



HIGH COURT OF JUDICATURE AT ALLAHABAD

HABEAS CORPUS WRIT PETITION No. - 957 of 2025

Tehseem And Another
.....Petitioner(s)

Versus

State Of U.P. And 5 Others
.....Respondent(s)

Counsel for Petitioner(s)	:	Ali Bin Saif
Counsel for Respondent(s)	:	G.A.

Court No. - 43

HON'BLE SALIL KUMAR RAI, J.
HON'BLE DIVESH CHANDRA SAMANT, J.

1. Heard Sri Ali Bin Saif, the counsel for the petitioners and Sri Patanjali Mishra, the Government Advocate for the State-respondents.
2. In pursuance to the order dated 17.10.2025 passed by this Court, Sri Harimaan Singh, Sub-Inspector (P.N.O.-882011848), Police Station Akraabad, District Aligarh, has produced the petitioner no.2 i.e. corpus and Rashmi i.e. daughter of respondent no.6. The Government Advocate has also obtained instructions in the matter.
3. On instructions, the Government Advocate states that the girl i.e. Rashmi was produced before the Judicial Magistrate, Court No.3, District Aligarh on 17.10.2025 on which date the Judicial Magistrate, after verifying the age of the girl and after being satisfied that the girl had attained majority, recorded her statement, wherein the girl i.e. the alleged victim, stated that she wanted to go with the corpus i.e. the petitioner no.2. By his order dated 17.10.2025, the Judicial Magistrate set the girl at liberty. The order dated 17.10.2025 passed by the Judicial Magistrate, Court No.3, District Aligarh has also been produced by the Government Advocate, which is taken on record.

4. We have also interacted with the corpus i.e. the petitioner no.2 and the girl. The interaction was in camera.

5. In this Court, the girl has reiterated her statement given before the Judicial Magistrate and states that she has married the petitioner no.2 and wants to go and stay with the petitioner no.2 i.e. the corpus. The validity of the marriage is not relevant for the decision of the present Habeas Corpus Petition. The girl is major. She has stated that she is 21 years old. It is recorded in the first information report registered at the instance of respondent no.6 i.e. father of the girl, that the girl was 20 years old.

6. The order of the Judicial Magistrate also records that the girl is 19 years 7 months. The physical appearance of the girl shows that she is above 18 years of age. In law, the girl is at liberty to go with whomsoever she wants. The girl also stated that her statement before this Court and also before the Judicial Magistrate is not under any pressure and she was never pressurized to marry the petitioner no.2.

7. In their statement both the girl and the petitioner no.2 have stated that after they left this Court on 15.10.2025, they were abducted by the father of the girl and certain persons accompanying him with the assistance of the police and taken to Aligarh in custody. The girl was sent to 'One Stop Centre' and the petitioner no.2 was detained by the Police in the Police Station itself. The petitioner no.2 and the girl were produced before the Judicial Magistrate on 17.10.2025 at around 3:00 P.M. and after the order of the Magistrate the aforesaid persons have been produced before this Court, today.

8. We have also taken note of the entries in the case diary produced before this Court.

9. A perusal of the case diary shows that even after the statement of the girl recorded under Section 183 B.N.S.S., wherein she stated that she had voluntarily gone with the petitioner no.2 and would like to stay with him, the Investigating Officer still

proceeded with the investigation of the case and recorded the statement of the petitioner no.2 making queries regarding the religion of the parties and as to why the petitioner no.2 did not inform the District Magistrate about the marriage. No such investigation was required after the Judicial Magistrate had set the girl at liberty by his order dated 17.10.2025 and had directed the Investigating Officer to ensure that the girl is safely escorted to her desired place.

10. On a query to the Government Advocate as to how the petitioner no.2 and the girl could have been detained by the police after they left this Court on 15.10.2025, the Government Advocate states that there was social tension in the area because of inter religious marriage and, therefore, the police had to detain the aforesaid persons at the police station and at 'One Stop Centre'. On the same ground, the Government Advocate justifies the continuation of the investigation. The Government Advocate also justifies the detention of the petitioner no.2 and the girl on the ground of order dated 15.10.2025 passed by this Court in Criminal Misc. Writ Petition No. 23334 of 2025 wherein it was directed that a lady counsellor be appointed for the girl and after appointment of lady counsellor her statement be recorded under Section 183 B.N.S.S. The order was passed on the suspicion that the girl was under the influence of petitioner no.2. Criminal Misc. Writ Petition No.23334 of 2025 was filed by the petitioner no.2 challenging the first information report registered under Sections 87, 352, 351(2) B.N.S., Police Station Akrabad, District Aligarh at the instance of respondent no. 6, i.e., father of the girl. The order dated 15.10.2025 passed in Criminal Misc. Writ Petition No.23334 of 2025 is reproduced hereinbelow:

"1. Heard learned counsel for the petitioner and learned Standing Counsel for State-respondent.

2. The instant writ petition has been filed by the petitioner for quashing the First information Report dated 27.09.2025 registered as Case Crime No. 0461 of 2025, under sections 87, 352, 351(2) of BNS, Police Station Akrabad, District Aligarh.

3. In camera proceedings, after interacting with the victim we are of the

opinion that she is influenced by the petitioner and, therefore, we are of the opinion that the C.J.M., concerned be directed to appoint a Lady Counsellor for counselling the victim and after counselling it must be ensured that the statement of victim be recorded under section 180 and 183 of the BNSS. The sole purpose of the counselling is to ascertain whether the victim is under the influence of the petitioner or not.

4. In view of the aforesaid facts, the C.J.M. concerned is directed to appoint a lady counsellor for counselling the victim and also ensure that the statement of the victim be recorded under Section 180 and 183 of BNSS.

5. The concerned Senior Superintendent of Police is also directed to monitor the investigation of the instant case and file a status report on the next date of listing.

6. Put up this case as fresh on 20.11.2025."

11. A reading of the order dated 15.10.2025 passed by this Court shows that there was no direction by this Court regarding transfer of custody of the girl from the petitioner no.2 to either to the parents of the girl or to the police or to keep the girl at 'One Stop Centre'.

12. Apparently, the petitioner no.2 and the girl were in illegal detention from 15.10.2025 till the present moment.

13. The girl was major and her custody could not have been taken by the police or the respondent no.6. Apparently, the custody of the parties by the police was illegal and violated the fundamental rights of the girl and petitioner no. 2 under Article 21 of the Constitution of India. The plea that the girl had to be kept at 'One Stop Centre' and the petitioner no.2 was detained at the police station because of the social tension in the area due to the different religions of the parties is not acceptable and cannot justify the detention of the aforesaid persons. A person can be detained by the police or other state authorities only under law. A detention under social pressure but without authority of law does not make the detention legal but only increases the illegality of detention. In a democratic country governed by Rule of law, the State Government and its law-enforcement machinery are expected to use their power to protect the liberty of a citizen and

not to succumb to social pressures and curtail the liberty of citizens. The officers who failed in their duty to protect the liberty of petitioner no.2 as well as the girl are liable to departmental action.

14. The Senior Superintendent of Police, Aligarh is directed to hold an appropriate inquiry in the issue and report the matter to this Court within a period of one month from today.

15. List again on **28.11.2025 at 2:00 P.M.**, on which date the Government Advocate shall submit the inquiry report.

16. The petitioner no.2 (Shane Ali) is set at liberty. The daughter of respondent no.6 (Rashmi) who is alleged victim in Case Crime No.0461 of 2025 is also set at liberty and is free to go with the petitioner no.2 wherever she wants. The Investigating Officer who has produced the corpus (Shane Ali) and the girl (Rashmi) before this Court today shall ensure that both the persons are escorted safely at the place where they want to go.

17. The Commissioner of Police, Prayagraj, the Senior Superintendent of Police, Aligarh and the Senior Superintendent of Police, Bareilly are also directed to ensure the safety and security of petitioner no.2 as well as the girl, i.e., Rashmi and there is no extra legal interference in their companionship.

18. The Senior Superintendent of Police, Aligarh shall be personally present in the Court on the next date fixed in the case.

19. A copy of this order shall be sent to the Senior Superintendent of Police, Aligarh and the Senior Superintendent of Police, Bareilly by the Registrar (Compliance) today itself by electronic mode.

October
18, 2025/
CS/-

(Divesh Chandra Samant,J.) (Salil Kumar Rai,J.)