayer. It submits that the present petition is not maintainable as from nowhere, it appears that the present petition is a habeas corpus petition and the arrest of the present petitioner cannot be termed to an illegal arrest. To prop up his arguments, he has placed reliance upon a judgment of the Full Bench of the Apex Court in the case of *State of Maharashtra & Others v/s Tasneem Rizwan Siddique reported in (2018) 9 SCC 745*. On such premises, a prayer has been made that that present



petition be dismissed as not maintainable.

05. We have heard learned counsel for the parties and perused the record.

06. The issue which requires consideration by this Court is whether the present petition filed by the petitioner in the nature of habeas corpus is maintainable or not ?

07. The undisputed facts reveal that three persons namely; Salman, Imtiaz & Johar Hussain were apprehended on 03.12.2024 and from their possession 64.70 kg meat of wild species (Blackbucks & Chikara), one country-made pistol with cartridges, mobile phones and a vehicle were found. Thereafter, the accused were arrested and the case was registered at Forest Crime Case No.237/2022 on 21.08.2025. Thereafter, on the memorandum statement of these accused persons, the present appellant was arrested on 27.10.2025. Thereafter, the petitioner was sent to the judicial custody.

08. After the arrest, the petitioner filed an application under Section 439 of the Cr.P.C. bearing M.Cr.C. No.5598 of 2026 which came to be dismissed vide order dated 06.02.2026. The said order reflects that the present petitioner was found in the video clip with two dead blackbucks. Therefore, it cannot be said that the petitioner is in illegal custody as all the necessary measures have been followed. Hence, the present petition can never be said to be a habeas corpus petition.

09. We find force in the arguments so advance by the learned Additional Advocate General that from nowhere, it can be gathered that the



present petition is habeas corpus petition and arrest of the appellant cannot be termed as habeas corpus petition.

10. In the case of *State of Madhya Pradesh & Others v/s Kusum Saha (Criminal Appeal No.4710 of 2025) [Arising out of SLP (Criminal) No.10491 of 2025]* decided on 03.12.2025, the Apex Court has observed thus:-

*"15. A perusal of the impugned order passed by the High Court shows that the factum of rejection of four bail applications filed on behalf of accused/Jibrakhan Lal Sahu, father of the respondent, has been noticed. The argument raised by the learned counsel for the respondent/Kusum Sahu before the High Court was that the orders rejecting bail application of her father are no less than illegal orders of continuing detention. Though the rejection of bail by the High Court can be challenged before this Court, yet a habeas corpus petition was filed. Despite objection of the maintainability of the petition raised by the State, the High Court allowed the same. It is specifically noticed by the High Court that the orders passed by the High Court rejecting bail of the accused can be challenged before the higher court only. The facts of the case on merits were noticed and examined by the High Court and after going through the same and recording that the parties before the Court had no finances to approach the Supreme court and are facing mental agony, the High Court found that it was a fit case for exercise of jurisdiction under Article 226 of the Constitution of India. Finally, the Authorities were directed to release Jibrakhan Lal Sahu.*

*16. The facts of the case, as noticed above, in brief, indicate that the manner in which the case has been dealt with really shocks the conscience of this Court. It is a case where accused was arrested and filed four bail applications before the High Court, which were*



*rejected. Despite this, in a habeas corpus petition filed by his daughter, his custody has been held to be unlawful and he was directed to be released while examining the case on merits as if the Court was hearing appeal against the order rejecting the bail application. The process followed is totally unknown to law. Lest the High Court starts following the impugned order as a precedent to scuttle the due process of law, to nip the evil in the bud, we hold that custody of an accused in a criminal case registered against him cannot be held to be unlawful especially when his bail applications have been dismissed. In the case at hand, it is not disputed that Jibrakhan Lal Sahu, father of the respondent herein, is an accused in a criminal case registered against him in which chargesheet has also been filed."*

11. In the aforesaid case, the Apex Court has held that though the rejection of bail by the High Court can be challenged before the Supreme Court, yet a *habeas corpus* petition was filed. Despite the objection of the maintainability of the petition raised by the State, High Court allowed the same. It is specifically noticed by the High Court that the orders passed by the High Court can be challenged before the Supreme Court only. It has further been held that custody of an accused in a criminal case registered against him cannot be held to be unlawful, especially when his bail applications have been dismissed by the High Court.

12. In the case of *Saurabh Kumar Through His Father v/s Jailor, Koneila Jail & Others reported in (2014) 13 SCC 436*, the Apex Court has opined thus:-

*"22. The only question with which we are concerned within the above backdrop is whether the petitioner can be said to be in the unlawful custody. Our answer to that question is in the negative."*



*The record which we have carefully perused shows that the petitioner is an accused facing prosecution for offences, cognizance whereof has already been taken by the competent Court. He is presently in custody pursuant to the order of remand made by the said Court. A writ of Habeas Corpus is, in the circumstances, totally mis-placed. Having said that, we are of the view that the petitioner could and indeed ought to have filed an application for grant of bail which prayer could be allowed by the Court below, having regard to the nature of the offences allegedly committed by the petitioner and the attendant circumstances. The petitioner has for whatever reasons chosen not to do so. He, instead, has been advised to file the present petition in this Court which is no substitute for his enlargement from custody."*

13. In the aforesaid case, the Apex Court has held that since the petitioner was in judicial custody by virtue of an order passed by a Judicial Magistrate and, hence, it could not be held to be an illegal detention.

14. In the case of *Tasneem Rizwan Siddique (supra)*, the Apex Court in paras - 10 & 12 has held as under:-

*"10. The question as to whether a writ of habeas corpus could be maintained in respect of a person who is in police custody pursuant to a remand order passed by the jurisdictional Magistrate in connection with the offence under investigation, this issue has been considered in the case of Saurabh Kumar through his father Vs. Jailor, Koneila Jail and Anr., and Manubhai Ratilal Patel Vs. State of Gujarat and Ors. It is no more res integra. In the present case, admittedly, when the writ petition for issuance of a writ of habeas corpus was filed by the respondent on 18th/19th March, 2018 and decided by the High Court on 21<sup>st</sup> March, 2018 her husband Rizwan Alam Siddique was in police custody pursuant to an order passed by the Magistrate granting his police custody in*



*connection with FIR No.131 vide order dated 17 th March, 2018 and which police remand was to enure till 23<sup>rd</sup> March, 2018. Further, without challenging the stated order of the Magistrate, a writ petition was filed limited to the relief of habeas corpus. In that view of the matter, it was not a case of continued illegal detention but the incumbent was in judicial custody by virtue of an order passed by the jurisdictional Magistrate, which was in force, granting police remand during investigation of a criminal case. Resultantly, no writ of habeas corpus could be issued.*

*1 2 . Suffice it to observe that since no writ of habeas corpus could be issued in the fact situation of the present case, the High Court should have been loath to enter upon the merits of the arrest in absence of any challenge to the judicial order passed by the Magistrate granting police custody till 23<sup>rd</sup> March, 2018 and more particularly for reasons mentioned in that order of the Magistrate. In a somewhat similar situation, this Court in **State represented by Inspector of Police and Ors. Vs. N.M.T. Joy Immaculate** deprecated passing of disparaging and strong remarks by the High Court against the Investigating Officer and about the investigation done by them. Accordingly, we have no hesitation in expunging the observations made in paragraphs 4 to 6 of the impugned judgment against the concerned police officials in the facts of the present case."*

15. In the aforesaid case, while dealing with the similar kind of controversy the Apex Court has held that it is not a case of continued illegal detention, but the incumbent was in judicial custody by virtue of an order passed by the Jurisdictional Magistrate, which was in force, granting policing remand during investigation of criminal case. Hence, no writ of habeas corpus can be issued.



16. In the case of *Koman Bai v/s The State of Madhya Pradesh & Others : Neutral Citation No.2026:MPHC-IND:10145 (Writ Petition No.13440 of 2026)*, this Court declined to issue writ in the nature of habeas corpus as the bail application was already rejected by the Court.

17. In the case at hand also, as stated above, the bail application of the petitioner i.e. M.Cr.C. No.5598 of 2026 has already been dismissed by the High Court vide order dated 26.02.2026. Now present petition has been filed seeking writ in the nature of habeas corpus, which is not permissible in the eyes of law.

18. In view of the foregoing discussion and the dicta of the Apex Court as well as this Court in the aforesaid cases, we are of the considered opinion that no writ in the nature habeas corpus can be issued. The petitioner shall be liberty to raise all the ground before the trial Court, as has been raised in the present petition.

19. Writ Petition stands dismissed, being not maintainable.

(VIJAY KUMAR SHUKLA)  
JUDGE

(ALOK AWASTHI)  
JUDGE