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2026:AHC:228441-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

HABEAS CORPUS WRIT PETITION No. - 1538 of 2026

Petitioner 'X' and another

.....Petitioner(s)

Versus

State of U.P. and 4 others

.....Respondent(s)

Counsel for Petitioner(s) : P.k. Singh
Counsel for Respondent(s) : G.A.

Court No. - 42

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

1. Heard Sri P.K. Singh, learned counsel for the petitioners and learned counsel for the State.

2. Petitioner no.1 is the daughter of the corpus who is petitioner no.2. According to whom, petitioner no.2 was kept under illegal detention from 05.09.2026 while his official arrest / formal arrest has been shown on 07.09.2026.

3. As per the contention put forth by learned counsel for the petitioners and averments in the petition, petitioner no.1 is a student pursuing the chartered accountancy. In

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the year 2023, petitioner no.1 while studying as a student in class 12th, came in the contact with one Shahbaz son of [redacted] resident of Village Bhaguwala and Aman son of [redacted] resident of Village Jatpura, under Police Station Mandawali, District Bijnor. Petitioner no.1 was known to the aforesaid persons as they had studied in [redacted] and used to visit her school.

4. Shahbaz is stated to be related to petitioner no.1 from her father's side and taking advantage of the said relationship, he allegedly induced petitioner no.1 to accompany him to the hotel on the pretext of having food. However, it is further alleged that petitioner no.1 was given food mixed with intoxicants and taking advantage of the same, Shahbaz is stated to have sexually assaulted petitioner no.1 and also alleged to have prepared obscene photographgs/video of the incident.

5. Despite the intervention of the family of petitioner no.1, Shahbaz is stated to have been belligerent and refused to delete the obscene photographs. On 26.06.2026 at about 8:00 pm, Shahbaz along with 8-10 other persons came near the house of the petitioners

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allegedly armed with Lathi, sticks and countrymade firearms and abused and threatened the family members. After the said incident, petitioner no.2 herein submitted an application to the SHO, Police Station Mandawali, District Bijnor and Circle Officer, Najibabad and requested legal action against the persons mentioned in the complaint but no action was taken.

6. As the alleged counterblast on 29.06.2026, Shahbaz is stated to have lodged the first information report as Crime No.71 of 2026 at Police Station Mandawali, District Bijnor for offences under Sections 115(2), 352 and 351 (2) of the BNS against petitioner no.2 and other family members. On 08.07.2026, petitioner no.1 is stated to have lodged the first information report as Crime No.77 of 2026 at Police Station Mandawali, which was transferred to Police Station Nangal (as so stated by learned counsel for the State). The third first information report was registered by one Mohd. Ahsan as Crime No.706 of 2026 on 06.10.2026 against petitioner no.2 and certain other persons alleging honey trap by petitioner no.2. It is the last first information report which is Crime No.706 of 2026 with which this case is concerned.

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7. According to the petitioners, they were called to Police Station Nangal and they went to Police Station Nangal, at about 2:30 pm on 05.09.2026 by car as stated in paragraph no.23 of the petition. They contacted the SHO from vehicle. On that very moment, a white Bolero vehicle U.P. 20 AG 0290 entered the premises near the gate of the Police Station and four persons came out of the vehicle. The said persons surrounded the vehicle of the petitioners and forcibly took petitioner no.2 – Afzal Ahmad out of the vehicle.

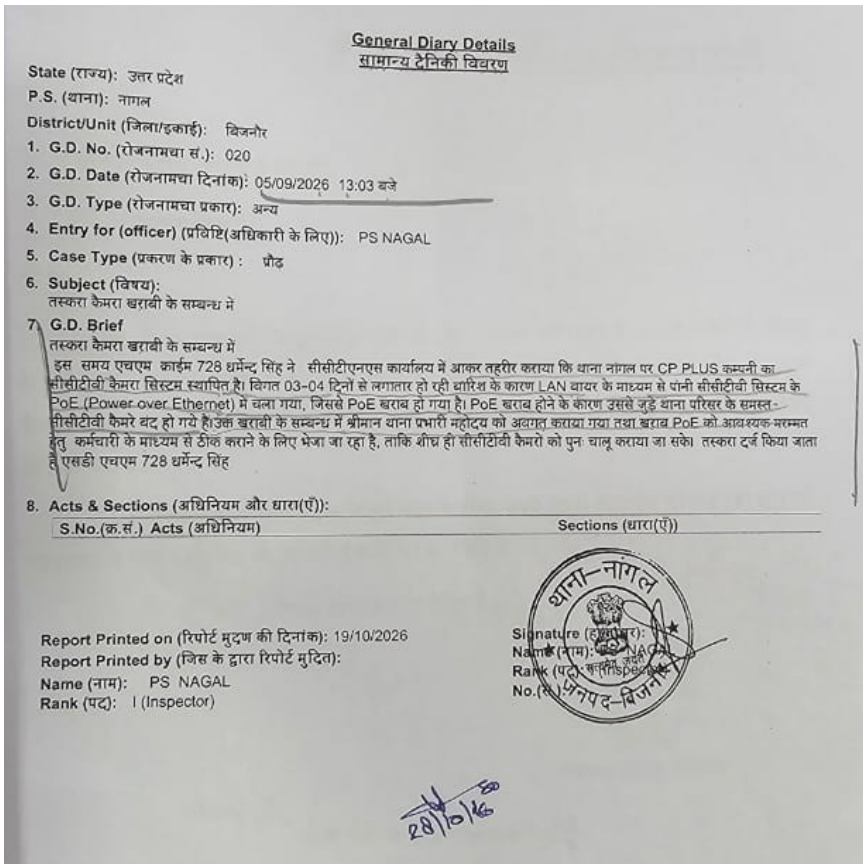
8. Thereafter, the allegation is that petitioner no.2 was taken away by police personnel / SOG in civil dress and the person accompanying petitioner no.2 whose name is Farman, attempted to record the incident on his mobile phone but he was stopped by the said officials. Farman is stated to have immediately contacted emergency services - UP 112 and informed the police authorities about forcible taking away of petitioner no.2 from outside Police Station Nangal.

9. Subsequently, the formal arrest of petitioner no.2 was shown on 07.09.2026. In order to ascertain the veracity of the same, this Court vide order dated 13.10.2026 had directed the State to call for CCTV recordings of Police

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Station from 05.09.2026 at 1:00 pm till 07.09.2026 at 10:00 am. Today, when the matter is listed before this Court, learned counsel for the State-respondents has informed the Court that the CCTV footage as required of by this Court from 05.09.2026 is not available on account of the incident that took place at Police Station on 05.09.2026 itself.

10. In order to substantiate his contention, learned counsel for the State has referred to page no.14 of the affidavit of Ms. Annu Kumari who is presently posted as SHO, Police Station Nangal, District Bijnor, which is general diary entry bearing no.20, dated 05.09.2026 at 13:03 hours, which is reproduced hereinbelow:



General Diary Details
सामान्य दैनिकी विवरण

State (राज्य): उत्तर प्रदेश
P.S. (थाना): नागल
District/Unit (जिला/इकाई): बिजनौर
1. G.D. No. (रोजनामचा सं.): 020
2. G.D. Date (रोजनामचा दिनांक): 05/09/2026 13:03 बजे
3. G.D. Type (रोजनामचा प्रकार): अन्य
4. Entry for (officer) (प्रविष्टि(अधिकारी के लिए)): PS NAGAL
5. Case Type (प्रकरण के प्रकार) : प्रौढ़
6. Subject (विषय):
तस्करा कैमरा खराबी के सम्बन्ध में
7. G.D. Brief
तस्करा कैमरा खराबी के सम्बन्ध में
इस समय एचएम काईम 728 धर्मेन्द्र सिंह ने सीसीटीएनएस कार्यालय में आकर तहरीर कराया कि थाना नागल पर CP PLUS कम्पनी का सीसीटीवी कैमरा सिस्टम स्थापित है। विगत 03-04 दिनों से लगातार हो रही बारिश के कारण LAN वायर के माध्यम से पांनी सीसीटीवी सिस्टम के PoE (Power over Ethernet) में चला गया, जिससे PoE खराब हो गया है। PoE खराब होने के कारण उससे जुड़े थाना परिसर के समस्त सीसीटीवी कैमरे बंद हो गये है।उक्त खराबी के सम्बन्ध में श्रीमान थाना प्रभारी महोदय को अवगत कराया गया तथा खराब PoE को आवश्यक मरम्मत हेतु कर्मचारी के माध्यम से ठीक कराने के लिए भेजा जा रहा है, ताकि शीघ्र ही सीसीटीवी कैमरो को पुनः चालू कराया जा सके। तस्करा दर्ज किया जाता है एसडी एचएम 728 धर्मेन्द्र सिंह
8. Acts & Sections (अधिनियम और धारा(एँ)):
S.No.(क्र.सं.) Acts (अधिनियम) Sections (धारा(एँ))
थाना–नागल
Report Printed on (रिपोर्ट मुद्रण की दिनांक): 19/10/2026
Report Printed by (जिस के द्वारा रिपोर्ट मुद्रित):
Name (नाम): PS NAGAL
Rank (पद): I (Inspector)
Signature (हस्ताक्षर):
Name (नाम): PS NAGAL
Rank (पद): I (Inspector)
No.(सं.)
जनपद–बिजनौर
28/10/26

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From the same what is reflected by the said general diary entry is that on 05.09.2026, there was a thunderstorm and CCTV system was affected as water is stated to have trickled down the lan cable into CCTV system resulting in the CCTV malfunctioning as a result of which the entire CCTV system at Police Station failed.

11. The situation that exists in the State of Uttar Pradesh relating to the civil liberty is shameful, to say the least. The police appear to have little regard for the fundamental rights and civil liberties of citizens, and the infringement of these rights seems to have become a matter of routine for the U.P. Police. In case after case whenever CCTV footages are called for by this Court, in large majority of the cases, it is the same report which comes stating that CCTV footage is not available on account of one reason or other. The overall issue relating to the failure of CCTV system in the State of Uttar Pradesh is being dealt with elaborately by this Court in Habeas Corpus Writ Petition No.1117 of 2026 which has been reserved for judgment.

12. The excuse of a CCTV malfunctioning is not available to the police in a case of unlawful detention. Any averment to that effect by the respondents concerned is

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sufficient for this Court to hold that the contention of the petitioners that the corpus was unlawfully detained is correct and that CCTV footage is deliberately not being provided to the Court in order to obfuscate the truth maliciously. The elaboration on this aspect as already stated hereinabove shall be laid down in Habeas Corpus Writ Petition No.1117 of 2026.

13. As the petitioner's apprehension leading to his formal arrest is based on unlawful detention from 05.09.2026 to 07.09.2026, the petition succeeds and is **allowed**. Petitioner no.2 shall be set at liberty forthwith, if not wanted in any other case. The petitioners have not prayed for compensation in this case. However, they are at liberty to seek compensation by such other avenues available to them under the law.

14. As Ms. Annu Kumari, SHO, Police Station Nangal, District Bijnor has deliberately not provided the CCTV footage relevant to decide the case on the basis of which this Court arrives at the presumption that CCTV footage is against the interest of respondent no.3 and, therefore, it has been deliberately withheld from this Court, for which this Court records its displeasure which shall be entered into her service records and her further

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continuation on the present post should also be considered by the State.

15. The petitioners have prayed for cost of the petition which is fixed at Rs.20,000/- which shall be paid by the State to the petitioners within a period of seven days from today, failing which the petitioners shall be at liberty to revive this petition for the purpose of compliance.

November 03, 2026
rkg

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