*** THE HON'BLE JUSTICE MOUSHUMI BHATTACHARYA**
**AND**
**THE HON'BLE SMT. JUSTICE RENUKA YARA**

**+ WRIT PETITION NO.31347 OF 2026**

%Dated 06.11.2026

# BETWEEN:

Ummidi Samuel

...Petitioner

***VERSUS***

State of Telangana,
Rep. by its Principal Secretary,
Home Department, Secretariat,
Hyderabad and Five Others

...Respondents

| | | |
|---|---|---|
| ! Counsel for Petitioner | : | Mr. S. Viplav Simha Reddy, learned counsel representing Mr. V. Vijay Shankar, learned counsel. |
| ^ Counsel for Respondents | : | Mr. Swaroop Oorilla, the learned Special Government Pleader representing Mr. T. Ravi Kumar, the learned Assistant Government Pleader, attached to the Office of the learned Additional Advocate General. |

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> HEAD NOTE :

? Cases referred :

1. Anuj Alias Babu Malhari Chavan v. The State of Maharashtra [Crl. Appeal No.764 of 2025, disposed of on 17.12.2025 & Chaganti Satyanarayana v. State of Andhra Pradesh [(1986) 3 SCC 141]
2. Directorate of Enforcement v. Deepak Mahajan [(1994) 3 SCC 440]
3. Sujit Das v. Union of India (2026 INSC 1195)
4. Mrs. Iqbal Kaur Kwatra v. The Director General of Police, Rajasthan State, Jaipur (1996 SCC OnLine AP 206)
5. 2024 SCC OnLine TS 4288
6. 2025 SCC OnLine SC 240

**IN THE HIGH COURT FOR THE STATE OF TELANGANA**
**AT HYDERABAD**

**THE HON'BLE JUSTICE MOUSHUMI BHATTACHARYA**
**AND**
**THE HON'BLE SMT. JUSTICE RENUKA YARA**

**WRIT PETITION NO.31347 OF 2026**

**(CNR NO.HBHC010644842026)**

**DATE OF ORDER: 06.11.2026**

**RESERVED ON: 28.10.2026** **PRONOUNCED ON: 06.11.2026**
**UPLOADED ON: 06.11.2026**

**BETWEEN:**
Ummidi Samuel

...Petitioner

**AND**

State of Telangana,
Rep. by its Principal Secretary,
Home Department, Secretariat,
Hyderabad and Five Others.

...Respondents

Mr. S. Viplav Simha Reddy, learned counsel representing Mr. V. Vijay Shankar, learned counsel appearing for the petitioner.

Mr. Swaroop Oorilla, the learned Special Government Pleader representing Mr. T. Ravi Kumar, the learned Assistant Government Pleader, attached to the Office of the learned Additional Advocate General, appearing for the respondents.

**ORDER:** *(per Hon'ble Justice Moushumi Bhattacharya)*

1. The present Writ Petition has been filed seeking a Writ of Habeas Corpus to produce the detenus, Ummidi Immanuel and Nade Anil @ Anil @ Thata, who are arrayed as accused Nos.3 and 4 in Crime No.960 of 2026 for offences punishable under several sections of The Narcotic Drugs and Psychotropic Substances Act, 1985 ('NDPS Act').

2. The petitioner claims to be the elder brother of the detenu Ummidi Immanuel (accused No.3) and a friend of the detenu Nade Anil (accused No.4). The detenus are presently in Chanchalguda Central Jail, Hyderabad.

3. The petitioner alleges that the detenus have been illegally detained by the respondents, particularly the respondent Nos.4, 5 and 6, namely the Inspector of Police, Attapur Police Station, the Sub-Inspector of Police, Attapur Police Station, Hyderabad and the Superintendent, Central Prison, Cherlapally, respectively. The only ground taken by learned counsel appearing for the petitioner is that the detention is illegal, being contrary to section 58 of The Bharatiya Nagarik Suraksha Sanhita, 2023 ('BNSS') and in violation of Articles 21 and 22(2) of the Constitution of India, since the detenus were detained for more than twenty-four hours. Counsel accordingly prays that the detenus be produced before this Court and be released thereafter.

4. Counsel submits that there are inconsistencies between the statements made in the Counter filed by the respondents and the Arrest Memo. Counsel further submits that the General Diary maintained by the Attapur Police Station, upon which the respondents rely, is fabricated.

5. The learned Special Government Pleader appearing for the respondents places reliance on several documents filed along with the Counter, including the Remand Report to contest the factual allegations made by the petitioner, particularly that the detenus were detained for more than twenty-four hours in police custody in violation of the BNSS and the Constitution of India.

6. The Special Government Pleader appearing for the respondents' places the relevant particulars on record, including the time period between the apprehension of the detenus and their production before the learned Judicial Magistrate.

7. We have considered the submissions made on behalf of the parties and perused the relevant documents.

8. The tabulated statement forming part of paragraph 8 of the Counter filed by the respondents is reproduced below:

| Name of the accused | Time of apprehension | Date & Time of arrest shown | Time of producing before the Judicial Magistrate | Time at which police Attapur left Police Station along with A3 & A4 for the purpose of Judicial Remand | Number of hours spent on Police detention |
|---|---|---|---|---|---|
| Ummidi Immanuel (A3) | 11.30 hours On 03.09.2026 | 16.00 hours On 03.09.2026 | 13.42 hours On 04.09.2026 | 11:00 A.M. on 4.09.2026 | 23.45 hours |
| Nade Anil @ Anil @ Thata (A4) | 11.30 hours On 03.09.2026 | 16.00 hours On 03.09.2026 | 13.42 hours On 04.09.2026 | 11:00 A.M. On 4.09.2026 | 23.45 hours |

9. Paragraph 9 of the Counter further states that 04.09.2026 was a public holiday in Telangana on account of 'Sri Krishna Janmashtami,' and that more than 80,000 people visited the Temple to offer prayers on account of the festival at the ISKCON Temple situated within a radius of 1 k.m. from the Attapur Police Station. The Counter further states that there was heavy traffic congestion in the Attapur area on 04.09.2026 owing to the festival celebrations. Therefore, the police took more than two hours to reach the residence of the learned Judicial Magistrate owing to the traffic congestion

despite the accused Nos.3 and 4 leaving the Police Station at 11:00 A.M. It is also stated that the actual production of the accused Nos.3 and 4 before the XXV Additional Judicial Magistrate of First Class, Rajendranagar, Ranga Reddy District, was recorded at 13:42 hours, as the staff required to complete the remand proceedings were not immediately available.

10. The tabulated statement, extracted above from the Counter filed by the respondents, sets out the specific time at which the detenus (accused Nos.3 and 4) were apprehended, the date and time of their arrest on 03.09.2026, and the time of their production before the learned Judicial Magistrate. The table also indicates the duration of time taken for the detenus to reach the learned Judicial Magistrate's residence for the purpose of judicial remand.

11. Specifically, both detenus left the Attapur Police Station at 11:00 A.M. on 04.09.2026 and were produced before the learned Judicial Magistrate at 13:42 hours on 04.09.2026. Hence, both Ummidi Immanuel and Nade Anil spent a total of 23 hours and 45 minutes in detention.

12. Section 58 of the BNSS stipulates, *inter alia*, that no police officer shall detain in custody a person arrested without warrant, for a period exceeding twenty-four hours in the absence of a special order of a Magistrate under section 187 of the BNSS - which prescribes the procedure where an investigation cannot be completed within twenty-four hours. Section 58 of the BNSS further provides that the twenty-four hour period shall exclude the time necessary for the journey from the place of arrest to the Magistrate's

Court, irrespective of whether such Magistrate has the necessary jurisdiction or not.

13. Section 58 of the BNSS substantially corresponds to section 57 of The Code of Criminal Procedure, 1973 ('Cr.P.C.'), which likewise prohibited the detention of a person arrested without warrant for more than twenty-four hours, exclusive of the time necessary for the journey from the place of arrest to the Magistrate's Court.

14. However, both section 58 of the BNSS and the section 57 of the Cr.P.C. give statutory effect to the constitutional mandate in Article 22 of the Constitution of India with regard to protection against arrest and detention in certain cases. Article 22 of the Constitution guarantees protection against arrest and detention in certain cases and provides under Clause (2), that every person who is arrested and detained in custody shall be produced before the nearest Magistrate within a period of twenty-four hours of such arrest, excluding the time necessary for the journey from the place of arrest to the Court of the Magistrate. It further provides that such person shall not be detained in custody beyond the said period without the authority of a Magistrate.

15. From the above, it is evident that the constitutional and statutory prohibition against detaining an arrested person in custody for more than twenty-four hours is mandatory. However, the twenty-four hours period excludes the time necessary for the journey from the place of arrest to the Magistrate's Court. Therefore, for a Writ of Habeas Corpus to succeed on this

ground, an accused/petitioner must show that the detenus (arrested persons) were detained in police custody for more than twenty-four hours, calculated from the time of apprehension until the commencement of the journey from the place of arrest to the Magistrate's Court for the purpose of judicial remand.

16. Courts have construed the twenty-four hour deadline after the time of apprehension and before commencement of the journey from the place of arrest to the Magistrate's Court in line with the statute; namely, excluding the travel time from the place of arrest to the Magistrate's Court, and that consequent delay in producing the petitioner before the Magistrate would not be fatal to the case[1].

17. The Supreme Court has consistently accepted the meaning of the word 'arrest' as defined in various textbooks and dictionaries and held that the word 'arrest', when used in its ordinary and natural sense, would mean the apprehension or restraint or the deprivation of one's personal liberty. When used in the legal sense in the procedure connected with criminal offences, an arrest consists in taking into custody a person under authority empowered by law, for the purpose of holding or detaining him/her to answer a criminal charge or for preventing the commission of a criminal offence[2].

18. Thus, any form of curtailment of liberty, including of movement, would satisfy the twin expressions of 'arrest' and 'apprehension'. The date and time of such apprehension will be material for the purpose of

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[1] Anuj Alias Babu Malhari Chavan v. The State of Maharashtra [Crl. Appeal No.764 of 2025, disposed of on 17.12.2025 & Chaganti Satyanarayana v. State of Andhra Pradesh [(1986) 3 SCC 141)

[2] Directorate of Enforcement v. Deepak Mahajan [(1994) 3 SCC 440)

counting/commencement of the hours stipulated under Article 22(2) of the Constitution read with section 58 of the BNSS[3].

19. Courts have also construed the expression 'police custody' to include some form of police surveillance and restriction on the movements of the person concerned by the police. In other words, 'custody' would not necessarily mean detention or confinement, a person may be regarded as being in custody as soon as he comes in the hands of a police officer. Custody does not necessarily mean custody after formal arrest[4].

20. In the present case, both detenus were apprehended at 11:30 hours on 03.09.2026. The time of arrest (16:00 hours on 03.09.2026) would hence not be relevant for the purpose of computing compliance with the mandate of section 58 of the BNSS.

21. The decision of the Co-ordinate Bench in *T. Ramadevi v. the State of Telangana*[5] does not come to the assistance of the petitioner since, as in that case, the findings of fact as per the Counter Affidavit of the respondent/the State of Telangana specifically stated that two of the five accused persons spent 38 hours in police detention.

22. In *Directorate of Enforcement v. Subhash Sharma*[6], the Supreme Court found that the date and time of arrest were kept blank which appeared to have been filled in by hand. The Supreme Court accordingly concluded that

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[3] Sujit Das v. Union of India (2026 INSC 1195)
[4] Mrs. Iqbal Kaur Kwatra v. The Director General of Police, Rajasthan State, Jaipur (1996 SCC OnLine AP 206)
[5] 2024 SCC OnLine TS 4288
[6] 2025 SCC OnLine SC 240

the respondent had not been produced before the nearest Judicial Magistrate within twenty-four hours and that the arrest of the respondent was thus completely being in violation of Article 22(2) of the Constitution of India.

23. In essence, a Writ of Habeas Corpus cannot be entertained where a person has been committed to judicial custody or police custody by a competent Court by an order which, *prima facie*, does not appear to be without jurisdiction or manifest illegality.

24. The petitioner's contentions with regard to inconsistencies between the Counter and the Arrest Memo, apart from being of a minor nature, also do not result in any change in the numbers/time-brackets reflected in the tabulated statement filed by the respondents. The petitioner has not been able to identify any inconsistency or contradiction which would establish that the detenus were kept in police detention for more than twenty-four hours in violation of the constitutional and statutory mandate. Moreover, a Writ Petition seeking a Writ of Habeas Corpus is not an appropriate remedy where the petitioner raises unproven and unsubstantiated questions of fact which have been specifically disputed by the respondents.

25. It is also undisputed that the learned Magistrate has passed an order of remand in respect of both detenus after considering the allegations made in the FIR. The order of remand is a judicial act and does not, by itself, suffer from any infirmity. Thus, invoking the Writ Jurisdiction of the High Court under Article 226 of the Constitution, after the order of remand and on the basis of uncorroborated allegations, would be sufficient to reject the Writ

Petition. The petitioner has statutory remedies available to him to challenge the order of remand before a competent forum.

26. For the aforesaid reasons, we are of considered view that the Writ Petition is devoid of merit and is liable to be dismissed.

27. W.P.No.31347 of 2026, along with all connected applications, is accordingly dismissed. There shall be no order as to costs.

**JUSTICE MOUSHUMI BHATTACHARYA**

**JUSTICE RENUKA YARA**

DATE: 06.11.2026
NDS

**THE HON'BLE JUSTICE MOUSHUMI BHATTACHARYA**
**AND**
**THE HONOURABLE SMT. JUSTICE RENUKA YARA**

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