



2026:AHC:188075-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD
HABEAS CORPUS WRIT PETITION No. - 506 of 2026

Mahendra Gaur And 3 Others

.....Petitioner(s)

Versus

State Of U.P. And 2 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Archit Kumar Srivastava, Preete Chaudhary
Counsel for Respondent(s)	:	G.A.

Court No. - 42

HON'BLE ATUL SREEDHARAN, J.
HON'BLE DIVESH CHANDRA SAMANT, J.

1. This petition has been filed for compensation upon having been unlawfully detained at P.S. Gauri Bazar by the SHO Dr. Mahendra Kumar, Respondent No.3 herein. The Petitioner No.1 was detained for two days and Petitioners 2 to 4 were detained for ten days from 13.04.2026 to 23.04.2026.

2. According to the petitioners, an F.I.R. being Crime No. 152 of 2026 was registered at P.S Gauri Bazar disclosing offence under Sections 103(1) and 61(2) of BNS. The complainant is Dhari Yadav who alleged that his son Pappu Yadav was murdered due to pre-existing enmity by the named accused persons, who are Pancham Gaur, Ranjeet Gaur, Mulayam Gaur, Rahul Gaur, Naunath Gaur and Malti Devi. They are not the petitioners herein. However, it is alleged that the police on the intervening night of 13/14.04.2026, unlawfully entered the house of the petitioner/corpus No.2, who is the sister of the accused Pancham Gaur and illegally took her into custody without following the procedure established by law.

3. On 14.04.2026, at about 01:30 AM, the police took into custody another sister of the accused Pancham Gaur namely Neeru Devi,

wife of Jeeut Lal, who was residing with her three minor children, while her husband was abroad for livelihood. It is further stated in the petition that when the minor son of Neeru Devi resisted the police, they threatened and intimidated the family members and the incident was witnessed by the villagers. It is further averred that Neeru Devi was released only on 22.04.2026 after being kept in illegal custody for about eight days (Neeru Devi is not a petitioner in this case).

4. On 14.04.2026, the police also took into the custody the corpus no.3 i.e. Nandini Gaur along with petitioner/corpus no.4, her minor daughter aged about two and half years. Petitioners 2 to 4 were never produced before the Magistrate and remained in custody of the police at P.S. Gauri Bazaar till the date of drafting of this petition and were released on 23.04.2026 a day before this petition was filed. This petition was filed on 24.04.2026.

5. In paragraph 14, the petitioners have averred that the family members of the petitioners/corpus had approached the In-charge of the Police Station Gauri Bazar, who has been named in the petition as Dr. Mahendra Kumar and it is alleged that instead of providing them relief, the family members were abused, threatened and misbehaved with. Further, it is averred that on 18.04.2026, the petitioner no.1 himself was illegally detained for more than 48 hours by the police, brutally beaten and later released after extorting Rs. 25,000/- on 20.04.2026. Learned counsel for the petitioners has also submitted that petitioner no.1-Mahendra Gaur was released after two days of unlawful incarceration in the police station. However, petitioner nos. 2 to 4 were released only on 23.04.2026 after being unlawfully held for almost ten days and as a result of filing of the writ of habeas corpus

6. Pursuant to the last order of this Court, Mr. Abijith R. Shankar, the

worthy Superintendent of Police, District Deoria, has appeared in person before this Court along with Dr. Mahendra Kumar, the then S.H.O. of P.S Gauri Bazar. The S.P. Deoria has filed his personal affidavit of compliance, which is taken on record.

7. In June 2026, Dr. Mahendra Kumar was transferred and is presently posted in the Crime Branch. The worthy Superintendent of Police, Deoria has intimated this Court that he took charge as Superintendent of Police of the District on 12.04.2026.

8. According to the SHO of P.S. Gauri Bazaar, the CCTV surveillance systems stopped functioning on 12.04.2026. The SHO Dr. Mahendra Kumar who is present in person, has informed this Court that he took the services of a local mechanic on 14.04.2026 to rectify the surveillance system who got the system up and running. This Court asked Respondent No.3 Dr. Mahendra Kumar to disclose the name of the local mechanic or the IT company, which rectified the CCTV surveillance system to which Respondent No.3 answered that he does not know the name of the local technician who had rectified the CCTV surveillance system. He has also informed the Court that he did not record the details of the technician having visited the P.S, repaired the system and leaving the P.S in the General Diary. He however informs this Court that a GD entry was made on 12.04.2026 when the CCTV cameras stopped functioning. However, he states that there is no GD entry relating to the rectification of the system on 14.04.2026. Dr. Mahendra Kumar does not deny that the CCTV cameras were functional from 14.04.2026 till he left on 30.06.2026 to join his new posting in the Crime Branch.

9. In the affidavit filed by the S.P., from page 36 onwards, the Superintendent of Police, Deoria, has confirmed the inquiry carried out by Mr. Rajesh Chaturvedi, the circle Officer of Barhaj. The

operative portion of the order passed by the Superintendent of Police, approves the inquiry conducted by the C.O Barhaj holding the SHO Dr. Mahendra Kumar guilty of dereliction of duty in not ensuring that the CCTV system was functional at all times.

10. As regards the working status of the surveillance system at the P.S in question, where the petitioners were held unlawfully, without arrest and without production before the Magistrate, the order of the S.P reveals that on 12.04.2026 to 15.04.2026, the CCTV system along with the DVR in question, was inspected and it was found that on 12.04.2026 the CCTV footage in the DVR was available from 00:01 hrs to 01:00 hrs and thereafter from 09:15 hrs., to 12:39 hrs., of 12.04.2026, which have been saved in the DVR. The CCTV footage of the remaining part of the day (12.04.2026), was not saved in the DVR. The CCTV footage for the entire day on 13.04.2026 Thereafter, on 13.04.2026, the CCTV footage is not available for the entire day. It is relevant to mention here that the petitioners have stated that they were detained in the police lockup from 13.04.2026, and so if the CCTV was functional on 13.04.2026, it would have disclosed the presence of the Petitioners. The footage of 14.04.2026 that was saved to the DVR was from 12:13 hrs to 15:54 hrs and thereafter again from 18:08 hrs till 19:45 hrs. Footage of the remaining part of the day has not been saved on to the DVR. The footage relating to 15/16.04.2026, is saved from 21:38 hrs., to 00:00 hrs., and footage pertaining to the remaining part of the day, has not been saved on the DVR.

11. The order further discloses that for the period that the DVR was dysfunctional, Dr. Mahendra Kumar did not give any intimation to the superior officers and neither did he take steps to inform the electricity department in order to restore power supply and neither did he inform the superior officers that despite his efforts, electricity could not be

restored. The order also states that Dr. Mahendra Kumar should have taken personal interest in the matter to get the electricity restored, but he did not do so. Thereafter, the order further discloses that on 22.05.2026, the reduction in storage capacity of the DVR was never intimated to the superior officers and that the S.H.O. neither made any entry in the Roz Namcha regarding the electrical fault in the Police Station nor was it recorded therein that the company which had come to fix the fault, had reduced the storage capacity of the DVR.

12. The report of the Superintendent of Police also discloses that the inquiry was conducted in this matter through the Circle Officer of District Deoria, which report disclosed that Dr. Mahendra Kumar was careless in the discharge of his official duties, which discloses lack of professionalism. The order and the report are, however, silent whether, the dis-functionality of the CCTV system was deliberate or in due course of wear and tear.

13. The judgment of the Supreme Court passed in **Paramvir Singh Saini Vs. Baljit Singh, 2020 SCC Online 983**, has mandated the installation of CCTV cameras in the police stations. The installation of those cameras it goes without saying also means their continuous operation 24x7x365 without any disruption and in the event of any disruption, the down time be minimal. The Court is cognizant that mechanical and electronic devices can fail, however, the downtime of such dis-functionality must be minimal and there must be a record of steps taken for restoring its functionality by the S.H.O. of the Thana concerned and if he is unable to do at his level, the problem or the issue must be escalated to the immediate superiors, whose duty thereafter it would be to ensure that the full functionality of the CCTV system is restored. The utility of the CCTV systems within the Thana is important and the same cannot be underscored enough. It provides

evidence that can protect the police from allegations of excesses and deviations from the law and at the same time it is also evidence to damn their actions where the police resorts to extra judicial methods transgressing the law and trammeling on the constitutional rights of fellow citizens.

14. Where, the CCTV system fails, the police must resort to the old system by which every suspect brought in for interrogation into the station must be documented by recording his presence in the GD which includes the date and time at which the person enters the station and thereafter, there must be a GD entry relating to the date and time at which the person leaves the station. *Abundans Cautela*, the police is well advised to take a receipt from the person so called in for interrogation or his next of kin stating that the person is at liberty to leave the station and an endorsement by the person that he is at liberty to move out of the station giving the date and time at which he has been set free. As regards a person who is arrested in an offence, his memo of arrest would adequately disclose his arrest.

15. In a case where the CCTV footage of the station is not available for the period when the corpus alleges he was illegally detained, and there is no documentation to support the stand of the police that he was released from the station on a particular date and time then, s. 119(illustration [g]) of the BSA which reads **"evidence which could be and is not produced would, if produced, be unfavourable to the person who withholds it"** would squarely apply on the police and the court would be justified in presuming that case of the petitioner is correct. Thus, in the present case, this Court reasonably infers are correct that the petitioner no.1 was unlawfully kept in prison for two days and petitioner nos. 2 to 4 were kept in prison for ten days.

16. Dr. Mahendra Kumar has appeared in person before this Court and has sought pardon for his alleged oversight and has informed the Court that in the eight years of his service, he has never erred and there has never been a negative remark in his service career. However, the facts disclosed in the present case reveal that the actions of Dr. Mahendra Kumar betray executive overreach and he has ridden roughshod on the rights of the petitioners.

17. Learned counsel for the State has also prayed for mercy to be shown to the erring then S.H.O. of the police station concerned. He has further submitted that there was no ill intention on the part of Dr. Mahendra Kumar, and that the violation of the petitioner's fundamental rights was incidental and not intentional. Learned counsel for the State, however, submits that the petitioners were only called for the purpose of interrogation to the Thana relating to the accused in the offence mentioned hereinabove and then released. This is where the problem arises. The CCTV system conveniently stops functioning from 12.04.2026 and remain dysfunctional throughout the period that the petitioners were in the lockup of the Thana.

18. Though, Dr. Mahendra Kumar stated before this Court that he had got the system repaired from a local mechanic and the system was functional from 14.04.2026 onwards, the report of the Circle Officer, which has been endorsed by the worthy Superintendent of Police, damns the then S.H.O. Dr. Mahendra Kumar. The dates and times during which the CCTV was malfunctioning, as so stated in the affidavit of the worthy Superintendent of Police takes note of the availability of certain video footage within the station covering a limited duration only. The worthy Superintendent of Police has informed the Court that the word "uploading" used in the report of the Circle Officer and endorsed in his order, is actually a

clerical/typographical error as the data was not being uploaded either by way of LAN to a server or through Wi-fi to a cloud, but the cameras were directly connected to the DVR by cable and therefore, the DVR was continuously "recording" the events inside the station.

19. The respondent Dr. Mahendra Kumar is unable to explain why only bits and pieces of the data were recorded in the DVR. There is no averment made in any of the affidavits that the time period during which the data was not available was a time period when the cameras themselves were dysfunctional, and therefore, was not giving a feed to be recorded in the DVR. Under the said circumstances, it would not be unreasonable to presume that the period during which the camera feed was not recorded, may also have been physically deleted in order to wipe out the evidence of the proceedings in the Thana during that relevant period of time.

20. The alleged dysfunction of CCTV cameras notwithstanding, it was well within the capacity of Dr. Mahendra Kumar, who could have recorded the statements given by these persons under Section 161 Cr.P.C. and preserved the same in the case diary along with date and time at which it was recorded, and if the information given by these persons was not relevant to the investigation of the offence, they need not have been made part of the challan, but could have been retained in the case diary. This was never done. Thereafter, at the time of the release, if they were so released as so stated by the respondent-Dr. Mahendra Kumar, a certification could have been taken of the person with whom they were released, a videography done on the mobile phone showing the departure of the persons from the police station and taking the endorsement of the next of kin in whose company petitioners went, in order to show that they were never detained in the police station. None of this has been done. Therefore, in the absence of such evidence, the Court would have to

accept as true and correct the allegations made against the respondents, though they have been denied in their counter affidavits.

21. Therefore, this Court holds the respondent no.3 responsible for having detained petitioner nos. 2 to 4 from 13.04.2026 till 23.04.2026 and directs the State to pay a compensation of Rs. 20,000/- to petitioner nos. 2 to 4 each and Rs. 5,000/- to petitioner no.1 for two days that he spent in the unlawful custody of respondent no.3. The State is also directed to recover this amount from the salary of those responsible after an enquiry, and also ensure that the displeasure voiced by this court regarding his official conduct is recorded in his service book.

22. As regards the worthy Superintendent of Police of the District, he took charge on 12.04.2026 and the order of the Superintendent of Police himself reflects that all the problems which have taken place in the police station allegedly on account of the dysfunction of CCTV cameras were never escalated either to the Circle Officer or to the Superintendent of Police for necessary action at their level. Under the circumstances, this Court does not deem it necessary to direct any action against respondent no.2 or Circle Officer of the District.

23. The writ petition is **disposed of** in the above terms.

**September 9,
2026**

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(Divesh Chandra Samant,J.) (Atul Sreedharan,J.)