



2026:AHC:183287-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD
HABEAS CORPUS WRIT PETITION No. - 960 of 2026

Akriti Chaudhary (Detenue)

.....Petitioner(s)

Versus

Union Of India And 4 Others

.....Respondent(s)

Counsel for Petitioner(s) : Charlie Prakash, Kamal Krishna Roy,
Rajvendra Singh, Sr. Advocate
Counsel for Respondent(s) : A.S.G.I., G.A., Kuldeep Kumar

Court No. - 42

HON'BLE ATUL SREEDHARAN, J.

HON'BLE ACHAL SACHDEV, J.

(Per : Hon'ble Atul Sreedharan, J.)

1. Heard Mr. Colin Gonsalves, learned Senior Advocate assisted by Sri Charlie Prakash, Sri Manik Gupta and Sri Rajvendra Singh, learned counsels for the petitioner, Sri Balram Govind Tripathi, holding brief of Sri Kuldeep Kumar, learned counsel for Union of India and Sri Nitesh Kumar Srivastava, learned AGA for the State.

2. The petitioner is Akriti Chaudhary, who has been arrested in Case Crime No. 163 of 2026, on 12.04.2026, where she has been named as an accused, *inter alia*, of having committed offence under Sections 191(1), 191(2), 115(2), 121(1), 125(a), 351(3) and 352 of BNSS and Section 7 of Criminal Law (Amendment) Act, 1932. Subsequently, she was detained under the National Security Act (hereinafter referred to as the "NSA") on the grounds which shall be referred to hereinafter, and which order has been challenged herein.

3. The genesis of the case commences from 11.04.2026, when during the month of April this year, there was widespread agitation in Gautam Buddha Nagar by labourers, who were aggrieved by the

payment of low salary, without any increase for several years, working for twelve hours at a stretch, and salaries being anything between ₹10-15,000 which was inadequate to lead a dignified and wholesome life on account of rising prices. Workers, numbering in thousands, came out into the streets near the industrial establishment and allegedly indulged in acts of vandalism and arson, destroyed the facades and glass panes of the factories and also set ablaze vehicles, including police vehicles. In the entire incident, the petitioner is alleged to be the *agent provocateur*, on account of whose actions and dissemination of information, the riots commenced from 13.04.2026.

4. Learned Senior Counsel appearing on behalf of the petitioner has submitted that the entire proceedings against the petitioner is an attempt to stifle freedom of speech and expression and even if the entire allegations against her is accepted without exception, there was no ground, much less sufficient grounds for having proceeded against the petitioner under the provisions of NSA.

5. It is the case of the Petitioner that she was arrested at 5.30 pm on 11.04.2026 from Botanical Garden Metro Station which is situated in NOIDA, and locked up first in Sector-39 Police Station at 7.30 pm, and then she was locked up in various police stations during the night without any information being given by the police to petitioner's friends or family.

6. On 12.04.2026, at around 1.00 pm, one of the petitioner's friends received a call from Sector-142 Police Station, informing her that the petitioner would be produced before Executive Magistrate at Sector 14A Police Station, where a lawyer representing the petitioner was informed that the petitioner was already produced and sent to jail under the orders of the Executive Magistrate under Section

126/135/170 BNSS. Thus, it is the case of the Petitioner that she was never given an opportunity to sign a bond for good conduct.

7. The State on the other hand has averred that the petitioner and her associates, between 6th, 7th and 8th of April, 2026 commenced the agitation and incitement to violence by the labourers from Manesar in Haryana, and thereafter, she and her associates shifted their focus towards NOIDA and hatched a conspiracy, allegedly in a library on how the violence against the State and its entities should be executed. It is also the undisputed case of the State that she was taken into custody on 12.04.2026, as much it is undisputed by the State that the violence commenced only from 13.04.2026. Therefore, the only inescapable inference that can be drawn is that the petitioner was in custody of the Law Enforcement Agencies from 12.04.2026, while the violence erupted from 13.04.2026.

8. Learned counsel for the State has read out from the relevant portion of the order of the District Magistrate, which is elaborate and runs into several pages, wherein at page-40 of the counter affidavit filed by the State, the main charge against the petitioner is reproduced herein as "पुलिस इतनी बड़ी संख्या में गिरफ्तारी शान्तिपूर्ण बैठे लोगों को डरा रही ये पुलिस है जो गैर कानूनी कार्यवाही कर रही है इसलिए जो लोग इस वीडियो को देख सुन रहे हैं वो पुलिस के गैर कानूनी गैर वाजिब हरकतों को रोकने के लिए मजदूरों के दमन को रोकने के लिए बड़ी संख्या में पहुंचें। ".

9. It is further the case of the State that the WhatsApp chats between the petitioner and her associates, revealed that the petitioner allegedly told her associates that the police has gathered in large numbers in order to arrest those who are agitating peacefully and are scaring them by misusing their authority and therefore, anyone who can see and read this message should come in large numbers to prevent the unlawful actions of the police and to stand in support of

the labourers who are being exploited. Even if these lines are taken to be the gospel truth, there is no incitement for violence, at the most and at its worst, it is only calling for people to gather to protect the rights of the labourers and stand with them in solidarity against the unlawful and excessive use of the authority by the police. This conversation has allegedly taken place between the petitioner and another co-accused.

10. There were several FIR's after Crime No. 163 of 2026, in which the Petitioner, though not initially named in the FIR as an accused, has also been inserted as an accused subsequently. In Case Crime No. 163 of 2026, the chargesheet has been filed against the Petitioner before the appropriate court, in which cognizance has been taken and the bail application of the petitioner has also been dismissed. The grounds of detention are given in page nos. 39 to 47 of the counter affidavit, which this Court has gone through. The introductory paragraph of the grounds of detention has already been stated hereinabove as to how the petitioner is stated to have entered into a conspiracy on 6th, 7th and 8th of April, 2026 in order to foment violence by the labourers in Manesar, Haryana and how in the library of one Yogesh Swamy, the Petitioner along with her other associates had hatched the conspiracy for both Manesar and NOIDA under the guise of the labour unrest.

11. The first ground, relates to 12.04.2026 on which date the Petitioner was arrested and produced before the Magistrate for remand and how at her indication, her mobile phone was recovered on 25.04.2026 (thirteen days after her arrest) from which the WhatsApp chats have allegedly been extracted.

12. The second ground, relates to 10.04.2026, where the allegation against the petitioner is that in order to make the impending agitation

by the labourers violent, she met her associates and created groups over WhatsApp and thereafter, the violence erupted from 13.04.2026 on account of the conspiracy hatched by the petitioner and her associates. Paragraph-3 relates to the commencement of violence on 13.04.2026 and how on 11.04.2026, the petitioner along with her co-conspirators at about 9.00 am in the morning gathered at Hosier Complex, N.S.E.Z., Phase-2, Gautam Buddha Nagar along with 300-400 workers, tried to prevent labourers going for their work. The date on which this is supposed to have happened is 13.04.2026 pursuant to the alleged conspiracy which is stated to have been hatched on 11.04.2026. After which she was arrested on 12.04.2026, though it is the consistent case of the Petitioner that she was arrested by the police on 11.04.2026.

13. To summarize the grounds of detention against the Petitioner, all the acts of violence commenced from 13.04.2026 onwards which led to widespread loss of public and private property and had taken place after the petitioner was in custody. The crux of the State's case for keeping the petitioner under detention is that all the violence that had taken place during the agitation, though had taken place after the arrest of the petitioner, are attributable to her on account of conspiracy that was hatched by her before her arrest on 12.04.2026 and if not for the same, the violence would never had taken place.

14. Learned counsel for the petitioner has mentioned that the petitioner is about 24 years old, a graduate in History from Daulat Ram College, who went on to do her M.A. in History from Delhi University and is currently a student of First Year Law at the Law Faculty at Delhi University and has no previous criminal antecedents at all (this has been admitted to by the State also).

15. The arguments went on for the entire day yesterday and the

learned counsel for the respondent State had prayed for time to place before this Court the WhatsApp chats that had taken place between the petitioner and her associates in order to justify the grounds of detention and the order of detention. He has also mentioned that it is trite law that to place a person in detention under the NSA, it is not required that the person must be arraigned as an accused in a catena of criminal cases and that the same may be given effect to on the mere apprehension of disturbance of public order by such person or a singular act which is harmful for the security of the State.

16. Learned counsel for the State has also placed before this Court the notice that has allegedly been issued under Section 130 of the BNSS before she was taken into custody. The notice is said to have been issued on 12.04.2026, whereby bond for good behaviour was fixed at Rs. 50,000/- and thereafter, allegedly on the grounds of the petitioner refusing to furnish the bail bond to keep good behaviour for six months, was taken into custody on the basis of the **General Diary Entry No. 37 dated 12.04.2026 at 10.56 am by the District Unit (Commissionerate Gautam Buddha Nagar)**. The arrest is said to have been made at 10.20 am on 12.04.2026. The notice under Section 130 has also been given to the petitioner on 12.04.2026. It purportedly bears the signatures of the Petitioner along with two others, showing that it was received by them. However, no time has been mentioned in the said notice under Section 130. It is also necessary to mention here that the G.D. number 37 on the basis of which she was arrested finds its mention in the notice under section 130 of the BNSS. The same is not written by hand but is printed.

17. My learned brother on the bench Justice Achal Sachdev, pointed out that the General Diary Entry No. 37 was generated at 10.20 am on 12.04.2026 and the mention of the G.D number in the notice under Section 130 goes to reveal that the notice was prepared after the

arrest of the petitioner for, had the same been prepared before the arrest of the Petitioner, the G.D. number would not have been mentioned on the notice u/s. 130 BNSS. Mentioning the G.D. number in the notice under Section 130 of the BNSS reveals that the Petitioner was already arrested and the procedure of giving a notice under Section 130 of the BNSS was ex post facto the arrest and nothing more than a sham. I agree with the view of brother Justice Achal Sachdev that the notice u/s. 130 of the BNSS was prepared after the arrest of the Petitioner and that is the reason why the time of issuance is not mentioned in the notice and its omission is deliberate. Answer was sought from the Ld. Counsel for the state with regard to visible fabrication in the record for which no answer is forthcoming from the Ld. Counsel for the State.

18. As regards the arrest of the Petitioner, the contention of the learned counsel for the State is that the petitioner was arrested on 12.04.2026, while the Petitioner's side insists that she was taken into custody on 11.04.2026 from 5.30 pm onwards, which is denied by learned counsel for the State. In order to assess which of the two versions is correct, this Court examined the extracts from the WhatsApp conversation between the petitioner and one of her associates produced and relied upon by the State. On page no. 1, is the conversation between one Priyambada, an associate of the Petitioner, messaging the petitioner. The date of the message is 11.04.2026 at 17:56 hrs, to which there is no reply from the petitioner. Then, there were two messages at 17:57 hrs, one at 17.58 hrs, next at 18:14 hrs, 18:35 hrs, 18:56 hrs, 19:11 hrs and a missed call at 19.31 hrs. None of these messages and the call have been answered by the petitioner.

19. Learned counsel for the State has drawn the attention of this Court to page no. 2 of the WhatsApp chats, which shows again the

messaging between the petitioner and Priyambada, which shows a video clip of the gathering sent by the petitioner to Priyambada at 13:41 hrs of 11.04.2026, which was replied with an emoji by Priyambada at 13:50 hrs, and thereafter, Priyambada messaged at 13:56 hrs, which is replied by the petitioner at 14:03 hrs. Thus, the messages at page-1 which is of 11th April, 2026 from 17:56 hrs onwards sent to the petitioner- Akriti Chaudhary by her associate Priyambada have not been answered by the petitioner. The only probable reason was that the mobile was not with the Petitioner or that she was in a situation that she could not reply to the messages from Priyambada which probabilise as true, the version put forth by the Petitioner that she was in the custody of the State from 5.30 pm of 11.04.2026 while her formal arrest was shown from 12.04.2026 and concomitantly, falsifies the contention of the State that the Petitioner was in the custody of the State only from 12.04.2026.

20. This Court repeatedly asked the learned counsel for the State to point out from the WhatsApp chats and the video recordings as to which one of them incited people or disclosed a conspiracy inciting people to indulge in acts of rioting, arson and destruction of public and private property? The learned counsel for the State has not been able to show a single message from the WhatsApp chats between the Petitioner and her associates or any video clip which would reveal any incitement from the Petitioner, either evidently or by necessary implication, which would disclose that it was the involvement of the Petitioner and the conspiracy hatched by her that resulted in the violence which erupted from 13.04.2026, much after the Petitioner was taken into custody by the State on 11.04.2026 (as held by this Court). Even otherwise, the undisputed case of the State is also that the violence erupted after the Petitioner was taken to custody by the

police.

21. The video images relied upon by the State show a large number of people having gathered, which include men and women in traditional rural clothing, all standing near a lamp posts and one video image of a person who seems to be addressing the public. None of these videos disclose that the crowd is agitated or armed with lathi, stones or any such articles, which may be used in an act of violence, but appear to be exercising their constitutional right and freedom of speech and agitating their demands for higher pay and humane working hours.

22. Any detention under the NSA is an exception. It is not a substitute to ensure that a person who may receive bail on account of merits of his case, is still detained in custody under a concocted reasoning by the State. The elaborate grounds of detention of the District Magistrate are repetitive, speculative and are only opinion based without referring to a shred of evidence / material in support of sustaining those opinions. The grounds of detention must traverse beyond mere allegations and opinion. Allegations which raise a subjective opinion in the mind of the District Magistrate must be supported with reference to material for the formation of such opinion, else the same would be arbitrary. It must be understood that the exercise of such a discretion which directly violates a person's rights under Article 21 of the Constitution of India, cannot be exercised lightly on the basis of surmises, biases, conjectures and opinions. It is the exercise of an extraordinary authority which results in the summary incarceration of a citizen merely on the opinion of the detaining authority which must be such that where a constitution court examining the grounds of detention is also satisfied that the subjective satisfaction arrived at by the District Magistrate, crosses the threshold of mere surmises and conjectures and was justly based

upon the material on record and not detaining the detenue under the stringent provisions of the NSA would in all probability than not, result in the public order being disturbed or would result in an act by the detenue which is deleterious to national security. The absence of such material would render the grounds of detention and the order of detention unjustified, deserving to be set aside.

23. In this case, this Court has seen from the material on record that at the petitioner has called for citizens in support of the labourers and to agitate for their rights. There is no material to reflect that such agitation will have to be violent or challenging the authority of the State. The freedom of speech and expression extends to coming out on the streets and agitating a cause, and gathering peacefully without arms or without threat to the public order. However, the State must also realize that a peaceful agitation where people collect without arms or ammunitions, can still be scuttled by mischievous elements, who may be sent by parties, who are interested in ensuring that such an agitation is broken and also where such elements may indulge in acts of violence, which thereafter gets attributed to the entire group which is patently unjust. Preventing people from gathering in public spaces or agitating their rights on the grounds of assumed breach of peace, would be throwing the baby out of the bath water. If such a view is taken by the State and approved of by the Courts, it would lead to a cessation of the collective expression of opinion in public spaces. The Constitution protects such a right and the same cannot be trifled with merely on the subjective opinion of the State. The State must also realize that it has a strong and powerful police force, which must be trained in ensuring public order in such large gatherings and also resort to videography of the gathering and the manner in which it is conducted, so that accountability may be affixed, in the event of an outbreak of violence.

24. The State must also realize that every society has its own tensions and its share of disagreements with the Government in the manner in which it functions and allowing agitations is like the safety valve in a pressure cooker, which ensures that the building up of pressure is released rather than preventing such agitations and bottling up feelings accumulated to such an extent that when people do spill out onto the streets, violence becomes inevitable and difficult for the Law Enforcement Agencies to control and contain.

25. Under the circumstances, in view of what has been argued, considered and held as hereinabove, the petition is **allowed**. The continued incarceration of the petitioner under the provisions of the NSA is violative of her rights under Article 21 of the Constitution of India. The order of detention along with the grounds of detention, being devoid of any material warranting the incarceration of the Petitioner under the NSA and the impugned order having been passed without application of mind, are quashed. **The Petitioner shall be forthwith set at liberty, if not wanted in any other case.**

26. The petitioner has prayed for a compensation of Rs. 50 lacs.

27. As regards the compensation, learned counsel for the petitioner submits that her detention and continued incarceration under the NSA, was violative of Article 21 of the Constitution and the State has acted in excess of its authority. To this, learned counsel for the State has submitted that the petitioner has not suffered any extra detention other than that of one single day on 12.04.2026, as she was arrested in Case Crime No. 163 of 2026, and is in judicial custody in that case in which the bail application has been rejected. Therefore, learned counsel for the State has submitted that even if this order of NSA is struck down and set aside, the petitioner would continue to remain incarcerated till she secures bail in the criminal matters. While considering the aspect of the compensation, it is necessary to briefly

dwell on the role of the bureaucracy.

28. The relationship between the Indian Administrative Service (hereinafter referred to as the "IAS") and the Indian Police Service (hereinafter referred to as the "IPS") on the one hand and the citizens of Uttar Pradesh whom they serve on the other, define the existence of the rule of law or its absence, as the case may be. The officers are endowed with immense powers by law and for very good reasons, as they bear the responsibility of improving the lot of the citizens by maintaining that delicate balance of upholding the constitutional and legal rights, dignity, honour and welfare of the citizens by just and good governance, while ensuring the stability of the State and the unity and integrity of the nation. But there must also be a realisation that with great powers come great responsibility and an expected introspection on the part of the bureaucracy as to whether such powers be resorted to, and to what extent. Else, in the words coined by Rudyard Kipling (spoken publicly by Stanley Baldwin) that **"power without responsibility – the prerogative of the harlot throughout the ages"**, will ring true whenever the power is exercised by the bureaucracy in a cavalier manner, devoid of human sensitivity resulting in deleterious consequences for the citizen.

29. The IAS and IPS attract the finest talent in the country from amongst its youth who occupy its hallowed offices after a gruelling three stage selection process after which, those selected are considered to be the best of the best that India has to offer. Before they enter active service, they swear an oath affirming that they shall bear true allegiance to India and to the Constitution of India as by law established, that they will uphold the sovereignty and integrity of India, and that they will carry out the duties of their office **loyally, honestly and with impartiality**. They should realise that their loyalty is towards the Constitution and not the political executive, and the

honesty and impartiality are towards the people whom they serve while bearing in mind at all times that they are the servants who serve the people, the masters in a democracy.

30. It goes without saying that those in the bureaucracy and the police, when they act in a manner which is harmonious with their oath of allegiance, the thankful citizens of this State shall elevate them, and very rightly so, to a position which would be envied by the Gods themselves. However, every time they ignore that solemn oath and act contrary to it, the people of the State of Uttar Pradesh would view them as an oppressive vestige of the British Empire arousing angst and hatred towards them creating an environment of civil unrest and this Court, while correcting their excesses and/or illegalities, especially those that impinge upon the civil liberties of the citizens without adequate cause or due process (inhering in the procedure established by law), may pass harsh orders to compensate the citizen so wronged, besides recording their despotic conduct. Else, it shan't be long before the errant in the bureaucracy reduce the State of Uttar Pradesh to an Orwellian Dystopia.

31. In this case, the conduct of the District Magistrate Gautam Buddha Nagar who passed the impugned order, is worthy of derision. In a case where the police report against the Petitioner were only allegations without there being any credible material against her, the District Magistrate was expected to be vigilant and examine the record threadbare to determine if there was any material in support of the allegations and even thereafter, assess whether the oppressive provisions of the NSA were warranted against the Petitioner and how the general law of the land was inadequate against a female student activist without any previous criminal record, agitating for the rights of labourers and where the material on record did not disclose that she had in any way incited violence, reveals that the District Magistrate desired to set an

example out of the Petitioner and deter others from exercising their right to freedom of speech and expression in public spaces in support of the labourers. The District Magistrate Gautam Buddha Nagar is guilty of violating her oath of allegiance, making this a fit case for the imposition of compensation to the petitioner.

32. The contention of the learned counsel for the State is that the illegal detention of the Petitioner if any, was only for a day (11.04.2026) as she was arrested in Crime No. 163/2026 on 12.04.2026 and has remained in judicial custody ever since and she would continue to remain incarcerated even after the quash of her detention by this Court till she receives bail in all the cases registered against her. In other words, the Ld. Counsel for the State has submitted that the incarceration of the Petitioner under the NSA has merged with her period of detention in judicial custody. This Court finds force in the submission put forth by the learned counsel for the State.

33. Undoubtedly, even if the order in this particular case is quashed, the petitioner would still remain in jail as an under trial till she secures bail in all the criminal cases registered against her. As the period of detention merges with the period of judicial custody, the amount as prayed for by the petitioner, need not be considered in its entirety. However, on account of the casual and cavalier exercise of authority by the State through the District Magistrate Gautam Buddha Nagar, which has violated the constitutional rights of the petitioner, this Court considers it sufficient to grant ₹5 lakhs as compensation to the petitioner. This Court also directs that the said amount must be recovered from the salary of the District Magistrate Gautam Buddha Nagar, who has passed this order of detention without application of mind and from all such other officers who may have been responsible, right down to the SHO

of the Police Station, who had prepared the initial report warranting the detention of the petitioner under the provisions of the NSA. The displeasure of this Court against the conduct of the District Magistrate concerned and all such other officers of the police who were involved in preparing the dossier against the petition, be noted in their service records.

34. The petition is **disposed of as allowed**.

September 2, 2026

Noman

(Achal Sachdev,J.) (Atul Sreedharan,J.)