

Judgment Reserved on 26.5.2026
Judgment Delivered on 08.6.2026



HIGH COURT OF JUDICATURE AT ALLAHABAD
HABEAS CORPUS WRIT PETITION No. - 317 of 2026

Mansoor Ahmad @ Lallu and another

.....Petitioner(s)

Versus

State of U.P. and 4 others

.....Respondent(s)

Counsel for Petitioner(s) : Pushpendra Singh, Wahid Jamal
Counsel for Respondent(s) : G.A.

In Chamber

HON'BLE SIDDHARTH, J.
HON'BLE VINAI KUMAR DWIVEDI, J.

(Delivered by Hon'ble Siddharth, J.)

1. Heard Sri Pushpendra Singh, learned counsel for the petitioners; Sri Anoop Trivedi, learned Additional Advocate General assisted by Sri Mohd. Shoeb Khan, learned AGA-Ist for State-respondents and perused the pleadings of the parties and annexures in support thereof.

2. This habeas corpus writ petition has been filed seeking the following reliefs:-

I. Issue a writ order or direction in the nature of Habeas Corpus directing the respondents to produce corpus petitioner no. 1 before this Hon'ble Court. So that he may be released on his freewill.

II. Issue any such other and further order or direction as this Hon'ble Court may deem fit and proper under the facts and circumstances of the case.

III. Award the costs of the writ petition against the petitioners.

3. The brief facts of the case are that on 19.03.2026 at about 12:50 a.m., respondent Nos. 2 to 5, namely, Krishan Mohan Singh, posted as S.H.O., Police Station Khiri, District Prayagraj; Sub-Inspector Umesh Singh; Constable Ankit Singh; and Tribhuwan Pandey, forcibly entered the house of the petitioners and carried petitioner No. 1 to the police station. When petitioner No. 2, who is the wife of Petitioner No. 1, asked respondent Nos. 3 and 5 for the reasons of arrest of petitioner No. 1, they did not informed anything and pushed her aside before taking petitioner No. 1 with them. On the same day, i.e., 19.3.2026 son of the petitioners, namely, Shahrukh Khan, made complaint against respondent nos. 3 to 5 at U.P. Chief Minister Portal through counsel. When petitioner no.2 and other family members of petitioner nos. 1 & 2 went to the Police Station Khiri, District Prayagraj, they found that petitioner no.1 was badly beaten by respondent no.3 & 4 and he was in a bad condition. After four days of the arrest/detention of petitioner no.1, present writ petition was filed on 23rd March, 2026.

4. Before filing of the writ petition and from date of arrest of petitioner no.1, number of complaints were made by respondent no.2 to different authorities including the Commissioner of Police, Prayagraj. After filing of this writ petition, it came before the Court on 23rd March, 2026 and it

was directed to be put on 02.4.2026. On 02.4.2026, learned AGA has granted a week's time to file counter affidavit and the case was directed to be put up on 16.4.2026. On 16.4.2026, learned AGA sought two days' further time to file counter affidavit. On 21.4.2026, no one responded on behalf of the petitioner, when the case was called out and it was directed to be put up on 27.4.2026. On 27.4.2026 the following order was passed:-

“1. Counter affidavit filed by learned A.G.A. and supplementary affidavit filed by counsel for the petitioners, are taken on record.

2. In this case, it appears that the Commissioner of Police, Commissionerate Prayagraj has illegally detained the petitioners in proceedings under Sections 170, 126 & 135 B.N.S.S. It has come to the notice of this Court that in many of the Commissionerates of Police, the powers are being misused by the Commissioners of Police in all these proceedings and they are sending people in jail without considering the law in this regard. Even after the bonds are furnished by the accused, they are not easily released from custody.

3. The Commissioner of Police, Commissionerate Prayagraj is directed to submit a list of such illegally detained persons by his orders within a week, without fail.

4. Put up again on 06.05.2026 as fresh.

5. In case of failure, the Commissioner of Police, Commissionerate Prayagraj shall be present before this Court at 10:00 A.M. sharp.”

5. On 6.5.2026, the following order was passed:-

“Heard Shri Pushpendra Singh, learned counsel for the petitioners and Shri Anoop Trivedi, learned Additional Advocate General assisted by Mohd. Shoeb Khan, learned A.G.A.-I for the State.

In the counter affidavit filed by the State today, it has been averred that no person implicated under Sections 126/135/170 BNSS is in jail.

Chief Judicial Magistrate, Prayagraj and learned counsel for the State are directed to place before this Court the details of the persons implicated under the aforesaid Sections, the period of their detention in jail, dates of release from jail and dates of furnishing bonds and sureties within 10 days.

Put up this case as fresh case on 19.05.2026.”

6. In the compliance of the above order, the C.J.M. Ghaziabad, has placed before the Court the information sent by Additional Police Commissioner, Head Quarter, Commissionerate, Ghaziabad, regarding period of detention of persons under Sections 170, 126 and 135 B.N.S.S. from 1.5.2025 to 30.4.2026 regarding detention of 2522 persons. Their custody is ranging from 1 day to 17 days. This is not in accordance with law.

7. In the supplementary affidavit dated 01.4.2026 filed by learned counsel for the petitioner, it has been averred in paragraph no.3 that petitioner has been sent jail under Section 170 B.N.S.S.. He was in jail for 8 days, when he could not have been detained more than 24 hours.

After filing of the writ petition, the petitioner no.1 was released on 27.3.2026.

8. In the counter affidavit filed on behalf of the State-respondents, it has been stated that petitioner no.1 on 19.3.2026 hurled abuses against the persons of village Patwari, due to which there was apprehension of breach of peace. The police tried to control the petitioner no.1, but he started indulging in violence and therefore he was detained as Sections 170, 126, 135 B.N.S.S. After detention petitioner no.1 was produced before the Assistant Commissioner of Police, Bara, Prayagraj. The petitioner no.1 could not provide surety on 19.3.2026, when he was produced before Assistant Commissioner aforesaid and therefore, he was sent to judicial custody. The petitioner no.1 furnished personal surety only on 27.3.2026. Thereafter he was released from judicial custody. The memo of arrest dated 19.3.2026 has been brought on record as Annexure No.C.A.-1 to the counter affidavit, which does not contains any grounds of arrest.

9. After considering the rival pleadings and arguments it is clear that the order dated 19.3.2026 of the Assistant Commissioner of Police/Special Acting Magistrate, Commissionerate Prayagraj shows that the petitioner no.1 was produced before Assistant Commissioner of Police on 19.3.2026. It has been averred in the counter affidavit that petitioner no.1 furnished surety only on 27.3.2026. The order dated 19.03.2026 passed by the Assistant Commissioner of Police aforesaid shows that it is on a printed proforma and the heading of the proforma states that it pertains

to persons who have failed to furnish surety are being summoned by the summoning order. The order dated 19.3.2026 of Assistant Commissioner of Police, is being reproduced herein below:-

तलबी आदेश

न्यायालय सहायक पुलिस आयुक्त/विशेष कार्यपालक मजिस्ट्रेट कौधियारा, कमिश्नरेट प्रयागराज
सरकार बनाम मंसूर अली उर्फ लल्लू

धारा 170/126/135 बी0एन0एस0एस0 L
थाना-खीरी

प्रतिभू देने में असफल रहने पर कारावासित व्यक्ति तलबी आदेश

अधीक्षक

जिला कारागार

कमिश्नरेट प्रयागराज

अभियुक्त- 1- मंसूर अली उर्फ लल्लू पुत्र कुतुब अली नि०-पवांरी थाना खीरी कमि० प्रयागराज को दिनांक 19.03.26 को इस न्यायालय के वारण्ट के अधीन आपकी अभिरक्षा में सुपुर्द किया गया था, जिसकी ता० पेशी दिनांक 27/3/26 में नियत है।

आपसे आपेक्षा की जाती है कि उक्त अभियुक्त/अभियुक्तगण उपरोक्त को नियत ता० 27.3.2026 को समय 10:00 बजे पूर्वाहन मेरे न्यायालय भेजना सुनिश्चित करें।

दिनांक - 19.03.26

Sd/

ए०सी०पी०बारा/विशेष कार्यपालक मजिस्ट्रेट कौधियारा
कमिश्नरेट प्रयागराज

10. It is clear from the above that petitioner no. 1 was produced before the Assistant Commissioner of Police aforesaid on 19.3.2026 and he was directly sent to jail fixing next date of 27.03.2026. There is no recital in the order that on the date of production of petitioner no. 1 before the Assistant Commissioner of Police, he refused to furnish personal bond for keeping the peace. He was directly directed on 19.3.2026 to appear

before the Magistrate on 27.03.2026 and on that date bond was taken and he was released. Therefore, it is clear that the provisions of Sections 170, 126, and 135 of the B.N.S.S. were flagrantly violated by the Assistant Commissioner of Police/Special In-charge Magistrate, Commissionerate Prayagraj. If petitioner no. 1 did not furnish the personal bond on 19.03.2026, the next date, i.e., 20.03.2026, should have been fixed to provide him an opportunity to furnish personal bond for keeping the peace and maintaining good behaviour. The Assistant Commissioner of Police fixed the next date after eight days; therefore, petitioner no. 1 was kept in illegal detention for eight days, de hors the provisions of law.

11. In the compliance affidavit filed on behalf of the Commissioner of Police, Commissionerate Prayagraj, it was averred that no person is detained in judicial custody under Sections 170, 126, 135 B.N.S.S. in Commissionerate Prayagraj. It was stated that in proceeding under the aforesaid sections when a person detained does not execute personal bonds as per the law, he is sent to judicial custody.

12. The C.J.M., Prayagraj, has placed before the Court a list of persons detained in jail from the years 2024 to 2026. In the year 2024, 283 persons were detained. The list submitted by the C.J.M., Prayagraj, shows that under the earlier provisions of the Cr.P.C., viz. Sections 116, 107, and 151, persons were also detained for periods ranging from one day to one week or more. The same position exists regarding the persons detained in the year 2025, where the number of such persons was 1,321,

showing that they were kept in judicial custody for up to 20 days also. In the year 2026, till now, 721 persons have been detained and the period of their detention shows that they were detained for one week, two weeks, or more under Sections 126, 135, and 170 of the B.N.S.S.

13. This is shocking state of affairs in the Commissionerate, Prayagraj. The Commissioner of Police has been given the powers of a Magistrate, which are being misused to the hilt. This Court has considered a similar situation in a case pertaining to the Commissionerate, Ghaziabad, *(Habeas Corpus Writ Petition No.214 of 2026, Chander Pal Singh and another Vs. State of U.P. and 5 others)* where the misuse of powers by the Commissioner of Police, Commissionerate Ghaziabad, was also brought to the notice of the Court. This Court in a detailed judgment of date issued the following directions in paragraph no. 15 of the aforesaid judgment, which are reproduced herein below:—

“16. We find that there exists a State Government policy decision dated 23.03.2021. Despite the said policy decision, the police officials of the State and the Magistrates are acting in a highly irresponsible manner by sending persons brought before them, only to prevent breach of peace, to jail for days together. The amount of compensation of ₹25,000/- for such breach was fixed in the year 2021 by the State Government and it deserves to be enhanced by the State Government by framing a new policy after the coming into force of the provisions of the Bharatiya Nagarik Suraksha Sanhita (BNSS). Until a new policy is brought into force by the State Government and keeping in view flagrant violation of right to

liberty of the illegally detained and jailed persons, we direct as follows:-

(i). We hereby direct that after preventive detention of any person under the provisions of Bharatiya Nagarik Suraksha Sanhita (BNSS) or Cr.P.C., he shall be required to furnish a personal bond (signature bond without deposit of any money) binding him to keep peace and maintain good behaviour. The amount of such bond shall not exceed ₹20,000/- and no surety shall be required to be furnished. In case amount of bond is increased, reasons for the same shall be given by the Magistrate in writing. On the date of detention, if bond is executed by the person detained, he shall be set free.

(ii). In case accused refuses to execute the personal bond for keeping peace on being produced before the Magistrate/ Commissioner of Police on the same day, his refusal shall be recorded by means of written and audio-visual mode before sending him to jail. He shall be produced before the Magistrate on the date stated by him at the time of his refusal to furnish personal bond to enable him to produce personal bond on the day chosen by him.

(iii). Further, in cases where a person is detained for more than 24 hours in violation of this order, without any plausible reason, an amount of ₹25,000/- per day shall be payable to the detained person as compensation by the State Government. The said amount shall be recovered by deduction from the salary of the concerned Magistrate and/or police officer, or both, as the case may be, if they are found responsible for the default, after conducting disciplinary proceedings against them and fixing their liability.

(iv). The Magistrate and/or police official prima facie found responsible for the lapse, or both, shall be subjected to

disciplinary proceedings for dereliction of duty as per their relevant service Rules.”

14. Now coming to the facts of this case, we find that petitioner no.1 has been kept in illegal judicial custody for 8 days and therefore, he is directed to be compensated at the rate of Rs.25,000/- per day coming to Rs.2 lacs for his illegal detention within six weeks by the State Government. Thereafter the amount shall be recovered by the State Government from Assistant Commissioner of Police, Bara, Prayagraj, after conducting disciplinary inquiry against him within three months.

15. The Commissioner of Police, Commissionerate Prayagraj, shall file the compliance report of this order to this Court on or before 14.9.2026.

16. List this case on 14.9.2026.

17. In case of failure he shall remain present before this Court on the next date fixed.

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

June 08, 2026
Ruchi Agrahari