

Sushant Goel vs Directorate General Of Gst ... on 13 May, 2026

Author: Siddharth

Bench: Siddharth

HIGH COURT OF JUDICATURE AT ALLAHABAD

Neutral Citation No. - 2026:AHC:110667-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

HABEAS CORPUS WRIT PETITION No. - 427 of 2026

Sushant Goel

Petitioner(s)

Versus

Directorate General Of Gst Intelligence, And 3 Others

Respondent(s)

Counsel for Petitioner(s)

:

Mohit Singh

Counsel for Respondent(s)

:

Dhananjay Awasthi, G.A., Kuldeep Kumar

HON'BLE SIDDHARTH, J.

HON'BLE VINAI KUMAR DWIVEDI, J.

1. Heard Shri Imran Ullah, learned Senior Counsel assisted by Shri Mohit Singh and Shri Vedant Gupta, learned counsel for the petitioner; Shri Shashi Prakash Singh, learned Senior Counsel and Additional Solicitor General of India assisted by Shri Dhananjay Awashti, learned counsel appearing for the respondent nos. 1 and 2, learned A.G.A. for respondent nos. 3 and 4 and perused the material brought on record of the writ petition

2. This writ petition has been filed praying for following reliefs :-

i. To issue a writ, order or direction in the nature of Habeas Corpus directing the respondents herein to produce the corpus/petitioner while declaring the detention, arrest and subsequent remand and custody of the petitioner as unconstitutional, illegal and arbitrary and consequently directing that the petitioner be released forthwith.

ii. To issue an appropriate writ, order, or direction, quashing and setting aside, the order dated 1.11.2025 passed by the C.J.M., Meerut in case no. 1057 of 2025 under sections 132(1)(b), 132(1)(c) & 132(1)(i) of the CGST Act and all the consequential proceedings arising thereof.

iii. To issue any other or further writ, order or direction which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case."

3. At the very outset, learned counsel for the petitioner has submitted that petitioner had filed Criminal Misc. Writ Petition No. 26628 of 2025 which he had withdrawn on 8.5.2026. He has further submitted that ground of arrest of the petitioner was not annexed with arrest memo. The first illegality is that the alleged Grounds of Arrest were not made an annexure to the Arrest Memo annexed at Page 49 to the Writ Petition. The Hon'ble Supreme Court in Radhika Agarwal v. Union of India, (2025) 6 SCC 545, while dealing with arrest under the GST regime, has categorically stated it is mandatory requirement that the grounds of arrest must be furnished in writing to accused as an annexure to the arrest memo, and acknowledgment of the same must be taken at the time of service of the arrest memo. The relevant portion of paragraph 64 of Radhika Agarwal (supra) reads as under:

¶64.2. In addition, the grounds of arrest must be explained to the arrested person and noted in the arrest memo. This instruction regarding the grounds of arrest came

to be amended by the Central Board of Indirect Taxes and Customs (GST-Investigation Wing) vide Instruction No. 01/2025-GST dated 13-1-2025(GST/INV/ Instructions21-22)The Circular dated 13.1.2025 now mandates that the grounds of arrest must be explained to the arrested person and also be furnished to him in writing as an Annexure to the arrest memo. The acknowledgment of the same should be taken from the arrested person at the time of service of the arrest memo"

4.In the present case, the Arrest Memo dated 31.10.2025 is not annexed to the alleged Grounds of Arrest. There is also no contemporaneous acknowledgment showing that the Grounds of Arrest were furnished as an annexure to the Arrest Memo to the at the time of service thereof. Thus, the mandatory requirement, as recognized in Radhika Agarwal (Supra), stands violated on the face of the record itself.

5.The Arrest Memo further records that the Petitioner was arrested at 08:26 PM on 31.10.2025 and further states "Received by ? Arrest Memo & along with Ground of Arrest & have informed, about my arrest to my wife Mrs. Parul Goel"". However, the Arrest Memo does not bears the signature of Mrs. Parul Goel. The Arrest of the petitioner was neither informed to the wife of the petitioner nor the Arrest Memo was furnished to her. Absence of her signature on the Arrest Memo clearly establishes that the alleged intimation was never duly served upon her at the time of arrest, nor was she made to acknowledge receipt of the same. The Wife of the Petitioner received the intimation of Grounds of Arrest through post on 08.11.2025.

6.The Grounds of Arrest were not furnished simultaneously and contemporaneously at the time of arrest. The Arrest Memo merely records that the petitioner was informed about the grounds of arrest and the same were not furnished to him.The Grounds of Arrest do not bear any DIN, i.e., Document Identification Number. The DIN is mandatory as per the Department's own circular No. 128/47/2019-GST dated 23.12.2019, and in the absence of DIN on any document,the same shall be treated as never been issued.

7.There were no Grounds of Arrest at the time of arrest of the Petitioner. This is clear from the fact that neither the Grounds of Arrest were made as an annexure nor it bears the mandatory DIN. . The Grounds of Arrest were not even furnished to the wife, Mrs. Parul Goel at the time of arrest or even before remand. Neither Arrest Memo nor grounds of arrest bears the signature of her. Rather, it was sent by post to her and was received on 08.11.2025. At best, even as per the Respondents' own document, the wife was merely "informed" about the arrest, which can never be equated with furnishing of the written grounds of arrest. Also, there is no mention in the note allegedly written by the Arrestee on the Arrest memo in the own handwriting that the Grounds of Arrest were furnished to the wife of the Petitioner also makes it clear that Grounds of Arrest were never served to his wife.

8.The Hon'ble Supreme Court in Vihaan Kumar v. State of Haryana & Anr., 2025 SCC OnLine SC 269, has clearly held that communication of grounds of arrest is not merely for the arrestee, but also for his relatives, friends or nominated persons, so as to make the mandate of Article 22(1) meaningful and effective. The relevant extract reads as under:

"42. ...Therefore, the purpose of communicating the grounds of arrest to the detainee, and in addition to his relatives as mentioned above is not merely a formality but to enable the detained person to know the reasons for his arrest but also to provide the necessary opportunity to him through his relatives, friends or nominated persons to secure his release at the earliest possible opportunity for actualising the fundamental right to liberty and life as guaranteed under Article 21 of the Constitution. Hence, the requirement of communicating the grounds of arrest in writing is not only to the arrested person, but also to the friends, relatives or such other person as may be disclosed or nominated by the arrested person, so as to make the mandate of Article 22(1) of the Constitution meaningful and effective failing which, such arrest may be rendered illegal. "

9. Applying the aforesaid dictum to the facts of the present case, it is clear that the Respondents have failed to comply with the mandate of Vihaan Kumar (Supra). Further, the "Intimation of the Grounds of Arrest" sent through post to Mrs. Parul Goel does not itself set out any of the "Grounds of Arrest", Further, the Grounds of Arrest clearly does not bring the necessity of the arrest of the Petitioner. It mentions as follows:

"In view of the above, Shri Sushant Goel is mastermind of fake billing racket and avilment and passing on of fraudulent ITC, had committed an offence under Section 122(1) the CGST Act, 2017 and under Section 132 (1) (%) & (c) of the CGST ACT 2017 which is liable for punishment under Section 132 (1) () of CGST Act, 2017. Since the quantum of GST evasion in the instant case is exceeding Rs. 5 Crore and thus the same is categorized as cognizable and non-bailable offence under Section 132 (5) of CGST Act 2017."

10. Therefore it does not disclose the necessity of arrest and thus the need for custodial interrogation does not arise as laid down in Arnesht Kumar v. State of Bihar, including the need to prevent further offence, proper investigation, prevention of tampering with evidence, prevention of inducement or threat to witnesses, or ensuring presence of the accused before the Court. A mere recital that the amount involved is above Rs. 5 crores, or that the Petitioner is allegedly a mastermind, does not satisfy the mandatory requirement of recording necessity of arrest.

11. Thus, the Learned Chief Judicial Magistrate, Meerut, was duty-bound to examine whether the Respondents had complied with the mandatory safeguards relating to arrest, including Section 48(1) BNSS, communication of grounds of arrest, service upon the nominated family member. The Chief Judicial Magistrate, Meerut could not have mechanically authorized judicial custody without satisfying itself that the arrest was lawful and that the constitutional safeguards had been strictly complied with in compliance of Section 48(4) BNSS.

12. There is no proper reason to believe" furnished to the Petitioner. The requirement of "reason to believe" to be furnished is not an empty formality and the same is evident from the letter bearing No. DGGI/INV/MISC407/2024-ADD/JD-I[-o/o Pr DG-DGGI-HQ-Delhi, dated 24.06.2025. The Letter brings out as follows:

" In view of the above, it is hereby directed that in addition to furnishing and explaining "grounds of arrest", "reasons to believe that person has committed non-bailable and cognizable offence" shall also be furnished to the arrested person as Annexure to Arrest Memo. Further, grounds of arrest" and "reasons to believe" should also be communicated in person to relative legal representative of arrested person if they are present at the time & place of arrest and in other cases through registered post with acknowledgement due (RPAD) in addition to email and WhatsApp, Telegram to the friend, relative, representative or any other person nominated by the arrested person for informing his arrest. The fact of such communication should also be recorded on Arrest Memo."

13. There is no Notice in the shape of Section 35(3) to put the petitioner to notice for the offence for which he has been Arrested and thus violates the mandate of Section 35(3) of the BNSS. Section 35(3) of the BNSS mandates that for every offence punishable with imprisonment up to seven years, the officer must issue a notice directing the accused to appear before the officer, and if the person complies with the terms and conditions of the arrest no arrest to be made. This rule has been upheld in the case of *Satendra Kumar Antil v. Central Bureau of Investigation* (2026 SCC OnLine SC 162). The said summons only specifies the same being issued under Section 70 of CGST Act and no reference to Section 35(3) of BNSS has been made.

14. It is pertinent to mention that in the case of the co-accused Hari Shankar Sharma also, the arrest memo and the grounds of arrest suffered from the same infirmities as in the present case. The grounds of arrest of the co-accused Hari Shankar Sharma, as well as that of the present Petitioner, do not bear any DIN. This very infirmity was one of the material aspects considered by this Hon'ble Court while allowing the habeas corpus writ petition of the co-accused. The case of the Petitioner, therefore, stands on an identical footing, and the Petitioner is entitled to the same relief on the principle of parity.

15. Learned counsel for the respondent nos. 1 and 2 has submitted that arrest memo was served on petitioner having CBIC, DIN alongwith ground of arrest alongwith Jama -Talshi. Since grounds of arrest were part of the arrest memo, the DIN of the arrest memo was the same as the DIN of the grounds of arrest. Petitioner was arrested in compliance of section 69 of CGST Act. The remand order was passed by Remand Magistrate after proper application of mind. The judgement of co-accused, Hari Shankar Sharma, passed in Habeas Corpus Writ Petition No, 369 of 2026 has no application to the present case. Petitioner had earlier filed Criminal Misc. Writ Petition under Article 226 of the Constitution of India and during the pendency of the same, he has filed present habeas corpus writ petition, wherein remand order cannot be considered.

16. After hearing the rival submissions and considering averments made in the counter affidavit brought on record by learned counsel for respondent nos. 1 & 2, we find that there is no mention of any annexure of "grounds of arrest" in the "arrest memo". The "grounds of arrest" has been separately filed in the counter affidavit with endorsement of the petitioner that he has received the same. As per the circular issued by the CGST Department No.02 of 2022-2023 dated 11.3.2025, every document generated through the system is required to bear a separate CBIC-DIN. However, in

the present case, no DIN is mentioned on the grounds of arrest, nor it has been shown to be annexed with the arrest memo. Learned counsel for the petitioner submits that while in the custody of CGST department, the petitioner was directed to make signatures of receiving of the "arrest memo" and "grounds of arrest".

17. There is no place of arrest mentioned in the arrest memo issued by the CGST official while arresting the petitioner, which is in clear violation of the principles laid down by the Apex Court in the case of D.K. Basu Vs. State of West Bengal, 1997 SCC (Cri) 92. Column No.3 of 'arrest memo' only states that the 'grounds of arrest' have been explained to the arrestee. It does not bears any recital to the effect that the 'grounds of arrest' have been supplied to the petitioner as an annexure to the 'memo of arrest'. Such a conduct of the CGST Department has been deprecated by the Apex Court in the case of Mihir Rajesh Shah Vs. State of Maharashtra (2026)¹, SCC,500 'Jama-Talasi' brought on record by the respondents shows that Column Nos. I to IV are blank and what was recovered from the petitioner has not been mentioned. Only signature has been taken thereon on 31.10.2025 without any endorsement of receiving of the same.

18. Coming to the remand order passed by the Remand Magistrate, this Court finds that Remand Magistrate has not considered anything and has only mentioned that there are allegations against the petitioner of theft of Rs.14.17 crore of CGST, which appears to be a serious economic offence. On the objection of the petitioner that no videography of the recovery made from him was made by the Investigating Officer, finding has been recorded that the recovered goods were videographed. As considered above, the "Jaman-Talasi" memo does not gives description of anything recovered from the petitioner. The Remand Magistrate has not considered whether the 'grounds of arrest' were served on the petitioner by the respondents or not and has passed the order in most casual manner directing the remand of the petitioner till the next date fixed. Therefore once it is found that the remand order has been passed mechanically and without application of mind. The habeas corpus writ petition becomes maintainable in view of paragraph nos. 61 & 63 of the judgment of Apex Court in the case of Gautam Navlakha Vs. NIA AIR ON LINE,2021,SC,246.

19. In view of the above consideration, the remand order dated 01.11.2025, detention and arrest of the petitioner are held to be illegal and hereby quashed.

20. The above noted habeas corpus writ petition is allowed.

21. Petitioner is directed to be released from custody forthwith without waiting for supply of the certified copy of this order.

22. Office is directed to issue certified copy of this order to the petitioner on payment of usual charges by day after tomorrow.

23. It is open for the respondents to proceed against the petitioner afresh in accordance with law.

(Vinai Kumar Dwivedi,J.) (Siddharth,J.) May 13, 2026 Atul K. Sri./Rohit