



2026:AHC:200365-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

HABEAS CORPUS WRIT PETITION No. - 1169 of 2026

Raghvendra Dubey And Another

.....Petitioner(s)

Versus

State Of U.P. And 4 Others

.....Respondent(s)

Counsel for Petitioner(s) : Gyanendra Singh, Karuna Nand
Tiwari, Manish Dubey, Saumitra
Dwivedi, Shubham Tripathi
Counsel for Respondent(s) : G.A.

Court No. - 42

**HON'BLE ATUL SREEDHARAN, J.
HON'BLE ACHAL SACHDEV, J.**

1. Heard Sri Vinay Saran, learned Senior Counsel assisted by Sri Shubham Tripathi, learned counsel for the petitioner and Sri M.C. Chaturvedi, learned Additional Advocate General for the State.
2. The present writ petition has been filed by the petitioner Raghvendra Dubey through his wife petitioner no.2 Jyotsana Dubey. The petitioner no.1 is still in custody pursuant to the First Information Report registered in Crime No.87 of 2026 dated 09.05.2026 initially for offences under Sections 420, 406, 506 IPC in respect of an alleged incident which has taken place on 15.06.2021. The allegation in the first information report has been made by the informant Pradeep Yadav who is a proprietor of M/s RPS Enterprises against his former acquaintance, the petitioner herein who is a proprietor of Ayaninfra Developers Firm.
3. The case revolves around a prima facie civil transaction. It is the case of the petitioner that the District Magistrate, Chitrakoot allotted the sand mining work for an area measuring 108.499 hectares in Village - Dhaurahra Khadar, Tehsil Rajapur, District Chitrakoot to the petitioner for a period of five years commencing from 15.06.2021.

The petitioner is alleged to have induced the informant by promising 19% income / profit for participating in the allotment upon which he signed the agreement. The informant is stated to have provided necessary management, operations and the sand mining services for the mining and the informant performed the work as per the agreement. However, it is alleged that the petitioner no.1 did not pay a single rupee of the income / profit to the informant and without prior notice, removed the informant from the sand mining area and allegedly threatened to kill him.

4. The informant's case is that he has incurred expenses of Rs.1,05,42,675/- and Rs.24,84,585/- for constructing road, Kainchi Camp Office, a weighbridge etc. and he is stated to have given Rs.1,07,00,000/- to the petitioner no.1 as a contribution to the petitioner's firm. The main offences as stated hereinabove are of criminal breach of trust, cheating and criminal intimidation.

5. The undisputed case of the informant himself *inter-alia* is that the case arose from a civil dispute between the two parties. This Court refrains from observing that there was no criminal angle to the case as that would be the domain of the appropriate court to assess whether the case of the informant was purely of civil nature or it had facets of an offence also.

6. The case of the petitioner no.1 is that he was illegally picked up from Asansol and brought to Chitrakoot by the respondents at the behest of the informant. In support of his claim, he has filed the photographs of the barber shop from where he was picked up by the police on 12.07.2026. The photographs are annexed at page nos.59 and 60 of this petition. However, it is denied by the respondents that he was unlawfully picked up.

7. The case of the respondents is that after the first information report

was registered, the petitioner no.1 was absconding, therefore, they had to secure non-bailable warrants against the petitioner from the court of the competent jurisdiction and he was taken into custody only pursuant to that.

8. The most vital aspect of the case relating to the unlawful detention of the petitioner no.1 is of 13.07.2026 from 9:00 am onwards. The CCTV footage is available only of two cameras out of five cameras in the police Thana.

9. The SHO of the police Thana in question Mr. Shiv Ashrey had appeared before this Court. As regards three CCTV cameras whose feeds are missing, the SHO informed this Court that the computer operator who manages the CCTV cameras did not save the feed / footage of three cameras inside the police Thana. Therefore, CCTV footages of the relevant date i.e. 13.07.2026, are only available from the feeds of two cameras. The first which covers the entrance to the police Thana which records people coming in and going out of the Thana and the second camera was placed covering the lock up. The camera that covers the lock up clearly shows till the time the petitioner's arrest was shown, no one was there inside the lock up.

10. Learned Additional Advocate General appearing on behalf of the State, upon instructions from the police officer present in Court Pravesh Yadav who is a sub-inspector of the police Thana in question, informs the Court that the petitioner was not placed in the lock up but in the CCTNS room inside the Thana. However, the camera feed covering the said CCTNS room is one of the three cameras that was not saved in the DVR.

11. Learned counsel for the State has submitted that the petitioner was brought in at 9:00 am on 13.07.2026. This has been covered by the first camera covering the entrance to the Thana. Thus, this fact is

undisputed. Thereafter, learned counsel for the State submits that the petitioner no.1 left at 10:19 am. Upon observing the feed from camera covering the entrance and exit, it shows that the petitioner came out at 10:19 am on 13.07.2026 accompanied by Azhar Jamal who is the investigating officer in this case and the petitioner was placed in the vehicle of the informant (as so stated by learned counsel for the petitioner) and was taken away in that vehicle by the investigating officer who accompanied him. Therefore, the contention put forth by learned Additional Advocate General appearing on behalf of the State does not withstand scrutiny in view of the fact that the petitioner was released from the police Thana as he was under constructive custody of the police. Thereafter, the video feed of the same camera shows the petitioner being brought back to the Thana at 8:24 pm. Thereafter, what happened inside the Thana is not available. According to the previous SHO, who is presently under suspension, it was due to the failure of the information technology personnel at the Thana that the footage from the cameras covering inside the police Thana, was not saved.

12. There are two aspects in this case. The first aspect relates to the unlawful detention of the petitioner within the police Thana and the connected manipulation relating to his time of arrest and his lodgement inside the Thana and the second aspect relates to whether the grounds of the arrest were intimated to the petitioner in accordance with law.

13. As regards the first aspect, three cameras inside the Thana and the feeds given by them to the DVR are not available. The contention put forth by the previous SHO that the information technology personnel did not save the feeds coming from three cameras inside the Thana is rejected as false and mischievous. The DVR to which these cameras are connected saves the feeds from all cameras on

their own as they are programmed to do that. However, if the feeds from certain cameras were not saved in the DVR, they give rise to 3 presumptions. The first one is that camera feed which was not saved in the DVR had malfunctioned and was not giving a feed to the DVR. Secondly, the feed that was coming to the DVR from a particular camera which was functioning perfectly was deliberately shut down by the information technology personnel or by staff at the police station in order to show that the camera feed was not saved. Thirdly, the feed from camera was saved in the DVR but was deliberately deleted thereafter in order to wipe out the evidence.

14. In this particular case, the previous SHO Shiv Ashrey did not inform the Court that any of those three cameras inside the Thana had malfunctioned and were not generating a feed that can be saved in the DVR. What he intimated to the Court was that during the relevant period, the information technology personnel did not save the feed coming from three cameras in the DVR for which learned Additional Advocate General has informed this Court that the information technology personnel has been punished by withholding one month's salary.

15. The contention of the learned Additional Advocate General for the State is rejected outright as this Court is of the opinion that the feeds within the police Thana were deliberately either deleted or deliberately not saved in the DVR as there is no argument put forth with regard to malfunction of any CCTV cameras. This is more-so because only two cameras feeds are available, one covering the entrance to the Thana and the other pointing at the lock up. The reason as to why this Court rejects the said contention of the State is that camera no.1 shows that the petitioner was brought in at 9:00 am at which time he entered the police station and thereafter shows him leaving the police Thana at 10:19 am along with the investigating

officer and he was bundled to the vehicle of the informant and taken away accompanied by the investigating officer. His arrest was shown in the arrest memo at 3:30 pm but he was brought back to the police station at 8:24 pm which is also clear from camera footage but the general diary entry reflects that he was placed in the lock up at 6:41 pm on 13.07.2026.

16. The entire factual aspect has been manipulated by the police for the following reasons. At 10:19 am when the petitioner was taken away, camera no.1 reflects that he was still in constructive custody of the police as the investigating officer accompanies the petitioner and the informant in the vehicle of the informant which is seen leaving the premises of the police station. Learned Additional Advocate General for the State has informed the Court that the petitioner was taken away in order to explore possibility of a mediated settlement as the same related to a civil dispute but before the petitioner is brought to the police station at 8:24 pm., his arrest was shown at 3:30 pm on 13.07.2026. His arrest has been shown from near Pandeypurva Chilli Rakas at the top of the flyover within Police Station Rajapur, District Chitrakoot.

17. It is necessary to mention here that the case relates to the Police Station Sardhuwa, District Chitrakoot. The general diary entry undisputedly shows the confinement of the petitioner in the police station from 6:41 pm on 13.07.2026 which is impossible because the CCTV footage shows that the petitioner was brought back to the police Thana only at 8:24 pm. Therefore, the manipulation by the police of Police Station Sardhuwa is clear with regard to the three cameras inside the police station and a lame excuse being given that the information technology personnel has not saved the feed to the DVR as already stated hereinabove is rejected as the information technology personnel could not have done so without explicit orders

either of the SHO or the investigating officer because they did not want this Court to see as to what happened inside the police Thana during that period.

18. Under the circumstances, the presumption under Section 114 (g) of the Evidence Act which corresponds to Section 119 (g) of the Bharatiya Sakshya Adhiniyam is that the evidence which could be and is not produced would, if produced, be unfavourable to the person withholding it. This presumption would come into play in the present case, as the three CCTV cameras were deliberately shut off to ensure that no Courts have access to the evidence as to what happened inside the police Thana. Therefore, there is a strong presumption that the case as put forth by the petitioner is correct.

19. Coming to the second aspect of the case relating to the grounds of the arrest whether there was sufficient evidence in the case diary to arrest the petitioner, the grounds are woefully inadequate which compounds the action of the police in this case and further strengthens the presumption in favour of the petitioner. Therefore, as regards the second ground taken by the petitioner, this Court holds that the ground of arrest has not been given to the petitioner in accordance with law laid down by Hon'ble Supreme Court. The other grounds of arrest which are shown as "details given in the case diary" do not suffice, therefore, the arrest of the petitioner is violative of his rights under Article 21 of the Constitution of India on account of non-compliance by the police of the law laid down by Hon'ble Supreme Court in a slew of cases pronounced recently.

20. Another worrying aspect of this case to which this Court must advert to his repeated number of cases in which the police are trying to manipulate CCTV cameras within the premises of the police station. This Court lays down that once a CCTV system is functional

within a police station, the same must be functional for 24/7 X 365 days. The Court is aware that these are electronic devices which are prone to failure at times. In such situations, there must be general diary entry by the SHO recording the time at which CCTV surveillance has failed and identifying the official to whom he reported the failure in writing. Under the circumstances, the Superintendent of Police of the District would be foremost to be informed by the police Thana relating to such failure. Thereafter, the onus is on the Superintendent of Police of the District to ensure that the down time of the surveillance system is minimal and also record the action taken by him for its immediate repair and functional.

21. This Court also directs the police that where there is a down time of the CCTV surveillance system and any person is brought into the Thana for the purpose of interrogation or on arrest, their details must be entered forthwith in the general diary. If persons are interrogated and released by the police when the CCTV surveillance system is not functional, the time of their release must be mentioned in the general diary and also a receipt must be taken from the person so called for interrogation with regard to the time at which he was released and in whose company/next of kin or/relation to whom he was handed over. Failure by the police to observe such safeguards would result in the Court presuming that allegations levelled in the petition relating to illegal detention at the Thana, would be presumed to be correct in the light of Section 119 (g) of the Bharatiya Sakshya Adhiniyam.

22. In this case, the petitioner's arrest memo has not been signed by any independent witness though his relation has been intimated. The witnesses to his arrest are police personnel itself. However, no independent witnesses have authenticated the arrest of the petitioner and both those witnesses who have signed the arrest memo are police personnel.

23. It is necessary to mention here that even before the era of CCTV cameras being installed for surveillance of activities inside the Thana, suspects were brought to the Thana for the purpose of interrogation. They certainly would have been safeguarded then to ensure and protect the police with regard to the time at which they were brought to the Thana and their time of release. The same procedure ought to be followed in the event where the CCTV cameras are dysfunctional in addition to the directions given in the previous paragraphs.

24. Thus, the present petition succeeds and is **allowed**. The arrest memo being grossly deficient on the grounds of arrest, the arrest is set aside and the petitioner shall be released forthwith, if not wanted in any other case.

25. As regards the prayer (e) which is for awarding of compensation for illegal detention, as the petitioner was kept in custody for 24 hours, Rs.10,000/- is awarded as compensation, which shall be paid to the petitioner. The said amount shall be recovered from the person found responsible for the illegal detention of the petitioner for a period of 24 hours after due inquiry and fixation of liability. The State is at liberty to recover this amount after appropriate inquiry. The facts of this particular case, *prima facie*, strongly go to disclose that the police personnel acted as recovery agents on behalf of the complainant.

26. The observations made by this Court while deciding this case, shall not prejudice the criminal Court in any manner in the course of trial and the observations shall not even be taken into account by the learned Trial Court. The pen drive brought by learned counsel for the State with regard to the CCTV footage is returned to the State.

September 23, 2026

rkg

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