

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.306 of 2026

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Shaikh Sadat Ayubi @ Mohammad Shaikh Sadat Ayubi S/o Sheikh Ayub
Islahi @ Md. Sheikh Ayub Islahi R/o Village- Dilgaury, P.S.- SultanGanj,
District- Bhagalpur, State- Bihar, Pin Code

... .. Petitioner

Versus

1. The State of Bihar, through the Chief Secretary, Govt. of Bihar, PATNA
2. The State of Bihar through its Home Secretary, Patna
3. The Director General of Police, Government of Bihar, Patna
4. The Inspector General of Police, Bhagalpur Bihar
5. The District Magistrate, Bhagalpur Bihar
6. The Senior Superintendent of Police, Bhagalpur Bihar
7. The Deputy Superintendent of Police Law and Order, Bhagalpur Bihar
8. The Office In-Charge Sultan Ganj Police Station, Distt.- Bhagalpur Bihar
9. Md Ansar Ansari S/o Md Abul Ansari R/o vill - Dilgaury, P.S.- Sultanganj,
Distt.- Bhagalpur
10. Md Siraj Ansari S/o Md Salahuddin Ansari R/o vill - Dilgaury, P.S.-
Sultanganj, Distt.- Bhagalpur
11. Md Adil Ansari S/o Md Ansar Ansari R/o vill - Dilgaury, P.S.- Sultanganj,
Distt.- Bhagalpur
12. Arshad Ansari S/o Md Ansar Ansari R/o vill - Dilgaury, P.S.- Sultanganj,
Distt.- Bhagalpur, Bihar
13. Md Humayun Ansari S/o Md Salahuddin Ansari R/o vill - Dilgaury, P.S.-
Sultanganj, Distt.- Bhagalpur, Bihar

... .. Respondents

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Appearance :

For the Petitioner	:	Md Azim Uddin, Advocate
For the Respondent No.10	:	Mr. Prashant Saurabh, Advocate
		Ms. Jasjit Pranjal, Advocate
		Mr. Amrit Jay Kumar Roy, Advocate

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
and
HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE SUDHIR SINGH)

2 13-02-2026 Heard learned counsel for the petitioner and learned

counsel for the respondents.



2. This writ in the nature of *Habeas Corpus* has been filed seeking the following relief(s):-

“(i) For commanding the respondents to produce Neha Parveen before this Hon’ble Court forthwith;

(ii) For commanding the respondents commanding the Respondent Nos. 1 to 8 (State authorities) to immediately trace, locate, rescue, and ensure the safety and security of Neha Parveen, and to produce her before this Hon’ble Court;

(iii) For issuing a direction commanding Respondent Nos. 1 to 8 (the State authorities) to register the F.I.R. of the petitioner.

(iv) For commanding the respondents to provide police protection to the Petitioner and Neha Parveen;

(v) To issue appropriate directions to the Respondent Nos. 1 to 8 to register FIR and conduct thorough investigation into the illegal detention, criminal intimidation, threats of honor killing, violation of privacy, and other cognizable offences committed by Respondent Nos. 10 to 14;

(vi) To issue appropriate directions to the Respondent Nos. 1 to 8 to provide adequate police protection to the Petitioner and Neha Parveen from the threats of violence, honour killing, and murder;

(vii) To declare that the illegal detention and confinement of Neha Parveen by Respondent



Nos. 9 to 13 is violative of her fundamental rights guaranteed under Article 14, 18, and 21 of the Constitution of India;

(viii) For the grant of any other relief for which the petitioner is found entitled in the facts and circumstances of the case.”

3. The brief facts of the case, as per the petitioner, are that he and Ms. Neha Parveen, aged about 23 years, were in a consensual relationship since September, 2022 and had decided to solemnize marriage; however, her family members were strongly opposed to the relationship and allegedly subjected her to continuous mental pressure, coercion and harassment. It is alleged that in February, 2024 the detinue informed the petitioner about her pregnancy, but due to extreme family pressure and threats, she was compelled to terminate the pregnancy in March, 2024 against her free will. The petitioner states that though he went abroad for employment in June, 2024, he remained in regular contact with her. In January, 2025 her family members allegedly accessed her mobile phone without consent and thereafter the petitioner received threats. Upon his return to India in October, 2025, the detinue allegedly reiterated her willingness to marry him but informed him on 15.10.2025 that she was being forcibly taken to Mumbai and threatened



with honour killing. It is further alleged that since 17.10.2025 her whereabouts are unknown, her mobile phone is not reachable, and despite written complaints to the police authorities regarding illegal confinement and threats to life, no effective steps have been taken, giving rise to a serious apprehension that she is under illegal detention and in imminent danger.

4. Upon perusal of the pleadings and submissions advanced on behalf of the parties, the core issue that arises for consideration in the present case is: *Whether the petitioner, claiming to be in a consensual relationship with a major adult woman and being neither her spouse, relative nor legally recognized guardian, has the locus standi to maintain the present writ petition in the nature of Habeas Corpus for her production, particularly when no cogent or independent material has been placed on record to prima facie establish illegal detention, except the petitioner's own unilateral representations to the police authorities?*

5. The writ of Habeas Corpus is a prerogative and extraordinary constitutional remedy available under Article 226 of the Constitution of India to secure the liberty of a person who is alleged to be under illegal or unlawful detention. The essential



condition for issuance of such writ is the existence of detention without authority of law. Though the scope of the writ has expanded over time, its foundational object remains the protection of personal liberty and not adjudication of disputes arising out of criminal accusations.

6. The Supreme Court in ***Kanu Sanyal v. District Magistrate, Darjeeling***, reported in ***(1973) 2 SCC 674***, has authoritatively explained the true nature, scope and object of a writ of *Habeas Corpus*. Paragraph 4 of the said judgment, reads as follows:

“4. It will be seen from this brief history of the writ of habeas corpus that it is essentially a procedural writ. It deals with the machinery of justice, not the substantive law. The object of the writ is to secure release of a person who is illegally restrained of his liberty. The writ is, no doubt, a command addressed to a person who is alleged to have another person unlawfully in his custody requiring him to bring the body of such person before the Court, but the production of the body of the person detained is directed in order that the circumstances of his detention may be inquired into, or to put it differently, ‘in order that appropriate judgment be rendered on judicial enquiry into the alleged unlawful restraint’...”



7. In the opinion of this Court, a Habeas Corpus petition may, in appropriate cases, be filed not only by the detinue but also by a third person. However, such locus is confined to persons who have a close, legitimate and bona fide interest in the liberty of the detinue, such as parents, spouse or lawful guardians, particularly where the detinue is a minor or is incapable of approaching the Court. The locus so recognized is not unqualified and cannot be extended to persons who neither have any legally recognized status nor demonstrate any independent material establishing illegal detention.

8. Applying the aforesaid principles to the facts of the present case, it is evident that the alleged detinue is a major adult woman aged about 23 years. There is no dispute with regard to her age. The petitioner himself admits that she is an adult and was residing with her family members prior to the alleged incident. Merely because a major woman is residing with her parents or family members, the same cannot, by any stretch of imagination, be termed as illegal detention. In the absence of any material to show that she is being confined against her will or restrained from exercising her free movement, the foundational requirement for issuance of a writ of *Habeas Corpus* is not satisfied.



9. The petitioner claims to be in a consensual relationship with the alleged detainee, however, he is neither her spouse, relative nor legally recognized guardian. The relationship asserted by him, even if assumed to be correct for the sake of argument, does not confer upon him an automatic or unqualified right to invoke the extraordinary writ jurisdiction of this Court for production of a major adult woman. The law recognizes that in appropriate cases a third party may maintain a *Habeas Corpus* petition, but such locus is premised upon a bona fide and legitimate interest coupled with prima facie material demonstrating unlawful restraint. In the present case, no such independent material has been brought on record.

10. The documents annexed with the writ petition primarily consist of representations and complaints submitted by the petitioner to various police authorities. These are unilateral communications emanating from the petitioner himself. Apart from his own assertions and apprehensions, there is no cogent, independent or contemporaneous material to indicate that the alleged detainee is under illegal confinement by the respondents. No affidavit of any independent witness, no communication from the detainee indicating illegal restraint, nor any other objective material has been placed before this Court to



substantiate the allegation of unlawful detention.

11. The Supreme Court in ***Home Secretary (Prison) v. H. Nilofer Nisha, reported in (2020) 14 SCC 161***, has categorically held that a writ of Habeas Corpus cannot be issued unless the Court arrives at a clear conclusion that the detenu is under detention without authority of law. Para 16 of the said judgment reads as follows:

“16. A writ of habeas corpus can only be issued when the detention or confinement of a person is without the authority of law. Though the literal meaning of the Latin phrase habeas corpus is “to produce the body”, over a period of time production of the body is more often than not insisted upon but legally it is to be decided whether the body is under illegal detention or not. Habeas corpus is often used as a remedy in cases of preventive detention because in such cases the validity of the order detaining the detenu is not subject to challenge in any other court and it is only writ jurisdiction which is available to the aggrieved party. The scope of the petition of habeas corpus has over a period of time been expanded and this writ is commonly used when a spouse claims that his/her spouse has been illegally detained by the parents. This writ is many times used even in cases of custody of children. Even though, the scope may have expanded, there are certain limitations to this writ and the most basic of



such limitation is that the Court, before issuing any writ of habeas corpus must come to the conclusion that the detenu is under detention without any authority of law.”

12. It is also significant that the alleged detenu, being a major, is presumed in law to be competent to take decisions regarding her residence and association. Her staying with her parents or family members, in the absence of clear proof of coercion or confinement, cannot be construed as detention without authority of law. The writ of *Habeas Corpus* is not intended to resolve disputes arising out of strained personal relationships or parental opposition to a relationship between consenting adults. Its scope is confined to examining whether a person is under unlawful restraint.

13. In view of the aforesaid facts and circumstances, this Court finds that the petitioner has failed to establish even a prima facie case of illegal detention. The essential jurisdictional fact for issuance of a writ of *Habeas Corpus*, namely detention without authority of law, is conspicuously absent. The petitioner's interest appears to arise out of a personal relationship, and the present petition, in the absence of substantive material, cannot be entertained in exercise of extraordinary jurisdiction under Article 226 of the Constitution



of India.

14. Accordingly, the issue framed is answered in the negative. The petitioner, who merely claims to be in a consensual relationship with the alleged detainee and is neither her spouse, relative, nor legally recognized guardian, does not possess the requisite *locus standi* to invoke the extraordinary jurisdiction of this Court for issuance of a writ of *Habeas Corpus*.

15. Accordingly, the present writ petition stands dismissed.

16. However, it is clarified that the petitioner is at liberty to approach before the concerned District Magistrate in accordance with Section 100 of BNSS.

17. Pending application(s), if any, shall also stand disposed of.

(Sudhir Singh, J.)

(Rajesh Kumar Verma, J.)

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