



2026:CGHC:23531-DB

NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****WPHC No. 16 of 2026**

Ravishankar Baghel S/o Ramprasad Baghel, Aged About 35
Years R/o Village- Karhi, Police Station- Birra, District-
Janjgir-Champa (C.G.)

... Petitioner**versus**

1. State of Chhattisgarh Through The Secretary, Home
Department, Atal Nagar, Nawa Raipur, District- Raipur (C.G.).
2. The Collector, Janjgir-Champa, District- Janjgir-Champa
(C.G.).
3. The Superintendent Of Police Janjgir-Champa, District-
Janjgir-Champa (C.G.).
4. The Station House Officer Police Station, Birra, District-
Janjgir-Champa (C.G.).

... Respondents

(Cause-title taken from Case Information System)

For Petitioner :- Mr. Prashant Sahu, Advocate.

For State/Respondents :- Mr. Shashank Thakur, Additional
Government Advocate.



Hon'ble Shri Ramesh Sinha, Chief Justice

Hon'ble Shri Bibhu Datta Guru, Judge

Order on Board

Per Ramesh Sinha, Chief Justice

02/06/2026

1. The present *habeas corpus* petition has been filed under Article 226 of the Constitution of India, by brother of the corpus against the illegal detention of his brother by respondent No.4 herein and for which he is seeking direction against respondents No.3 & 4 to release his brother from detention.
2. Mr. Prashant Sahu, learned counsel for the petitioner, would submit that his brother has illegally been detained by respondent No.4, therefor, he be directed to release his brother from the illegal detention.
3. On the other hand, Mr. Shashank Thakur, learned State counsel, would submit that FIR has been registered for Crime No.61 of 2026 for offences under Sections 331(8), 109(1), 103(1), 61(2), 238 of the BNS and also for offences under Sections 25 and 27 of the Arms Act. He would also submit that 27.05.2026 corpus namely Ganpat Baghel, brother of the petitioner herein, was produced by the police before the learned Judicial Magistrate First Class, Champa, District



Janjgir-Champam, (C.G.) (for short “the learned Magistrate”) and corpus has been informed regarding the reasons as well as ground for the arrest.

4. We have heard learned counsel appearing for the parties, perused the pleadings and documents appended thereto.

5. In **Kanu Sanyal v. District Magistrate, Darjeeling and others**, {(1973) 2 SCC 674} a Constitution Bench held as under:

“4. It will be seen from this brief history of the writ of habeas corpus that it is essentially a procedural writ. It deals with the machinery of justice, not the substantive law. The object of the writ is to secure release of a person who is illegally restrained of his liberty. The writ is, no doubt, a command addressed to a person who is alleged to have another person unlawfully in his custody requiring him to bring the body of such person before the Court, but the production of the body of the person detained is directed in order that the circumstances of his detention may be enquired into, or to put it differently, “in the order that appropriate judgment be rendered on judicial enquiry into the alleged unlawful restraint”.the writ is primarily designed to give a person restrained of his liberty a speedy and effective remedy for having the legality of his detention enquired into and determined and if the detention is found to be unlawful, having himself discharged and freed from such restraint. The most characteristic element of the writ is its peremptoriness..... the essential and leading theory of the whole procedure is the immediate determination of the right to the applicant's freedom and his release, if the detention is found to be unlawful. That is the primary purpose of the writ, that is its substance and end. The production



of the body of the person alleged to be wrongfully detained is ancillary to this main purpose of the writ. It is merely a means for achieving the end which is to secure the liberty of the subject illegally detained.”

6. In ***Union of India v. Yumnam Anand M. alias Bocha alias Kora alias Suraj and another*** {(2007) 10 SCC 190}, while explaining the nature of writ of habeas corpus, Their Lordships of the Supreme Court held that though it is a writ of right, it is not a writ of course and the applicant must show a *prima facie* case of unlawful detention. Paragraph 7 of the decision reads as under:

“7. Article 21 of the Constitution having declared that no person shall be deprived of life and liberty except in accordance with the procedure established by law, a machinery was definitely needed to examine the question of illegal detention with utmost promptitude. The writ of habeas corpus is a device of this nature. Blackstone called it "the great and efficacious writ in all manner of illegal confinement". The writ has been described as a writ of right which is grantable ex debito justitiae. Though a writ of right, it is not a writ of course. The applicant must show a prima facie case of his unlawful detention. Once, however, he shows such a cause and the return is not good and sufficient, he is entitled to this writ as of right.”

7. A writ of habeas corpus is maintainable only where a person is under illegal or unlawful detention. Where the custody of a person is lawful and is in accordance with statutory authority or for the welfare and protection of such person, the



extraordinary jurisdiction under Article 226 cannot be invoked.

8. Admittedly, an FIR has been registered bearing Crime No.61 of 2026 for offences under Sections 331(8), 109(1), 103(1), 61(2), 238 of the BNS and also for offences under Sections 25 and 27 of the Arms Act against the corpus Ganpat Baghel which is evident from the order of the Judicial Magistrate. However, the said fact has not been brought before this Court in the present *habeas corpus* petition for which reason has been assigned by learned counsel for the petitioner that he has filed the writ petition on 26.05.2026 and thereafter, the present proceedings has been drawn against his brother.
9. Considering the fact that petitioner's brother is involved in Crime Case No.61 of 2026 for offences under Sections 331(8), 109(1), 103(1), 61(2), 238 of the BNS and for offence under Sections 25 and 27 of the Arms Act and he is in judicial custody in pursuance of the order passed by the learned Judicial Magistrate which cannot be said to be an illegal detention, we do not find any merit in the instant petition, accordingly, the same is **dismissed**. No cost(s).

Sd/-
(Bibhu Datta Guru)
JUDGE

Sd/-
(Ramesh Sinha)
CHIEF JUSTICE