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2026:AHC-LKO:69113

HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW

MATTERS UNDER ARTICLE 227 No. - 4925 of 2026

Sandeep Jaiswal And Another

.....Petitioner(s)

Versus

Commissioner Customs (Preventive) Lucknow (Up And Uttarakhand)

.....Respondent(s)

Counsel for Petitioner(s)	:	Atul Verma, Mohd Agha Haider Rizvi, Vinod Kumar Yadav
Counsel for Respondent(s)	:	Digvijay Nath Dubey, Dheeraj Srivastava

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A.F.R.
Court No. - 14

HON'BLE SUBHASH VIDYARTHI, J.

1. Heard Sri Atul Verma and Sri. Mohd. Agha Haider Rizvi, Advocates, the learned counsel for the petitioners and Sri Dheeraj Srivastava, the learned counsel for the respondent - Commissioner of Customs (Preventive), Lucknow.

2. By means of instant petition filed under Article 227 of the Constitution of India, the petitioners have challenged the validity of an order dated 24.08.2026 (Annexure No. 1 to the petition) passed by the learned Special Chief Judicial Magistrate - Customs, Lucknow, whereby the petitioners were remanded to judicial custody, initially for a period of 14 days, which period has been extended and the remand continues till date.

3. The car of the petitioners accidentally collided with a police vehicle and the police accidentally came to know that there was 10 kg. gold in the petitioners' car. The police of Police Station Talgram, District Kannauj, took the petitioners in custody at 05:45 a.m. on 22.08.2026 for this reason. The police gave information of the recovery to the officials of Goods and Services Tax Department, who came to the police station, made inquiries in the matter and came to a conclusion that the matter did not relate to them.

4. Thereafter, the police called the officials of Customs Department, who reached Police Station Talgram, District Kannauj, made inquiries in the matter, took the petitioners in custody at 02:20 a.m. on 23.08.2026, and brought them to rhw Customs Office Lucknow at 05:00 a.m. on 23.08.2026. The seizure formalities were completed in the Customs Office

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at Lucknow on 23.08.2026 and a seizure memo was prepared, which makes a mention of the fact that the statement of the accused persons was recorded under Section 108 of the Customs Act at Police Station Talgram on 22.08.2026.

5. A medical examination of the petitioners was conducted on 23.08.2026 at 04:54 p.m. and 04:58 p.m. The custom officials prepared memo of arrest of the petitioners at 06:38 p.m. on 23.08.2026. They were taken for being presented before a Magistrate in the late evening of 23.08.2026 for seeking their remand, but thereafter they were brought back without presenting them before the Magistrate. Their medical examination was again conducted on 24.08.2026 at 10:55 a.m. and 11:15 a.m. and they were produced before the Magistrate on 24.08.2026 and the Magistrate has passed the impugned order remanding the petitioners to judicial custody.

6. Assailing validity of the remand order, Sri. Atul Verma, the learned counsel for the petitioners has submitted that Article 22(2) of the Constitution of India provides that every person who is arrested or detained in custody shall be produced before the nearest Magistrate within a period of 24 hours of such arrest, excluding the time necessary for the journey from the place of arrest to the Court of the Magistrate and no such person shall be detained in custody beyond the said period without the authority of the Magistrate. He also submitted that the detention of the petitioners for a period exceeding 24 hours, without their production before a Magistrate, also violates the mandate of Section 58 of Bhartiya Nagrik Suraksha Sanhita (which will hereinafter be referred to as 'BNSS'), which provides that "*No police officer shall detain in custody a person arrested without warrant for a longer period than under all the circumstances of the case is reasonable, and such period shall not, in the absence of a special order of a Magistrate under Section 187, exceed 24 hours exclusive of the time necessary for the journey from the place of arrest to the Magistrate's court, whether having jurisdiction or not.*"

7. The aforesaid submissions were made before the Magistrate, where the learned counsel for the petitioners had placed reliance on a judgment of **Kerala High Court** in the case of **Biswajit Mandal v. Narcotics Control Bureau**: 2025 SCC OnLine Ker 6017 = 2025 KER 60624, in which it was held that: -

> "***17. The etymological derivation of the word 'arrest' is from the French term 'Arreter' meaning 'to stop or stay'. The term denotes a restraint of the person. Thus, whenever there is a complete restraint on the freedom of movement or a person is***

held against his interests in curtailment of his liberty by a person in authority, it can be said that the said person is under arrest. Actual restraint either by word or action or conduct would suffice. When a person is prevented by a person in authority from engaging in his activities at his free will the former can be said to have been arrested. The failure, refusal or omission to record an arrest or continuation of an interrogation for prolonged periods without recording arrest, shall not preclude those periods of curtailed liberty as constituting arrest.

18. The Constitution mandates that the person arrested be produced before the nearest Magistrate within twenty-four hours of the arrest and other than the time necessary to reach the court of the Magistrate from the place of arrest, there is a peremptory prohibition that the person arrested shall not be detained beyond the said period without the authority of the Magistrate.

19. *The above views are fortified by the decisions of the Bombay High Court in Hanumant Jagganath Nazirkar v. State of Maharashtra, [2025 SCC OnLine Bom 2508] and in Ashak Hussain Allah Detha @ Siddique v. Assistant Collector of Customs, [1990 SCC OnLine Bom 3] and that of the Telengana High Court in Smt. T. Ramadevi v. The State of Telengana [W.P. No. 21912/2024].*

20. *Hence* ***the period of twenty-four hours to produce an accused before the Magistrate commences not when the actual time of arrest is recorded by the police, but runs from the time when the accused was effectively detained or his liberty was curtailed.***

21. Adverting to the facts of the case, the mahazar reveals that petitioner was taken into custody at 3.00 pm on 25.01.2025, while his arrest was recorded at 2.00 pm on 26.01.2025, but produced before the Magistrate only at 8.00 pm on 26.01.2025. The liberty of the petitioner was effectively curtailed from 3.00 pm on 25.01.2025, from which period onwards, he was under the control of the NCB officers. Though the notice for giving the statement under section 67 of the Act was given to the petitioner, even before and after service of notice, petitioner was under the custody of the NCB Officers. There was not a moment after 3.00 pm on 25.01.2025 till his arrest, when he could have been regarded as being free. However, the petitioner was produced before the Magistrate only at 8.00 pm on 26.01.2025. Therefore, there has been an unrecorded period of custody, which indicates illegal detention. Petitioner is hence required to be enlarged on bail."

(emphasis added)

8. The learned counsel for the petitioners has also placed reliance on the judgment of the Hon'ble Supreme Court in the case of **Directorate of Enforcement v. Subhash Sharma**: 2025 SCC OnLine SC 240, wherein the

accused had been detained by the authorities of the Bureau of Immigration at Indira Gandhi International Airport, New Delhi, on 04.03.2022 and he was taken in physical custody by the authorities. His custody was handed over to the Directorate of Enforcement at 11:00 hours on 05.03.2022. An arrest memo was prepared on 06.03.2022 at 01:15 hours by the Directorate of Enforcement and he was produced before the Court at 03:00 p.m. on 06.03.2022. The accused was not produced before the nearest Magistrate within 24 hours from 11:00 a.m. on 05.03.2022. In these circumstances, the Hon'ble Supreme Court held that: -

> "*6...the arrest of the respondent is rendered completely illegal as a result of the violation of clause 2 of Article 22 of the Constitution of India. Thus, the continuation of the respondent in custody without producing him before the nearest Magistrate within the stipulated time of 24 hours is completely illegal and it infringes fundamental rights under clause 2 of Article 22 of the Constitution of India. Therefore, his arrest gets vitiated on completion of 24 hours in custody. Since there is a violation of Article 22(2) of the Constitution, even his fundamental right to liberty guaranteed under Article 21 has been violated.*
>
> ***7.** The requirement of clause 2 of Article 22 has been incorporated in Section 57 of the Criminal Procedure Code, 1973 (for short 'the Cr. P.C.). There is no inconsistency between the provisions of the PMLA and Section 57 of Cr. P.C. Hence, by virtue of Section 65 of the PMLA, Section 57 of the Cr. P.C. applies to the proceedings under the PMLA.*
>
> ***8.** Once a Court, while dealing with a bail application, finds that the fundamental rights of the accused under Articles 21 and 22 of the Constitution of India have been violated while arresting the accused or after arresting him, it is the duty of the Court dealing with the bail application to release the accused on bail. The reason is that the arrest in such cases stands vitiated. It is the duty of every Court to uphold the fundamental rights guaranteed under Articles 21 and 22 of the Constitution."*

9. The learned counsel for the petitioners has next relied on a judgment of the Hon'ble Supreme Court in the case of **Vihaan Kumar v. State of Haryana and Anr.**: (2025) 5 SCC 799, wherein the Hon'ble Supreme Court has held that: -

> "*19. Thus, the requirement of informing the person arrested of the grounds of arrest is not a formality but a mandatory constitutional requirement. Article 22 is included in Part III of the Constitution under the heading of Fundamental Rights. Thus, it is the fundamental right of every person arrested and detained in custody to be informed of the grounds of arrest as*

soon as possible. If the grounds of arrest are not informed as soon as may be after the arrest, it would amount to a violation of the fundamental right of the arrestee guaranteed under Article 22(1). It will also amount to depriving the arrestee of his liberty. The reason is that, as provided in Article 21, no person can be deprived of his liberty except in accordance with the procedure established by law. The procedure established by law also includes what is provided in Article 22(1). Therefore, when a person is arrested without a warrant, and the grounds of arrest are not informed to him, as soon as may be, after the arrest, it will amount to a violation of his fundamental right guaranteed under Article 21 as well. In a given case, ***if the mandate of Article 22 is not followed while arresting a person or after arresting a person, it will also violate fundamental right to liberty guaranteed under Article 21, and the arrest will be rendered illegal.*** *On the failure to comply with the requirement of informing grounds of arrest as soon as may be after the arrest, the arrest is vitiated. Once the arrest is held to be vitiated, the person arrested cannot remain in custody even for a second.*

* * *

21. An attempt was made by the learned Senior Counsel appearing for the first respondent to argue that after his arrest, the appellant was repeatedly remanded to custody, and now a charge-sheet has been filed. His submission is that now, the custody of the appellant is pursuant to the order taking cognizance passed on the charge-sheet. Accepting such arguments, with great respect to the learned Senior Counsel, will amount to completely nullifying Articles 21 and 22(1) of the Constitution. ***Once it is held that arrest is unconstitutional due to violation of Article 22(1), the arrest itself is vitiated. Therefore, continued custody of such a person based on orders of remand is also vitiated. Filing a charge-sheet and order of cognizance will not validate an arrest which is per se unconstitutional, being violative of Articles 21 and 22(1) of the Constitution of India. We cannot tinker with the most important safeguards provided under Article 22.***

* * *

26.4. Non-compliance with Article 22(1) will be a violation of the fundamental rights of the accused guaranteed by the said Article. Moreover, it will amount to a violation of the right to personal liberty guaranteed by Article 21 of the Constitution. Therefore, non-compliance with the requirements of Article 22(1)

> *vitiates the arrest of the accused. Hence, further orders passed by a criminal court of remand are also vitiated. Needless to add that it will not vitiate the investigation, charge-sheet and trial. But, at the same time, filing of charge-sheet will not validate a breach of constitutional mandate under Article 22(1);*
>
> *26.5. When an arrested person is produced before a Judicial Magistrate for remand, it is the duty of the Magistrate to ascertain whether compliance with Article 22(1) and other mandatory safeguards has been made; and*
>
> *26.6. When a violation of Article 22(1) is established, it is the duty of the court to forthwith order the release of the accused. That will be a ground to grant bail even if statutory restrictions on the grant of bail exist. The statutory restrictions do not affect the power of the court to grant bail when the violation of Articles 21 and 22 of the Constitution is established."*

10. The learned counsel for the petitioners has submitted that the principles laid down in **Vihaan Kumar** (supra) regarding applicability of Article 22(1) of the Constitution of India will equally apply to applicability of Article 22(2) also. (Ask)

11. In **Neeraj v. State of U.P.**: 2026 SCC OnLine All 23574, a Division Bench of this Court has taken into consideration the ratio laid down in **Vihaan Kumar (Supra)** and has distinguished it, wherein the Division Bench has held that: -

> "***72.*** *We are of the view that the validity of initial detention and subsequent detention orders passed in pursuance thereof can be considered as the basis of maintaining the habeas corpus petition only till the investigation is in progress by the investigating officer of the case.* ***Once investigation is concluded, charge sheet is submitted an order of cognizance on charge sheet is passed, the right to challenge the initial illegality in the order of remand cannot be enforced. The order of cognizance of the court can always be assailed by resort to appropriate statutory remedy provided under the provisions of the Cr. P.C./B.N.S.S.***
>
> ***73.*** *Of course, after investigation or after cognizance order is passed on the charge sheet submitted by the investigating officer, bail application can be moved before the appropriate court on the ground of violation of Article 21/22 of the Constitution of India.* ***The habeas corpus petition challenging the initial arrest can be preferred before the High Court by an accused, claiming that his initial arrest and remand order were illegal till the cognizance is taken on the charge sheet submitted by investigating officer of***

the police before the court. *It would be useful to refer to the various stages of investigation and trial of the cases :—*

(i) Under Section 154 Cr. P.C. (173 B.N.S.S) F.I.R is lodged and criminal law is set in motion.

(ii) After registration of F.I.R the accused may be arrested and, in case of failure to complete investigation within 24 hours, accused is produced before the Remand Magistrate who passes remand order authorizing detention of an accused for 15 days.

(iii) Investigation is carried out by the investigating officer, by visiting crime scene, collecting evidence, examining witnesses and accused under Section 161 Cr. P.C., recording disclosure statements and preparing seizure memos and arresting of accused, if not made earlier.

(iv) Under Section 173(2) Cr. P.C. either a charge sheet is submitted against the accused, finding sufficient evidence against the accused or in case of insufficiency of evidence, closure report is filed.

(v) Magistrate examines the police report and takes cognizance of the offence under Section 190 Cr. P.C. and summons/issues warrant to accused to appear before the court, where the accused has not been arrested.

(vi) Regarding serious offence triable by court of sessions, the Magistrate commits the case to the court of Sessions after supplying copies of documents to the accused as per Section 209 Cr. P.C.

(vii) Court examines the material collected by the investigating officer and frames charges under Section 228 Cr. P.C. for Sessions court and under Section 240 Cr. P.C. for Magistrate's trial.

(viii) Thereafter prosecution presents witnesses and documents to prove the charges and then the statement of accused is recorded under Section 313 Cr. P.C. giving him opportunity to explain the circumstances and evidence led against the accused by the prosecution.

(ix) Accused may produce witnesses and documents against the defence.

(x) Final arguments of both the sides are made and final judgment is delivered by the court as per Section 353 Cr. P.C. after finding the accused guilty and sentencing him or acquitting him being not found guilty. Thus, it is clear that from the lodging of F.I.R to the passing of judgment of the trial court, there are nine intermediary stages.

74. The order of remand passed by the Magistrate under Section 167 Cr. P.C. remains operative only till cognizance of the offence is taken by the competent court on the police report. Once

cognizance is taken, the remand order passed under Section 167 Cr. P.C. ceases to operate. *Thereafter, where the offence is triable exclusively by the Court of Sessions, an order of committal under Section 209 Cr. P.C. is passed, which is again a judicial order subsequent to the order of court taking cognizance of offence on charge sheet. Further, upon consideration of the material available on record, if charges are framed against the accused, an order under Sections 228/240 Cr. P.C. comes into existence. After committal of the case to the Court of Sessions, detention/remand of the accused is governed by Section 309 Cr. P.C."*

12. The Division Bench has summed up its conclusions as follows: -

> *"88. On the basis of above considerations, our conclusions are as follows: -*
>
> *(i) A habeas corpus writ petition under Article 226 of the Constitution of India can be preferred by an accused before the court, at the earliest, if his initial remand is illegal and consequently his detention is illegal.*
>
> *(ii) The filing of habeas corpus petition shall not be affected by rejection of bail application of the accused by the trial court only. Rejection of bail application of accused by High Court or the Supreme Court, would be a bar to entertainment of habeas corpus writ petition before Hon'ble High Court or Hon'ble Supreme Court since the bail application has been considered by the Bench of Hon'ble High Court or the Hon'ble Supreme Court and it would not be proper for another coordinate Bench of the Hon'ble High Court or the Hon'ble Supreme Court, where the bail application was rejected, to entertain a habeas corpus writ petition by another Bench of the same court. It will amount to appeal / review of the judgment passed by the Bench deciding bail application of the accused.*
>
> *(iii) However,* ***once the charge sheet is submitted against an accused under Section 173(2) Cr.P.C / 154(2) B.N.S.S and judicial order of cognizance is passed thereon by the competent court, the right of the accused to prefer habeas corpus writ petition on the ground that the initial judicial order of remand under Section 167(2) Cr.P.C / 187(2) B.N.S.S passed by the Magistrate was illegal would not be maintainable, since after the passing of the second judicial order of the cognizance of offence on the charge sheet by the court would become relevant and not the initial order of remand****. The remedy of assailing such an order of cognizance is provided under the statute and filing of habeas corpus petition would not be permissible.*
>
> *(iv) After the cognizance is taken on the charge sheet*

> *submitted by the investigating officer, the challenge to arrest of accused can be made on the grounds of violation of Article 21 and 22(1) of the Constitution of India by resorting to statutory remedy of bail provided under the statute.*
>
> *(v) The remedy of filing habeas corpus petition will also not be available to an accused after the order of committal under Section 209 Cr.P.C. / 232 B.N.S.S or remand by the trial court under Section 309 Cr.P.C. / 346 B.N.S.S.*
>
> *(vi) Even after framing of charge as per Section 228 Cr.P.C. / 240 Cr.P.C by the court, which is also a judicial order amenable to statutory challenge, the remedy of habeas corpus cannot be availed by an accused."*

(emphasis added)

13. The illegality in the order of remand would become inconsequential only after the Court passes a judicial order of taking cognizance of the offences, which stage has not arrived yet in the present case, as the investigation is still underway and a charge-sheet is yet to be submitted.

14. The learned counsel for the petitioners has also relied on a judgment of the Hon'ble Supreme Court in the case of **Madhu Limaye, In re**: (1969) 1 SCC 292, wherein it was held that "*Once it is shown that the arrests made by the police officers were illegal, it was necessary for the State to establish that at the stage of remand the Magistrate directed detention in jail custody after applying his mind to all relevant matters. … If their detention in custody could not continue after their arrest because of the violation of Article 22(1) of the Constitution they were entitled to be released forthwith..."*

15. *Per contra*, Sri Dheeraj Srivastava, the learned counsel for the opposite parties has raised a preliminary objection that the scope of exercise of power of superintendence conferred by Article 227 of the Constitution of India is extremely limited and this Court cannot examine the validity of detention or custody in exercise of the power of superintendence. He has submitted that the petitioners should file an application before the Magistrate seeking their release on bail or he can file a petition seeking issuance of a writ of Habeas Corpus, but he cannot challenge the validity of detention by filing a petition under Article 227 of the Constitution of India. He has submitted that the Magistrate has the jurisdiction to pass an order for remand and, therefore, the order cannot be assailed on the ground of lack of jurisdiction. The learned

counsel for the respondent has submitted that the trial court has recorded that the accused persons were arrested at 06:40 on 23.08.2026 and they were produced before the Magistrate within 24 hours.

16. The learned counsel for opposite parties has placed reliance on the judgment in the case of **Manubhai Ratilal Patel v. State of Gujarat**: (2013) 1 SCC 314, wherein the Hon'ble Supreme Court has held that a Writ of Habeas Corpus is not to be entertained when a person is committed to judicial custody or police custody by the competent court by an order which prima facie does not appear to be without jurisdiction or passed in an absolutely mechanical manner or wholly illegal.

17. In response to the aforesaid objections raised by the learned counsel for the respondent, the learned counsel for the petitioners has submitted that since the petitioners are in custody in furtherance of an order of remand passed by a court he has not filed a writ petition seeking issuance of a *Habeas Corpus* and he has challenged the validity of the remand order by invoking the power of superintendence conferred upon this court by Article 227 of the Constitution of India. He has submitted that the order of remand passed by the Magistrate suffers from the vice of non-application of mind as it merely records the submission of the petitioners that they have been produced before the court belatedly, which vitiates their remand but the Magistrate has not dealt with the aforesaid submission which is recorded in the impugned order. The petitioners have placed reliance on the judgment of Kerala High Court in **Biswajit Mandal (Supra)** and the Magistrate has brushed aside the aforesaid judgment by saying that it is based on different facts.

18. I do not find force in the objection of the learned counsel for the opposite parties that in case his custody is under the order of the court which has been passed in a mechanical manner or which is illegal, as per the law laid down in **Manubhai Ratilal Patel** (supra), the petitioner should file a Writ Petition seeking a Writ of Habeas Corpus, and a petition under Article 227 of the Constitution of India would not lie. In case a person is aggrieved against an order of judicial remand passed by a Magistrate, he cannot challenge the legality of the order by filing a Writ Petition seeking issuance of a Writ of Habeas Corpus and the validity of the Magistrate's order can be challenged by invoking the power of superintendence conferred by Article 227 of the Constitution of India.

19. In **Biswajit Mandal** (supra), it has specifically been held that the period of 24 hours to produce an accused before the Magistrate commences not

when the actual time of arrest is recorded by the police, but it runs from the time when the accused was effectively detained or his liberty was curtailed. This was the precise point raised by the petitioners and involved in the present case. The Magistrate has wrongly failed to apply the aforesaid ratio on the ground of difference in the facts of the case. The only difference in the facts of the case was that in **Biswajit Mandal** (supra), the substance recovered was *ganja*, whereas in the present case, the substance recovered is *gold*, and the mere difference in the substances recovered will not affect the applicability of the principles laid down in **Biswajit Mandal** (supra).

20. The learned counsel for the opposite party has placed reliance on a Full Bench judgment of Madras High Court in **Roshan Beevi v. Joint Secretary to Government of Tamil Nadu**: 1983 SCC OnLine Mad 163 : 1984 Cri LJ 134, wherein it was held that: -

> "***37.*** *...'custody' and 'arrest' are not synonymous terms. It is true that in every arrest there is a custody, but not vice versa. A custody may amount to an arrest in certain cases but not in all cases. In our view the interpretation that the two terms 'custody' and 'arrest' are synonymous is an ultra legalist interpretation, which if accepted and adopted, would lead to a startling anomaly resulting in serious consequences.*
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> * * *
>
> ***64.*** *For invoking. Art. 22(2), as pointed out by the learned Advocate-General, two requirements must be satisfied: (1) The person should have been arrested; and (2) he should have been detained in custody."*

21. It is correct that custody and arrest are not synonymous and a person can be taken arrested without being taken in custody (e.g., when he is already in custody in connection with another case), but for examining the applicability of the Fundamental Right guaranteed by Article 22(2) of the Constitution of India, the object behind providing the right is to be seen, which is to prevent a person being detained by the police without his production before a Magistrate. Therefore, I am in agreement with the view taken by Kerala High Court in **Biswajit Mandal** (supra) that the period of twenty-four hours to produce an accused before the Magistrate commences not when the actual time of arrest is recorded by the police, but runs from the time when the accused was effectively detained or his liberty was curtailed.

22. Therefore, I am in agreement with the view taken by Kerala High Court in **Biswajit Mandal** (supra) that the period of twenty-four hours to produce

an accused before the Magistrate commences not when the actual time of arrest is recorded by the police, but runs from the time when the accused was effectively detained or his liberty was curtailed.

23. The learned counsel for the opposite party lastly submitted that the judgment of **Subhash Sharma** (supra) will not apply to the present case, because the officers of Custom Department are not police officers. **Subhash Sharma** deals with a matter relating to the Directorate of Enforcement and in **Vijay Madanlal Choudhary v. Union of India**: (2023) 12 SCC 1, the Hon'ble Supreme Court has held (in paragraph 356 of the report) that the authorities under the 2002 Act are not police officers. Therefore, the officers of Custom and the officers of the Directorate of Enforcement, both are not police officers and it cannot be said that the principle of law laid down in **Subhash Sharma** (supra) will not apply to the present case because Custom officers are not police officers.

24. The guarantee under Article 22(2) extends to "every person who is arrested and detained in custody". It does not depend on the status of the arresting authority. Section 58 BNSS, which speaks of a police officer, is one statutory expression of that guarantee, but the petitioners' right does not rest on it. The constitutional mandate binds customs officers as it bound the Directorate of Enforcement in **Subhash Sharma** (supra). Section 104 of the Customs Act itself requires that a person arrested under that provision be taken without unnecessary delay to a Magistrate, which is the statute's own recognition of the same duty.

25. In view of the foregoing discussion, I am of the considered view that as the petitioners had not been produced before the Magistrate within a period of 24 hours since their arrest, their Fundamental Right guaranteed under Article 22(2) of the Constitution of India has been violated and consequently, the remand passed by the Magistrate is vitiated. The impugned order dated 24.08.2026 passed by the Special Chief Judicial Magistrate (Custom), Lucknow, rejecting the remand cancellation application of the petitioners is unsustainable in law and the same is **quashed**.

26. However, as the petitioners have to face the trial and there will always remain an apprehension of the petitioners being arrested again in accordance with law, the learned counsel for the petitioners submitted that the petitioners will file an application for their release on bail after appearing before the trial court and their bail application may be decided in accordance with law.

27. Accordingly, the petition is **allowed**. It is provided that as a consequence of quashing of the impugned order dated 24.08.2026, the petitioners shall be released from custody forthwith. However, they will appear before the trial court within 24 hours from their actual release from custody and will file an application seeking bail/anticipatory bail from the competent court. In case such an application is filed, the same shall be decided expeditiously, in accordance with the law.

(Subhash Vidyarthi,J.)

Whether the judgment is speaking: Yes
Whether the judgment is reportable: Yes

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(Subhash Vidyarthi,J.)

September 28, 2026/A.Nigam