



2026:AHC-LKO:43274

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

HABEAS CORPUS WRIT PETITION No. - 235 of 2026

Anupam Yadav

.....Petitioner(s)

Versus

State Of U.P. Thru. Addl. Chief Secy.
Deptt. Home Lko. And 3 Others

.....Respondent(s)

Counsel for Petitioner(s)	: Rakesh Kumar, Ashutosh Singh, Pooshan Upadhyay
Counsel for Respondent(s)	: G.A.

Court No. - 14

HON'BLE SUBHASH VIDYARTHI, J.

1. Heard Sri Pooshan Upadhyay and Sri Rakesh Kumar, the learned counsel for the petitioner and Sri Ganesh Dutt Bhatt, the learned AGA-I.

2. The instant petition has been filed by the petitioner Anupam Yadav alleging that his wife Smt. Anamika Yadav @ Rishu has been illegally detained by the opposite party no. 4, father of Anamika Yadav and the petitioner is not being permitted to meet his wife.

3. As per averments made in the writ petition, the petitioner got married to Anamika Yadav aged about 31 years on 28.04.2026 in accordance with the prevailing social customs and ceremonies in a public gathering held at Devam Lawn and Banquet, Hardoi Road, Mahmoodnagar, Malihabad, Lucknow. Anamika Yadav came to her matrimonial home on 29.04.2026 and thereafter the petitioner organized a reception ceremony and social get together on 30.04.2026 at Saubhagya Lawn, Triveni Nagar, Sitapur Road, Lucknow. On 01.05.2026, the opposite party no. 4 took Anamika Yadav to her parental home as per the prevailing social customs and rituals. On 17.05.2026, the petitioner's father brought Smt. Anamika Yadav back to her

matrimonial home, where she was staying happily. On 25.05.2026, Anamika Yadav left her matrimonial home along with her brother Yogesh Yadav and an unknown friend. In para 11 of the writ petition, it has been pleaded that during the period of stay with her husband, Anamika Yadav did not give consent to her husband for making physical relations. On 28.05.2026, the petitioner found that Anamika Yadav had blocked communication through mobile phone of the petitioner and since then the petitioner has not been able to communicate with his wife. On 13.06.2026, the petitioner has given an application to the police requesting to take lawful action in the matter and on 15.06.2026, he has lodged a complaint on IGRS portal. In para 18, the petitioner has pleaded that Smt. Anamika Yadav has taken away her jewellery worth approximately Rs. 15 lakh. The petitioner has expressed apprehension about the well-being of his wife and has prayed for her production before this Court stating that she has been illegally detained by her father (the opposite party no. 4). The learned counsel for the petitioner has placed reliance on the judgment of the Hon'ble Supreme Court in the case of **Devu G Nair v. State of Kerala & Ors**: 2024 INSC 228. In that case, the appellant and the corpus both were females and were living in an intimate relationship. The petition was filed on the ground that the corpus was detained by her parents whereas she wished to remain with the appellant. In the statement of the corpus, she stated that she was major and had completed her master's degree in Arts. She intended to become a lecturer and was focused on her career. She also stated that she had a mobile phone and was free to move wherever she desired. She stated that she was living with her parents out of her own volition, while she stated that the appellant was an intimate friend. She also stated that she did not wish to marry any person or live with any person for the time being. The Hon'ble Supreme Court found no reason to disbelieve the report regarding the aforesaid statement of the corpus and declined to entertain the special leave petition. However, the Hon'ble Supreme Court

issued certain guidelines in dealing with habeas corpus writ petition or petition for police protection, which are as follows:

"a. Habeas corpus petitions and petitions for protection filed by a partner, friend or a natal family member must be given a priority in listing and hearing before the court. A court must avoid adjourning the matter, or delays in the disposal of the case;

b. In evaluating the locus standi of a partner or friend, the court must not make a roving enquiry into the precise nature of the relationship between the appellant and the person;

c. The effort must be to create an environment conducive for a free and uncoerced dialogue to ascertain the wishes of the corpus;

d. The court must ensure that the corpus is produced before the court and given the opportunity to interact with the judges in-person in chambers to ensure the privacy and safety of the detained or missing person. The court must conduct in-camera proceedings. The recording of the statement must be transcribed and the recording must be secured to ensure that it is not accessible to any other party;

e. The court must ensure that the wishes of the detained person is not unduly influenced by the Court, or the police, or the natal family during the course of the proceedings. In particular, the court must ensure that the individuals(s) alleged to be detaining the individual against their volition are not present in the same environment as the detained or missing person. Similarly, in petitions seeking police protection from the natal family of the parties, the family must not be placed in the same environment as the petitioners;

f. Upon securing the environment and inviting the detained or missing person in chambers, the court must make active efforts to put the detained or missing person at ease. The preferred name and pronouns of the detained or missing person may be asked. The person must be given a comfortable seating, access to drinking water and washroom. They must be allowed to take periodic breaks to collect themselves. The judge must adopt a friendly and compassionate demeanor and make all efforts to defuse any tension or discomfort. Courts must ensure that the detained or missing person faces no obstacles in being able to express their wishes to the court;

g. A court while dealing with the detained or missing person may ascertain the age of the detained or missing person. However, the minority of the detained or missing person must not be used, at the threshold, to dismiss a habeas corpus petition against illegal detention by a natal family;

h. The judges must showcase sincere empathy and compassion for the case of the detained or missing person. Social morality laden with homophobic or transphobic views or any personal predilection of the judge or sympathy for the natal family must be eschewed. The court must ensure that the law is followed in ascertaining the free will of the detained or missing person;

i. If a detained or missing person expresses their wish to not go back to the alleged detainer or the natal family, then the person must be released immediately without any further delay;

j. The court must acknowledge that some intimate

partners may face social stigma and a neutral stand of the law would be detrimental to the fundamental freedoms of the appellant. Therefore, a court while dealing with a petition for police protection by intimate partners on the grounds that they are a same sex, transgender, inter-faith or inter-caste couple must grant an ad-interim measure, such as immediately granting police protection to the petitioners, before establishing the threshold requirement of being at grave risk of violence and abuse. The protection granted to intimate partners must be with a view to maintain their privacy and dignity;

k. The Court shall not pass any directions for counselling or parental care when the corpus is produced before the Court. The role of the Court is limited to ascertaining the will of the person. The Court must not adopt counselling as a means of changing the mind of the appellant, or the detained/missing person;

l. The Judge during the interaction with the corpus to ascertain their views must not attempt to change or influence the admission of the sexual orientation or gender identity of the appellant or the corpus. The court must act swiftly against any queerphobic, transphobic, or otherwise derogatory conduct or remark by the alleged detainers, court staff, or lawyers; and

m. Sexual orientation and gender identity fall in a core zone of privacy of an individual. These identities are a matter of self-identification and no stigma or moral judgment must be imposed when dealing with cases involving parties from the LGBTQ+ community. Courts must exercise caution

in passing any direction or making any comment which may be perceived as pejorative."

4. The petition is listed in the list of fresh cases and it has been heard finally, therefore, guideline A is being followed. The Court is not questioning the locus standi of the petitioner as the petitioner claims himself to be husband of the detinue and therefore, the guideline B has also been followed in the present case. Regarding the petitioner's claim to establish dialogue and ascertain the wishes of the corpus, the learned AGA-1 has produced before this Court a copy of written instruction provided by the police wherein it is recorded that earlier the petitioner Anupum Yadav had given a written complaint to the police stating that he got married to Anamika Yadav on 28.04.2026, she came to her matrimonial home on 29.04.2026, a reception dinner was hosted on 30.04.2026. On 04.05.2026, the family members of Anamika Yadav took her to her parent's home and thereafter on 08.05.2026 the mobile phone number of the petitioner was blocked. Only one phone call was received on the mobile phone of the petitioner between 08.05.2026 and 12.05.2026 alleging that the petitioner is a disabled person. The petitioner went to the house of Anamika Yadav and refuted the allegations that he was disabled. Thereafter Anamika Yadav came with the petitioner on 17.05.2026. On 25.05.2026, Anamika Yadav called her brother and went to her father's home along with all her articles and jewelry. Now father of Anamika Yadav says that she would not come to her matrimonial home.

5. The aforesaid averments made by the petitioner in the complaint dated 13.06.2026 given to the police and the pleadings made in paragraph 11 of the writ petition that Anamika Yadav did not permit her husband to make physical relations with her since her marriage indicate a matrimonial dispute between the parties since inception of the marriage. The pleading that Anamika Yadav had taken away all her articles and jewelry worth Rs. 15 Lakh with her also indicates

that Anamika Yadav has willingly left her husband's home for good. In these circumstances, the allegation of Anamika Yadav having been forcibly detained by her father is not established.

6. The learned AGA has produced a copy of an application given by Anamika Yadav on 15.06.2026 wherein she has written that Rs. 5 lakh cash, a Venue car worth Rs. 11.5 lakhs, some gold jewelry, clothes, utensils and other gifts were given during Tilak ceremony. Thereafter fridge, T.V., washing machine, sofa set, double bed, dressing table was given in dowry. On 01.05.2026 when she was coming to her father's home, the petitioner asked her to bring more money from her father. She had again gone to her matrimonial home on 17.05.2026 and soon thereafter her husband and his family members started beating her for demanding dowry and they harassed her. When her brother went to bring her back on 25.05.2026, her husband and other family members had beaten her up after locking the door. She alleged that she was mentally and physically harassed in her matrimonial home. A copy of the written instructions and the aforesaid letter given by the alleged detainee is kept on record.

7. Every case is to be decided keeping in view the peculiar factual background of the case and legal principles and guidelines cannot be applied in abstract. The Hon'ble Supreme Court had issued the guidelines in a case where an alleged same sex partner had filed a writ petition seeking issuance of a writ of Habeas Corpus which petition has been dismissed after taking into consideration the statement of the alleged detainee that she had not been illegally detained and she was living with full liberty, out of her own free will. The present case has been filed by the husband of the alleged detainee and the pleadings made in the writ petition themselves disclosed that the matrimonial relations between the husband and wife were not normal since inception as the husband has pleaded that the wife did not permit him to make physical relations since inception of the marriage till the wife left her matrimonial home. The

husband has further pleaded that while going away, the wife took away all her articles and valuable jewelry which prima facie establishes that the wife had left her matrimonial home with the intention of leaving it for ever. In these circumstances, the pleadings made in the writ petition themselves prima facie indicate that the wife has willingly left her matrimonial home and has shifted to her father's home. This prima facie satisfaction is fortified by the application given by the alleged detainee to the police in writing stating that she has left her matrimonial home because of physical and mental cruelty meted out to her by the petitioner and his family members while the detainee was living in her matrimonial home. In these circumstances, the allegation of the detainee being in illegal detention of her father is not even prima facie established. In view of the written communication given by the detainee wife to the police, there appears to be no good ground to entertain the petition. The Court had orally observed during hearing that it appears to be case of the wife having left the matrimonial home due to matrimonial bickerings between herself and her husband and the better course in such a situation appears to be to take recourse to the remedy available under Section 9 of the Hindu Marriage Act, 1955 by filing a suit for restitution of conjugal rights.

8. Upon this, the learned counsel for the petitioner submitted that the explanation appended to Section 9 of the Hindu Marriage Act, 1955 provides that "where a question arises whether there has been reasonable excuse for withdrawal from the society, the burden of proving reasonable excuse shall be on the person who has withdrawn from the society".

9. There can be no dispute about the aforesaid statutory explanation appended to Section 9 but that burden will only arise after the petitioner files a suit, the family court issues summons to the defendant and the defendant appears before the family court and chooses to contest the suit. The explanation appended to Section 9 of the Hindu Marriage Act does not

justify bypassing the statutory remedy and filing a petition seeking issuance of a writ of habeas corpus when even the pleadings made in the writ petition prima facie indicate that the matrimonial relations between the petitioner and his wife were not normal since inception.

10. In these circumstances, this Court is of the considered view that the petitioner has failed to make out that his wife Anamika Yadav has been illegally and forcibly detained by her father and it appears that she has willingly left her matrimonial home and is residing in her father's home.

11. Accordingly, there appears to be no force in the pleading made in the writ petition which is ***dismissed*** at the admission stage.

July 6, 2026
Pradeep/-

(Subhash Vidyarthi,J.)