



HIGH COURT OF JUDICATURE AT ALLAHABAD

HABEAS CORPUS WRIT PETITION No. - 1121 of 2025

Smt. Sarita and another

.....Petitioner(s)

Versus

State of U.P. and others

.....Respondent(s)

Counsel for Petitioner(s)	:	Shams Tabrez Alam Ansari
Counsel for Respondent(s)	:	G.A.

Court No. - 44

HON'BLE J.J. MUNIR, J.

HON'BLE SANJIV KUMAR, J.

The petitioner is permitted to correct the description of the Child Welfare Committee, District Mau, respondent no. 3 during the course of the day.

The first petitioner, Smt. Sarita, who is the detenué and Amresh, a non-petitioner, fell in love and married according to Hindu rites on 24.12.2024 at Van Devi Mandir, Mau. A First Information Report ('FIR' for short) was lodged on 02.07.2025 by the detenué's mother, Chinta Devi against the non-petitioner Amresh *alias* Chotu, son of Surendra, the first petitioner's husband, alleging commission of offences under Sections 137 (2) and 87 of the Bharatiya Nyaya Sanhita, 2023.

The first petitioner, Smt. Sarita, the detenué, along with her husband Amresh challenged the aforesaid FIR by means of Criminal Misc. Writ Petition No. 15343 of 2025 before this Court, wherein on 18.07.2025, this Court granted stay of arrest to both the petitioners till the next date of listing, while issuing notice to the respondents. The writ petition aforesaid was directed to be listed on 24.07.2025.

A perusal of the order dated 18.07.2025 shows that not only the accused

non-petitioner Amresh was granted stay of arrest, but that order was also granted in favour of the detenue, Smt. Sarita Devi. The detenue was, however, arrested some time before 29.07.2025 *prima facie* after the stay order dated 18.07.2025 had been passed and produced before the Child Welfare Committee, District Mau ('CWC' for short) on 29.07.2025, which directed her to be interned in the One Stop Centre, Mau.

The question is how could the Police arrest the detenue or deprive her of her liberty, by whatever name called, produce her before the CWC on 29.07.2025, and that the Committee could order her detention or internment in the One Stop Centre, when this Court had forbidden the Police from arresting the detenue *vide* order dated 18.07.2025, until 29.07.2025. On 29.07.2025, the stay order was extended till the next date of listing.

It is well known that any kind of action by any Executive Authority, including the Government, that is in breach or violation of a judicial order is *non est*, apart from being an act constituting contempt of Court.

Issue notice to the Superintendent of Police, Mau, the Station House Officer, Police Station Madhuban, District Mau and the Chairperson, Child Welfare Committee, District Mau to show cause, on their own affidavit, on or before 17.12.2025, by what authority could they take the detenue, Smt. Sarita, into custody, once this Court had restrained her arrest *vide* order dated 18.07.2025 passed in Criminal Misc. Writ Petition No. 15343 of 2025. Cause shall also be shown by all the three respondents why cognisance of this matter as a case of civil contempt be not taken and the contempt matter directed to be placed before the learned Judge holding roster in civil contempt matters.

Notice shall be caused to be served through the learned Chief judicial Magistrate, Mau upon all the three respondents by the Registrar (Compliance) within 24 hours. Notice shall also be served upon respondent no. 7 through the learned Chief judicial Magistrate, Mau, which too, the Registrar (Compliance) shall ensure.

Let the detenue, Smt. Sarita, petitioner No.1, who is currently lodged in the Nari Niketan (Balika), District Ballia, be caused to be produced by respondent Nos.2, 3, 5 and 6 before this Court on the date fixed, without fail.

Adjourned to **17.12.2025**.

To be taken up in the cause list of the day.

The Registrar (Compliance) is directed to communicate this order to the learned Chief Judicial Magistrate, Mau, and through him, to the Superintendent of Police, Mau, the Station House Officer, Police Station Madhuban, District Mau and the Chairperson, Child Welfare Committee, District Mau, and the Superintendent, Nari Niketan (Balika), District Ballia through the learned Chief Judicial Magistrate, Ballia, **within 24 hours next**.

(Sanjiv Kumar,J.) (J.J. Munir,J.)

December 10, 2025

I. Batabyal