2026:AHC:225961-DB

**HIGH COURT OF JUDICATURE AT ALLAHABAD**

**HABEAS CORPUS WRIT PETITION No. - 605 of 2026**

Omendra Yadav

.....Petitioner(s)

Versus

State of U.P. and 4 others

.....Respondent(s)

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**Along with :**

1. **Habeas Corpus Writ Petition No. 746 of 2026:**
   Omendra Yadav
   Versus
   State of U.P. and 5 others

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| Counsel for Petitioner(s) | : | Anurag Yadav, Krishna Kumar Upadhyay, Sr. Advocate |
| Counsel for Respondent(s) | : | G.A. |

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**Court No. - 42**

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

1. Heard Shri Mahendra Pratap, learned Senior Counsel assisted by Sri Anurag Yadav, learned counsel for the petitioner and Shri Anoop Trivedi, learned Additional Advocate General assisted by Shri Nitesh Kumar Srivastava, learned Additional Government Advocate for the State-respondents.

2. The present petition has been filed by the petitioner challenging his unlawful detention from 08.05.2026 till 13.05.2026, when he was formally arrested on 13.05.2026. However, no specific averment has been made to that effect in the entire petition as to when the petitioner was taken into custody by the police and the place or time.

3. Learned counsel for the petitioner has drawn the attention of the Court to the affidavit filed in support of the petition, which is at page no.27 where in paragraph no.1, there is an averment in the affidavit

that the petitioner, Omendra Yadav has been detained illegally by the local police of District Bareilly from 08.05.2026 and he is not traceable as of yet. The same is not an averment in the petition, which was a mandatory requirement. A statement made in the affidavit which is in support of the petition cannot be taken into consideration while the specific averment is absent in the petition itself. The second aspect of the case is that his release has been sought on the ground that the arrest memo is woefully inadequate as regards the grounds of arrest and the reasons of arrest. However, the same are no longer relevant because the petitioner has now been released on bail. In the prayer, there is a clause that costs be awarded for illegal detention from 08.05.2026. The end date is not given. All these facts are stated in Habeas Corpus Writ Petition No.605 of 2026.

4. Having gone through the petition and as already stated herein above, there is not a single averment made by the petitioner with regard to the date on which he was taken into custody by the police, the place or the time. We gave an adequate opportunity to the learned senior counsel appearing on behalf of the petitioner to show us from the pleadings where a specific averment has been made that he was ever under illegal detention and the period for which he was under illegal detention. He failed to do so.

5. In Habeas Corpus Writ Petition No.605 of 2026, the counter affidavit was sworn on 18.05.2026 and filed on 18.05.2026 itself and thereafter a second petition was filed by this petitioner, being Habeas Corpus Writ Petition No.746 of 2026, on 26.05.2026 i.e. after the counter affidavit of the State is filed in Habeas Corpus Writ Petition No.605 of 2026.

6. The second petition does not disclose the filing of the first petition on the same sequence of events. The second petition is filed as the first habeas corpus petition under Article 226. In paragraph no.2 of its Habeas Corpus Writ Petition No.746 of 2026, there is no mandatory disclosure relating to the filing of the first petition i.e. Habeas Corpus Writ Petition No.605 of 2026 and the petitioner has worded that the second petition praying for the release of the petitioner who is detained pursuant to the remand order dated 13.05.2026.

7. Vide order dated 26.05.2026 passed by Co-ordinate Bench of this Court in Habeas Corpus Writ Petition No.605 of 2026, the personal affidavit of the worthy Senior Superintendent of Police Mr. Anurag Arya of District Bareilly was called for. The personal affidavit was called for specifically to explain, as to why the CCTV recording of the police station between 08.05.2026 to 13.05.2026 could not be made available. In the light of the averments made in paragraph no.12 of the said personal affidavit, this Court had called for the personal appearance of the Senior Superintendent of Police, Bareilly after having held the same as prima-facie a false declaration. After his appearance before this Court, this Court has been unduly harsh upon the Senior Superintendent of Police, Bareilly in view of the Court's understanding of paragraph no.12 of his personal affidavit. At that juncture, the fact that there were two petitions filed and that the first petition did not disclose illegal detention by the police, and which was sought to be made good by the second petition which does not disclose the filing of the first petition.

8. This Court would not have had to face the embarrassment making the Senior Superintendent of Police, Bareilly the target of its angst, had the A.G.A. Office intimated the Court at the very outset that the petition itself is an abuse of process and that the petitioner has not

approached the Court with clean hands on account of the non-disclosure in the second petition that a petition has been filed earlier from the same incident, which if so disclosed, this Court, as stated herein above, would not have made the Senior Superintendent of Police, Bareilly the subject of its angst, which this Court records in this order that it sincerely regrets having subjected to such verbal harshness which was unwarranted. The fault lies at the doorstep of the A.G.A. Office with the petitioner for having hidden the true facts from this Court and not approached the Court with clean hands and indulging in an abuse of process.

9. As regards the petition filed by the petitioner, both these petitions are **dismissed** for having approached the Court without clean hands and having indulged in *suppressio veri* and *suggestio falsi*, and for the inconvenience caused to the Senior Superintendent of Police, Bareilly, a cost of Rs.25,000/- per petition (Rs.50,000/- in total) is imposed upon the petitioner which shall be paid to the Senior Superintendent of Police, Bareilly within a period of one month and if the same is not paid, the same shall be recovered as arrears of revenue and be given to the Senior Superintendent of Police, Bareilly.

10. Both the petitions stand disposed of as **dismissed**.

**October 30, 2026**
Zafar

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

Digitally signed by :-
MOHAMMAD ZAFAR ANSARI
High Court of Judicature at Allahabad