

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W. P. (Cr) (Filing) No. 1525 of 2026

Devbrat Nath Shahdeo	...		Petitioner
Versus			
The State of Jharkhand through the Home Secretary, Govt. of Jharkhand & Ors.	...		Respondents

CORAM: HON'BLE MR. JUSTICE GAUTAM KUMAR CHOUDHARY

For the Petitioner	: Mr. A.K. Kashyap, Sr. Advocate Mr. Sahay Gaurav Piyush, Advocate
For the Respondent-State	: Mr. Ranjan Kumar, AC to SC-1

Oral Order

02 / Dated : 29. 01.2026

1. Heard learned senior counsel appearing for the petitioner on the maintainability of the present writ petition which has been filed for quashing the order dated 13.01.2026 and 16.01.2026, passed by learned Chief Judicial Magistrate Khunti, whereby the petitioner has been remanded to custody in connection with Khunti P.S. Case No. 03 of 2026 which was registered under Sections 103(1), 61(1) and 3(5) of the B.N.S., 2023 and Section 27 of the Arms Act which was lodged against two unidentified persons. Alternatively, a prayer has been made for transfer the petitioner from Khunti Jail to Hotwar Jail, as he apprehends to threat of his life in Khunti Jail.
2. Preliminary point for consideration is whether a petition under Article 226 of the Constitution of India is maintainable against the judicial order of remand.
3. On the point of maintainability, it is argued that as the ground of arrest was not furnished, which amounted to violation of Article 22 of the Constitution of India, therefore, the writ petition has been preferred. Reliance in this regard is placed in **Vihaan Kumar Vs. State of Haryana & Anr.** reported in (2025) 5 SCC 799 para 39.
4. It is argued by learned counsel for the State that the instant writ petition has been filed under Article 226 of the Constitution of India against a judicial order which is not maintainable.
5. The Constitution confers wide and plenary power on a Court

exercising Writ Jurisdiction under Article 226 of the Constitution of India to protect and safeguard the legal or fundamental rights of the citizen. Alternative remedy, *per se*, does not operate as a bar to the exercise of this jurisdiction. However, when there are statutory remedy available against the order, under challenge, the Courts have been insisting on exhausting such remedies, lest the statutory remedies would become obsolete and redundant. The Hon'ble Apex Court in ***VIRUDHUNAGAR HINDU NADARGAL DHARMA PARIBALANA SABAI V. TUTICORIN EDUCATIONAL SOCIETY*, (2019) 9 SCC 538** has held that a distinction has to be drawn between;

- i. cases where alternative remedy is available before the Civil Courts;
 - ii. in ***Rashid Ahmed Vs. Municipal Board, Kairana*** reported in **1950 SCC 221**, it was held that the existence of adequate legal remedy is a thing to be taken into consideration in the matter of granting writs.
6. The Full Bench of Patna High Court in **Ramesh Kumar Ravi @ Ram Prasad & etc. Vs. State of Bihar & etc. (1987 SCC OnLine Pat 83)** held that the judicial orders of criminal Courts under the Code of Criminal Procedure are not amenable to quashing by a writ of certiorari.
 7. The Co-ordinate Bench of this Court had an opportunity to examine the maintainability of the writ petition (criminal) against a judicial order in W.P.(Cr.) No. 220 of 2018 along with analogous cases wherein it was held that the judicial order passed by the Criminal Courts are amenable to the jurisdiction of the High Courts under Article 227 of the Constitution of India.
 8. In the present case, the order of remand passed in a criminal case by the Chief Judicial Magistrate, Khunti is under challenge.
 9. This Court is of the view that such an order cannot be assailed in a writ petition (criminal) filed under Article 226 of the Constitution of India.
 10. To hold otherwise will render the power conferred under Section 528 of Bhartiya Nyay Suraksha Sanhita, 2023 as otiose. Furthermore, any illegality in the order of remand can be assailed in a bail application,

whether it is with regard to violation of the constitutional right such as the non-furnishing of the ground of arrest to **the** accused or where such an arrest has been made without any sufficient evidence. The Writ Courts are not the Courts of facts and cannot substitute a Court of competent jurisdiction under the statutory scheme to look into the illegality of remand order.

11. In this view of the matter, the petitioner is permitted to convert the instant Writ Petition (Criminal) into Cr. Misc. Petition under Section 528 of the B.N.S.S., 2023.

(Gautam Kumar Choudhary, J.)

AKT/Satayendra
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