



Order Reserved On:-26.05.2026.

Order Delivered On:-29.05.2026.

HIGH COURT OF JUDICATURE AT ALLAHABAD

HABEAS CORPUS WRIT PETITION No. - 451 of 2026

Anil Soni (Corpus) And Another

.....Petitioner(s)

Versus

State Of U.P. And 3 Others

.....Respondent(s)

Counsel for Petitioner(s) : Deepak Kumar Srivastava, Ganesh Shanker
Srivastava
Counsel for Respondent(s) : G.A.

Court No. - 44

HON'BLE SIDDHARTH, J.

HON'BLE VINAI KUMAR DWIVEDI, J.

1. Heard Mr. Ganesh Shankar Srivastava and Mr. Deepak Kumar Srivastava, learned counsel for the petitioners; learned A.G.A. for the State; and perused the documents brought on record.
2. The above noted writ petition was filed praying for direction to respondent to produce corpus-petitioner no.1, namely, Anil Soni, illegally detained by the aforesaid respondents.
3. The brief facts of the case are that the petitioner no.1, corpus, was having love affair with one, Khusboo, daughter of Ram Dheeaj Chamar, for last two years. Thereafter, it appears that their relations became bad and, thereafter, Khusboo, lodged an F.I.R. against the petitioner no.1, under sections 69, 115(2), 352, 351(3) BNS and Sections 3(1)(R), 3(1)(S) & 3(2)(v) SC/ST Act, Police Station-Itwa, District-Siddharth Nagar.
4. The aforesaid F.I.R. dated 06.01.2024 was subjected to challenge by way of Criminal Misc. Writ Petition No. 1544 of 2026 and a coordinate Bench of this Court after hearing the learned counsel for the petitioner, learned AGA appearing for respondent nos. 1, 2 and 3, and Sri Ashwani Kumar Gupta, learned counsel for respondent no.4, stayed the arrest of the petitioner by way of interim measure by its vide order dated 01.04.2026.
5. It has been averred in the writ petition that the interim order dated 01.04.2026 was loaded on the website of this Court on 06.04.2026, but before that the petitioner no.1 was arrested on 04.04.2026 by the respondent no.3, S.H.O. of the police station- Itwa, District- Siddharth Nagar. It has been pleaded in the writ petition that a notary affidavit was prepared by Hari Prasad, brother of the petitioner no.1 on 04.04.2026 in the name of S.H.O. Itwa, District- Siddharth Nagar, informing him that the interim

order has been passed by the Hon'ble High Court in Criminal Misc. Writ Petition no. 1544 of 2026 and the same was given to the S.H.O. aforesaid.

6. After the arrest of the petitioner no.1 on 04.04.2026, learned counsel for the petitioner, Sri Deepak Kumar Srivastava, called S.H.O. aforesaid on his C.U.G. No. 9454404234 and 9454401349. S.H.O. stated that he is in teshil diwas and after getting direction from his higher authorities, he will take action. Thereafter, an affidavit prepared by the brother of the petitioner no.1 was sent on the mobile phone of respondent no.3., S.H.O. The relatives of the petitioner no.1 went to the respondent no.3 as well as the the Circle Officer regarding the compliance of the interim order passed in Criminal Mis. Writ Petition No. 1544 of 2026 , but they misbehaved with them. One, Vipul Kumar Rai, claiming himself to be sub-inspector called the learned counsel for the petitioner, Sri Ganesh Shanker Srivastava. From his mobile no. 9336427812 on 04.04.2026 and inquired about the status of the aforesaid criminal writ.

7. Learned counsel for petitioner informed him from his mobile number 9336427812 on 04.04.2026 that within one or two days interim order of the Court dated 01.04.2026 shall be loaded and then he will supply the copy of the same. Even after filing of this Habeas Corpus Writ Petition and calling of reply from the respondents, the petitioner no.1 was not released from jail and counter-affidavits were filed by the respondents justifying the arrest of the petitioner no.1 since they were not provided the copy of the interim order dated 01.04.2026 passed by this Court.

8. This Court after considering the conduct of the respondents, directed the Chief Judicial Magistrate, Siddharth Nagar, to get the petitioner no.1 released from jail forthwith vide following order dated 29.04.2026:-

"By the order dated 23.04.2025, learned AGA was granted three days time for filing counter affidavit of the Investigating Officer, no counter affidavit has been filed till date. Learned counsel for the petitioner submits that the petitioner was granted stay of arrest by the order dated 01.04.2026 in Criminal Misc. Writ Petition No.1544 of 2026, but despite the aforesaid stay order being passed, the petitioner has been arrested and is in jail since 04.04.2026 in violation of the order dated 01.04.2026 passed by a coordinate Bench of this Court in Criminal Misc. Writ Petition No.1544 of 2026.

The Chief Judicial Magistrate, Siddharth Nagar is directed to get the petitioner No.1 released from district Jail Siddharth Nagar, forthwith. The respondent No.4-Jail Superintendent, District Jail, Siddharth Nagar shall also comply with this order. In case of failure, he shall be present before this Court on the next date fixed.

Put up as fresh again on 4th May, 2026."

9. Learned counsel for the petitioner submits that when the interim order dated 01.04.2026 was passed, the learned AGA representing the respondent nos. 1, 2 and 3

was present. Learned counsel for informant was also present and, therefore, the respondents had full knowledge of the interim order passed by this court in Criminal Misc. Writ Petition No. 1544/2026. Despite being informed about the order dated 01.04.2026, the respondent no.3 arrested the petitioner no.1 on 04.04.2026.

10. Learned AGA has opposed the submissions made by learned counsel for the petitioner on the ground that the respondent no.3 was duty bound to arrest the petitioner no.1 in the absence of non production of any interim order of stay of his arrest from this Court. Learned AGA has justified the conduct of the respondent no.3 and has submitted that after the order dated 29.04.2026 of this Court, the petitioner no.1 was released on the same day.

11. After hearing the rival submissions, we find that the interim order dated 01.04.2026 passed in Criminal Misc. Writ Petition No. 1544 of 2026 was in the presence of the learned AGA appearing on behalf of the respondents and also the learned counsel for the informant, Sri Ashwani Gupta. It is not a case of the respondents that the order was passed ex-parte in favour petitioner no.1 in the aforesaid writ petition. Therefore, it is crystal clear that are the respondents and also learned counsel for informant were aware of the order passed by this court. Whether the counsel for petitioner or counsel for respondents, all all the officers of the Court and are required to protect the majesty of the Court and law. It was boundent duty of the counsel for respondents to inform the respondent no.3 and other police officials that the arrest of the petitioner no.1 has been stayed by the Hon'ble High Court and they should not arrest him, but sadly they did not do so. Even after filing of this writ habeas corpus writ petition on 13.04.2026, the respondent no.3 did not released the petitioner no.1 from the illegal custody and only after the order dated 29.04.2026 was passed by this court, the petitioner no.1 was released from District Jail, Siddharth Nagar, on the same day.

12. We have noted that this unfortunate trend is given the momentum. Learned counsel for the State do either not intimate the orders passed by this Court to the police authorities as a result of which the authorities do not comply the order passed by this Court or the police authorities are disrespectful towards the Court orders and they act in mala fide manner.

13. However, in the present case learned counsel for the petitioner has made efforts to inform the respondent no.3, S.H.O., Itwa, District- Gautam Buddh Nagar, about the interim order dated 01.04.2026. passed in the Writ Petition No. 1544/2026, but he paid not heed to the same. Even after filing of the writ petition and calling for counter-affidavits number of times the respondent no.3 made no effort to get the interim order dated 01.04.2026 complied passed by this Court in the Criminal Misc. Writ Petition No. 1544/2026.

14. The copy of the order of this Court was sent to the Superintendent of Police,

Siddharth Nagar, through registered post on 09.04.2026 and the same was received at his house on 13.04.2026, as per the tracking record of the postal department. Yet the petitioner no.1 was not released from jail. Therefore, it is absolutely clear that respondent no.3 made no efforts to get the order of the court complied. Therefore, his conduct proves that he deserves to be punishment of dereliction in due discharge of his official duty and also deserves to be monetarily penalized.

15. Accordingly, we are of the view that in view that as per the judgment of the Apex Court in the case of **Rudhal Shah Vs. State of Bihar 1983 (4) SCC 141 and Nila Behara Vs. State of Orissa 1993(2) SCC 746** and the recent judgment of the Lucknow Bench of this Court in the case of **Manoj Kumar, through his son Mudit Vs. State of U.P. passed in Habeas Corpus Writ Petition No. 137/2026 through Principle Home Secretary, Home Department, U.P. Lucknow and 4 Others.**

16. The petitioner no. 1 shall be paid compensation of Rs. 5 lakhs by the State Government within a period of one month. The State Government shall, however, be free to recover the said amount from respondent no. 3.

17. Disciplinary proceedings shall also be initiated against the respondent no.3, S.H.O. Sanjay Kumar Mishra, Itwa, District- Gautam Buddha Nagar, for dereliction of due discharge of official duty of violating the order passed by this Court and commission of act of indiscipline.

18. Superintendent of Police, Siddharth Nagar, is directed to file compliance affidavit of this order on or before 13.07.2026. regarding compliance of paras 16 and 17 of this Order .

19. In case of failure, Superintendent of Police, Siddharth Nagar, shall be present before this Court at 10:00 a.m. sharp on 13.07.2026.

20. Put up as fresh case on **13.07.2026.**

May 29, 2026
Abhishek

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