

Neutral Citation No. - 2026:AHC:121388-DB

Reserved on: 30.04.2026

Delivered on: 26.05.2026

HIGH COURT OF JUDICATURE AT ALLAHABAD

HABEAS CORPUS WRIT PETITION No. - 803 of 2025

Isham @ IsamPetitioner(s)

Versus

State Of Up And 5 OthersRespondent(s)

Counsel for Appellant(s) : Babboo Ram, Gautam Baghel

Counsel for Respondent(s) : G.A., Manish Pandey

Court No. - 49

**HON'BLE RAJEEV MISRA, J.
HON'BLE DR. AJAY KUMAR-II,J**

(DICTATED BY HON'BLE RAJEEV MISRA,J)

1. Challenge in this writ petition is to the detention order dated 26.05.2025 passed by respondent-3, District Magistrate, Shamli in exercise of jurisdiction under Section 3(2) of the National Security Act, 1980 (Annexure-1 to the writ petition) as well as the confirmation order dated 29.07.2025 passed by respondent-2 Under Secretary, Home (Confidential) Department, Government of Uttar Pradesh, under Section 12(1) of the National Security Act, 1980 (Annexure-2 to the writ petition), whereby it has been directed that petitioner shall be kept under detention for a period of 12 months. Apart from above, petitioner has also prayed for a writ of mandamus commanding respondent authorities to release petitioner from judicial custody forthwith.

2. We have heard Mr. Gautam Baghel, the learned counsel for petitioner,

the learned A.G.A. for State-respondents 1, 2, 3, 4, 5 & 7 and Mr. Manish Pandey, the learned counsel representing respondent-6 Union of India.

3. All the respondents except respondent-5 Station House Officer, Police Station-Shamli, District-Shamli have filed their respective counter affidavits to which, petitioner has also filed his rejoinder affidavits. Same are on record.

4. Counsel for the parties submitted that since pleadings have been exchanged between the parties, therefore, the present writ petition be heard and decided finally. In view of above and as provided under the rules of Court, the present writ petition was heard finally at the admission stage, without formally admitting the same and is now being disposed of finally by this judgment.

5. Perused the record.

6. Record shows that in respect of an incident, which is alleged to have occurred on 23.04.2025, a prompt FIR dated 23.04.2025 was lodged by Sub-Inspector Anil Kumar and was registered as Case Crime No. 0196 of 2025, under Sections 3, 5A, 8 of The U.P. Prevention of Cow Slaughter Act, 1955. In the aforesaid FIR, two persons namely Samir and Isham (petitioner) were nominated as named accused, whereas an unknown person was also arraigned as an accused. The copy of aforementioned FIR is on record as Annexure-4 to the writ petition.

7. In respect of another incident, which occurred on the same day i.e. 23.04.2025 at 23:32 hours, another FIR dated 23.04.2025 was lodged by Incharge Inspector, Virendra Kumar and was registered as Case Crime No. 0197 of 2025, under Section 109(1) BNS and Sections 3/25/27 Arms Act, Police Station-Shamli, District-Shamli. In the aforesaid FIR,. Two persons namely Isham (petitioner) and Samir were nominated as named accused. Copy of the said FIR is also on record as Annexure-5 to the writ petition.

8. Petitioner-Isham @ Hisam was arrested on 24.04.2025. He was, however, enlarged on bail, vide order dated 23.05.2025 in Case Crime No. 0197 of 2025, under Section 109(1) BNS and Sections 3/25/27 Arms Act, Police Station-Shamli, District-Shamli, vide order dated 04.07.2025 in Case Crime No. 0196 of 2025, under Sections 3, 5A, 8 of The U.P. Prevention of Cow Slaughter Act, 195 and vide order dated 07.07.2025 in Case Crime No. 0198 of 2025, under Section 317(5) BNS, Police Station-Kotwali Shamli, District-Shamli.

9. While the petitioner was under incarceration in aforementioned case crime numbers, Station House Officer of Police Station-Shamli, District-Shamli submitted a report dated 09.07.2025 addressed to respondent-4 Superintendent of Police, District-Shamli stating therein that on account of act of petitioner i.e. committing cow slaughtering, there was tense atmosphere for 5 to 6 days. As such, there was disturbance in public order and peace. It was thus submitted that the matter be referred to the District Magistrate, Shamli for passing detention order under the National Security Act.

10. Upon receipt of aforementioned report dated 09.07.2025, respondent-4 Superintendent of Police, District-Shamli forwarded the same to respondent-3, District Magistrate, District-Shamli, vide his report dated 11.07.2025, whereby he concurred with the aforementioned report submitted by the Station House Officer, Police Station-Shamli, District-Shamli.

11. Thereafter, upon receipt of aforementioned reports, respondent-3, District Magistrate, Shamli passed the detention order dated 21.07.2025 in exercise of jurisdiction under Section 3(2) of the National Security Act, 1980, wherein it was provided that petitioner should be detained for a period of 12 months.

12. The detention order dated 21.07.2025 along with the grounds of detention were supplied to petitioner. Since the same has much bearing on

the fate of present writ petition therefore, the facts stated in the grounds of detention need to be noticed. In the grounds of detention, copy of which has been appended at page 26 of the paper book it has been stated that on 23.4.2025, Sub-Inspector Anil Kumar received information from police informer that certain persons are committing cow slaughtering. However, upon arrival of Police, two boys standing near the house (place of occurrence) signalled alarm on account of which the inmates of the house ran away. Two of the ran-away accused were identified as Shamim and Isham. Thereafter checking was conducted inside the house, The spinned head, legs, skin and meat was recovered. Upon scientific examination by the veterinarian, the recovered meat was stated to be beef and the remaining material was identified in the remains of a progeny of cow. It has also been stated in the grounds of detentions that the DVR of CCTV installed in the house of one Mritunjay was also examined that an progeny of cow was being dragged by three persons namely Husain @ Isam, Salman and Samir were ascertained and on 23.04.2025, they committed cow slaughtering. On account of act of petitioner and others, the sentiments of Hindu community have been disturbed. On account of above, there is discontentment and anxiety in the public at large resulting in adverse effect on public life.

13. No representation was filed by petitioner either before the Detaining Authority i.e. the District Magistrate, Shamli, State Government or the Advisory Board against the detention order, thereafter, copy of detention order along with the grounds of detention and other connected papers were forwarded to the State Government as per the provisions of Section 3(4) of the National Security Act, 1980.

14. Thereafter, the matter was placed before the U.P. Advisory Board (Detention) as required under Section 10 of the National Security Act, 1980.

15. Ultimately, the State Government passed the confirmation order dated

19.08.2025, wherein it was provided that the petitioner shall be kept under detention for a period of 12 months.

16. Thus feeling aggrieved by the detention order dated 21.07.2025 as well as the confirmation order dated 19.08.2025, petitioner has now approached this Court by means of present criminal misc. writ petition.

17. Learned counsel for petitioner in support of present writ petition has relied upon a Division Bench Judgement of this Court in **Faiyyaz Quraishi Vs. Union of India 2019 SCC Online ALL 4426**. He has referred to paragraphs 3,4,5,6 and 12 of the aforesaid report. Accordingly the same are extracted herein below:

"3. Briefly stated, the relevant facts of the case are that while the petitioner was confined in District Jail, Budaun in connection with Case Crime No.258 of 2018, P.S. Usaihat, District Budaun, under Section 3/5/8 of Cow Slaughter (Prevention) Act, he was served with the impugned detention order dated 04.12.2018 passed by the District Magistrate, Budaun along with grounds of detention.

4. In the grounds of detention, it is stated that, on 18.09.2018, Sub-Inspector Sri Vikram Singh and Constables Neeraj Kumar and Dinesh Kumar received information from an informer that at Kasba Usaihat 4-5 persons were slaughtering cows in the house of one Faem Quraishi son of Layeek and are selling beef. Upon receipt of that information, the police party reached the house concerned and peeped through the door and walls of the house and saw that the house owner Faem Quaraishi and three others after slaughtering the animal were selling beef. It is alleged that to apprehend the accused, the Sub-Inspector with his fellow policemen raided the premises upon which the accused persons started running away but one could be apprehended, namely, Faiyyaz Quraishi (petitioner - detenue). On the spot, in two bags, about 40-45 kg of beef, one animal skin and jaw, hoofs and other body parts were recovered along with cutting equipments suggesting that an animal belonging to cow

family had been slaughtered. Upon recovery, a veterinary doctor was called who confirmed that the meat recovered was beef. It is stated that the information about slaughter and recovery of beef spread in the Kasba as a consequence whereof Hindu Organizations got agitated and started demonstrations. It is alleged that on account of such agitation, there had been disturbance in public order and shops etc. were closed. It is stated that additional force had to be deployed to control the situation. On 20.09.2018, the incident was reported in the daily news 'Amar Ujala' as well as 'Dainik Jagran' and 'Hindustan'. After narrating the above facts, the district magistrate stated that, at present, though the petitioner is in jail but has applied for bail. The bail application though has been rejected by the Sessions Court but an application for bail has been submitted in the High Court, which is pending and that efforts are on for securing his release on bail, as a consequence whereof, people belonging to the Hindu Organizations are getting agitated and if the petitioner is enlarged on bail, then there is a possibility that he may again indulge in cow slaughter which may result in breach of public order. Hence, to prevent him from doing so, his detention is considered necessary.

5. The grounds of detention informed the detenu about his right to make representation to the Detaining Authority; the State Government; and the Central Government. He was also advised that if he wishes to make a representation to the Detaining Authority, then the same must be made within 12 days of passing of the detention order because if the detention order is approved by the State Government, then the Detaining Authority would have no surviving right to decide the representation.

6. The State Government; the Central Government; and the Detaining Authority have all filed their return.

12. From a perusal of the record, we find that there is no material on record to suggest that the act of slaughter took place outside the four walls of one's house or that the animal parts, beef, etc were taken out of the house for sale to members of public. There is no allegation that the

members of public had collected at the house of the accused and in their presence or to their knowledge slaughter took place. There is also no material to suggest that in that village or locality communal violence broke out resulting in injury to any one. It appears to us that when the news of slaughter leaked, demonstrations started. Who spread the news, with what motive, is not known. But the alleged act by itself was not such which could have come to the notice or knowledge of any one except those who were within the four walls of that house. Interestingly, the police party also had to peep through the door and the wall to discover what was being done there. The act was a well secreted act. Obviously, to ensure that it does not come to the notice of others. "

18. Drawing a parallel in between the facts of the aforesaid judgement and present case, the learned counsel for petitioner contends that there is nothing on record to suggest that the act of petitioner complained of occurred outside the boundaries of his house and therefore in public view. As such, the act of petitioner was committed privately beyond public view. Apart from above, there is no pleading in the counter affidavit filed by respondents that on account of act of petitioner there was communal violence resulting in breach of public peace or injury to any person. It has also not been averred in the counter affidavit that due to the Act of petitioner as complained of public had collected disturbing law & order and peace or communal harmony was disturbed. It is thus evident that the act of petitioner in respect of which the impugned order were passed has not occurred in public view and there was no breach of public peace or disturbance of law & order and social harmony. He has then referred to paragraphs 13 and 14 of the aforementioned report, wherein Division Bench has dealt with the ratio laid down by this Court in the case of **Saeed Vs. State of U.P. and Others, 2007 (67) All LR 4/ 2007 (1) ACT 481, Riyazuddin vs. State of U.P. and Others 2017 (5) ADJ 316, 2017 (2) All ACR 1979**. Accordingly, paragraphs 13 & 14 of aforementioned report are reproduced herein below;-

"13. In Saeed's case (Supra) a Division Bench of this Court had taken a view that when a few men clandestinely slaughter a cow in the secrecy of their home away from the public eye in the dark hours, perhaps for survival or for consumption of meat, such action may not by itself amount to breach of public order but when the slaughter is done in public gaze with a view to strike terror in the minds of public and to disturb communal peace, then it may amount to breach of public order.

14. In Riyazuddin's case (Supra), which has been cited by the learned A.G.A., from a perusal of paragraph 20 of that judgment, as reported, it appears, the act of slaughter was in public gaze and the beef was being transported in vehicles for the purpose of its disposal. Further, from paragraph 27 of the judgment, as reported, it appears that number of cows were slaughtered and their body parts were scattered all around in an open place in public view. Therefore, the court, after considering all aspects, upheld the order of detention upon finding it to be a case of breach of public order. "

19. On the above conspectus, the learned counsel for petitioner thus submitted that there is nothing on record to distinguish the ratio laid down by this Court in the case of **Faiyya Quraishi (Supra)**. As such, present writ petition is liable to be allowed.

20. Having heard the learned counsel for petitioner, the learned A.G.A for State/respondents, the learned counsel representing Union of India and upon perusal of record, we find that proceedings under the National Security Act were initiated against petitioner for committing an act of cow slaughtering. Cow Slaughtering is banned in the State of U.P.. As such, the act of petitioner can be said to be violative of the provisions contained in the U.P. Prevention of Cow Slaughter Act. However, it is an undisputed fact that act of petitioner i.e. alleged incident occurred within the four boundaries of the house and not in public place. As a consequence of above, there was no violence or disturbance of public peace & order or

disturbance of communal harmony. As per the recovery made from the spot, it is apparent that only one cow was slaughtered. In view of the discussion made about, the inescapable conclusion is that detention order passed against the petitioner under the National Security Act, cannot be sustained either in law or fact. As such same is liable to be quashed by this Court.

21. As a result, the present writ petition succeeds and is liable to be allowed.

22. It is, accordingly, **allowed**.

23. The detention order dated 26.05.2025 passed by respondent-3, District Magistrate, Shamli in exercise of jurisdiction under Section 3(2) of the National Security Act, 1980 (Annexure-1 to the writ petition) as well as the confirmation order dated 29.07.2025 passed by respondent-2 Under Secretary, Home (Confidential) Department, Government of Uttar Pradesh, under Section 12(1) of the National Security Act, 1980 (Annexure-2 to the writ petition) are, hereby, quashed.

24. Petitioner shall be released forthwith unless he is not wanted in any other criminal case.

(Dr. Ajay Kumar-II,J.)

(Rajeev Misra,J.)

26th May, 2026

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