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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRWP-4835-2025

DECIDED ON: 05.02.2026

RAJAT SHARMA

....PETITIONER

VERSUS

UT OF CHANDIGARH

....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH.

Present: Mr. Gagandeep Goel, Advocate, for the petitioner.

Mr. Balram Singh, Addl. PP, UT, Chandigarh.

SANJAY VASHISTH, J (ORAL)

1. Present petition has been filed by the petitioner, under Article 226 read with Article 227 of the Constitution of India, seeking issuance of writ of in the nature of Habeas Corpus, directing the respondent to release the petitioner, who is presently confined at Burail Jail, as no ground of arrest has been recorded/communicated by the jurisdictional police, in FIR No.0026 dated 01.04.2025 U/s 308, 319 (2), 318 (4), 336 (3), 338, 340 (2), 61 (2) of BNS registered at Police Station Cyber Crime, Chandigarh.

2. It is an admitted position that regular bail application filed by the petitioner was initially dismissed by learned Magistrate, vide order dated 01.05.2025 (Annexure P-4). Subsequently, the plea for bail was dismissed twice by the Court of Sessions, vide orders dated 31.05.2025 and 16.07.2025, respectively.

3. At the first instance, prior to filing the regular bail petition, petitioner had filed the present writ petition. Thereafter, petitioner filed a fresh regular bail petition, i.e., CRM-M-41602-2025, which is pending adjudication along with the batch of other petitions.

4. Learned State counsel, on the other hand, relies upon the judgment dated 03.11.2025 passed by the Hon'ble Apex Court, in the case of State of Madhya Pradesh and Others vs. Kusum Sahu, Law Finder Doc Id #2809081, in criminal appeal No.4710 of 2025 (arising out of SLP (Criminal) No.10491 of 2025), and submits that, in view of the law laid down by Hon'ble Apex Court in the said judgment, present writ petition is not maintainable.

5. As per the cited case, four bail applications filed before the High Court at different times were dismissed. However, ultimately, the High Court of Madhya Pradesh allowed a petition filed under Article 226 of the Constitution of India and directed the release of the accused therein. The said order, passed in exercise of power under Article 226, was subsequently challenged by the State of Madhya Pradesh and others before the Apex Court, which allowed the appeal and set aside the High Court's order.

6. Paragraph Nos.7 and 15 of the said judgment read as under:

“Z. His first bail application bearing MCRC No.58100 of 2023 filed before the High Court was dismissed as withdrawn on January 23, 2024. Immediately thereafter, he filed second bail application bearing MCRC No.9299 of 2024, the same was dismissed by the High Court on March 5, 2024. Third bail application bearing No. MCRC No.10613 of 2024 filed by him was dismissed on March 14, 2024. Fourth bail application bearing MCRC No.19661 of 2024 filed by him, was dismissed on May 29,

2024. It shows that within a period of four months, the accused filed four bail applications before the High Court and all these were dismissed.

8. XXXXXX

9. XXXXXX

10. XXXXXX

11. XXXXXX

12. XXXXXX

13. XXXXXX

14. XXXXXX

15. A perusal of the impugned order passed by the High Court shows that the factum of rejection of four bail applications filed on behalf of accused/Jibrakhan Lal Sahu, father of the respondent, has been noticed. The argument raised by the learned counsel for the respondent/Kusum Sahu before the High Court was that the orders rejecting bail application of her father are no less than illegal orders of continuing detention. Though the rejection of bail by the High Court can be challenged before this Court, yet a habeas corpus petition was filed. Despite objection of the maintainability of the petition raised by the State, the High Court allowed the same. It is specifically noticed by the High Court that the orders passed by the High Court rejecting bail of the accused can be challenged before the higher court only. The facts of the case on merits were noticed and examined by the High Court and after going through the same and recording that the parties before the Court had no finances to approach the Supreme court and are facing mental agony, the High Court found that it was a fit case for exercise of jurisdiction under Article 226 of the Constitution of India. Finally, the Authorities were directed to release Jibrakhan Lal Sahu.

16. The facts of the case, as noticed above, in brief, indicate that the manner in which the case has been dealt with really shocks the conscience of this Court. It is a case where accused was arrested and filed four bail applications before the High Court, which were rejected. Despite this, in a habeas corpus petition filed by his daughter, his custody has been held to be unlawful and he was directed to be released while examining the case on merits as if the Court was hearing appeal against the order rejecting the bail application. The process followed is totally unknown to law. Lest the High Court starts following the impugned order as a precedent to scuttle the due process of law, to nip the evil in the bud, we hold that custody of an accused in a criminal case registered against him cannot be held to be unlawful especially when his bail applications have been dismissed. In the case at hand, it is not disputed that Jibrakhan Lal Sahu, father of the respondent herein, is an accused in a criminal case

registered against him in which chargesheet has also been filed.”

- 7. In view of the legal position elucidated by the Hon’ble Apex Court in the aforementioned judgment, present petition appears to be not maintainable.
- 8. Faced with the situation, counsel for the petitioner seeks withdrawal of the present petition.
- 9. Accordingly, present petition stands dismissed as withdrawn.

05.02.2026
Lavisha

(SANJAY VASHISTH)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>