

O R D E R S H E E T

District : EAST KHASI HILLS
In the Court of : SMTI D.R. KHARBTENG
ADDL. D.C (JUDICIAL), SHILLONG

Bail Application No. 93(T)2026
In Session Case No. 41(T)2025

Date of Order of proceeding	O R D E R	Signature of Court
27.04.2026	<p>This case is posted for orders today.</p> <p>This is an application filed by the accused Sonam Raghuvanshi under Section 483 BNSS for grant of bail to her in connection with the instant case. Shri S Rana, Dy. LADC appeared for the Petitioner.</p> <p>Shri. K.C Gautam appeared for the Prosecution.</p> <p>Ld Counsel for the Petitioner submits that the Petitioner/accused is presently lodged in District Prison and Correctional Home, Shillong. Ld Counsel submits that the accused was arrested on 09.06.2025 from Ghazipur, Uttar Pradesh in connection with the instant case registered on the basis of an FIR dated 03.06.2025 lodged by Shri. Vipin Raghuvanshi with the Sohra Police Station in connection with the recovery of the dead body of his deceased brother (L) Raja Raghuvanshi during the search operation conducted by the Police Authorities and since then she is in custody and languishing in District Prison and Correctional Home, Shillong for the last more than 10 (Ten) months. Ld Counsel submits that that the Investigating agencies has already filed the chargesheet on 05.09.2025 and the Charges are also framed against her vide order dated 28.10.2025 U/s 103(1)/238(a)/309(6)/3(6)</p>	

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BNS, to which she pleaded not guilty and claimed to be tried. Thereafter, the Prosecution started examining the Prosecution Witnesses and till date 4 (Four) witnesses out of 90 listed Witnesses, has already been examined. Subsequently a Supplementary Chargesheet has also been filed by the Investigating Agencies on 10.02.2026 vide which Shri. Shilom James has been arrayed as co-accused for the commission of offences u/s. 103(1)/1238(a)/309(6)/3(6) BNS read with section 25(1)(A)/ 35 Arms Act and also prayed for discharging the other 2 Co-accused Shri. Balla Ahirwal and Shri. Lokendra Tomar, who were initially arrested in the instant case. It is also submitted that vide the said Supplementary Charge-sheet, Section 25(1)(A)/ 35 Arms Act has also been added against the Petitioner herein along with Shri. Raj Singh Kushwaha and Shri. Vishal Singh Chauhan. Ld Counsel submits that thereafter the Court had vide order dated 10.02.2026 issued Summons to the accused Shri. Shilom James and also against the Informant Shri. Vipin Raghuvanshi for filing show cause/objection, if any, against the prayer for discharge of the other 2 co-accused Shri. Balla Ahirwal and Shri. Lokendra Tomar. On receipt of the summons, Shri. Shilom James entered appearance on 30.03.2026 and received the copy of the Chargesheet only and the other relevant documents are yet to be supplied to the accused Shilom James. It is also submitted that the Informant Shri. Vipin Raghuvanshi did not file any Show cause or

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objection as directed and the matter is now pending for supply of necessary copies and filing of objection, if any. Ld Counsel submits that the evidence of the Prosecution was started on 28.10.2025 and till date only 4 witnesses has been examined and the last witness was examined on 03.02.2026 and since then the trial of the instant case is halted due to the filing of the supplementary chargesheet, wherein 4 (four) witnesses and several other documents have been added. It is also submitted that since one more accused has been summoned and additional section has also been added against the accused, as such a fresh as well as joint hearing on charge has to be conducted and once again a charge, if any, has to be framed by this Court before proceeding for evidence of the remaining witnesses. Ld Counsel submits that it is pertinent to mention herein that the entire process of consideration of charge will take an uncertain amount of time, before the actual trial and before the Prosecution starts recording its evidence. It is further submitted that since 03.02.2026, the trial of the instant case has been halted for more than 2 months and that too without the fault on the part of the accused herein. In that view of the matter, the accused cannot be put under pre-conviction detention for infinite period of time without any trial. It is the admitted position of law that speedy trial is the right of the accused person and delay in trial, not attributable to the accused, will entitle the accused to be released on bail, as such the accused may be enlarged on bail. Ld

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Counsel submits that apart from the above ground, she would also like to raise a very pertinent issue regarding the illegality of her arrest for non-intimation of ground of arrest. At the time of her arrest, the Police Authorities did not comply with the mandatory requirement of providing the ground of arrest as mandated by law and thus violated Article 22(1) of the Constitution of India. It is submitted that the Petitioner is raising the instant issue of non-intimation of ground of arrest, at this stage for the first time, however she is within her right to raise the same as the said issue pertains to question of law and it is the settled law "that the question of law can be raised at any stage, even for the first time in the Appeal". Ld Counsel submits that the right to be informed of the ground of arrest flows from Article 22(1) of the Constitution of India and any infringement of the Fundamental Right would vitiate the process of arrest and remand and the mere fact that the Chargesheet has been filed in the matter and the trial has also started, would not validate the illegality and the unconstitutionality committed at the time of arresting the accused and the grant of initial custody/remand of the accused, even if the accused is remanded to custody time and again. There is no indication of any ground of arrest been intimated to the accused, what is placed on record is a mere format of purported intimation of the ground of arrest which do not contain any ground of arrest, as such the initial arrest of the accused being violative of the Constitutional mandate

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is illegal per se which also makes the subsequent remand and custody illegal and as such she is entitled to be released on bail. Ld Counsel submits that the settled position of law states and presumes a person to be innocent unless proven guilty before the court by the prosecution and till date no concrete evidence has come before this Court to prove otherwise against the accused herein. It in that view of the matter, the learned counsel submits that pre-conviction detention may not be warranted against her at this stage and she may be allowed to go on bail. Ld Counsel submits that the trial has already begun and the Supplementary Chargesheet has also been filed and all the collected evidences and materials including the additional evidences, are in the custody of this Court and there are absolutely no chances of the tampering with the same by the accused person. Ld Counsel submits that the accused is a business woman having a well-established family business spread across the country situated at Indore, Bangalore, Tamil Naidu and Hyderabad. She is a permanent resident of Indore, does not have any criminal background and there is no chance of absconding. Thus, it is prayed that this Court considers the aforesaid aspects, and may further be pleased to grant bail to the Petitioner. Ld Counsel submits that the accused is a Woman, aged about 25 years and it is also the admitted position that law provides exceptions and leniency when it comes to considering the bail application in offences involving, women, children, sick or

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infirm persons, irrespective of the gravity or severity of the offences. It is submitted that the Court may kindly consider this aspect as well, while deciding the instant Bail Petition. Ld Counsel submits that if the accused is enlarged on bail she will not jump bail and abscond and she shall not tamper with the prosecution evidence and shall appear before this Court on each and every date fixed and as and when her presence is required and shall also provide sufficient bailors and sureties to the satisfaction of this Court. Ld Counsel submits that this is the fourth application being filed on her behalf for her release on bail in connection with the abovementioned case and no other similar applications have been filed, moved or pending before any competent Court of Law. In support of his arguments the learned counsel relied upon the following judgments-

- (i) Prabir Purkayastha Vs State (NCT Delhi) AIR 2024 SC 2967 para 22, 25, 30, 46, 49.
- (ii) Vihaan Kumar Vs State of Haryana 2025 INSC 162 para 14, 16, 21(f).
- (iii) Labius Areng Vs State of Meghalaya BA No. 09 of 2026 para 21 and 26.
- (iv) Manish Sisodia Vs Directorate of enforcement 2024 INSC 594 para 54.
- (v) Javed Gulam Nabi Sheikh Vs State of Maharashtra (2024) 7 SCR 992 para 19 and 20.

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Shri K C Gautam, learned Special Prosecutor submitted that the plea raised by the Petitioner is belated and cannot be entertained at this stage especially when charges have already been framed. The learned counsel submitted that this is the fourth bail application and this plea ought to have been raised at the very first instance. The learned counsel submitted that there is no pleadings of any prejudice being caused to the petitioner. The learned counsel submitted that the arrest memo and intimation of grounds of arrest have been duly signed by the accused and the witnesses and there is sufficient presumption that the accused was informed of the grounds of arrest. The mere failure to tick the check boxes is a mere procedural irregularity especially when charges have already been framed against her. The learned counsel submitted that the petitioner has waived her right to take such a plea at this stage. While replying to the reliance placed on Vihaan Kumar judgment the learned counsel submitted that the petitioner is required to show that she has been prejudiced by such the failure of the investigating officer. The learned counsel relied on the following judgments:

- (i) Dr Rajinder Rajan vs Union of India & ano.
- (ii) Mihir Rajesh Shah vs State of Maharashtra.
- (iii) State of Karnataka Versus Sri Darshan 2025 SCC Online SC 1702.

In Prabir Purkayastha v. State (NCT of Delhi), (2024) 8 SCC 254 a two judge bench of the Hon'ble Apex Court has held-

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24. A Constitution Bench of this Court examined in detail the scheme of Article 22(5) of the Constitution of India in *Harikisan v. State of Maharashtra* [*Harikisan v. State of Maharashtra*, 1962 SCC OnLine SC 117] and held that the communication of the grounds of detention to the detenu in writing and in a language which he understands is imperative and essential to provide an opportunity to detenu of making an effective representation against the detention and in case, such communication is not made, the order of detention would stand vitiated as the guarantee under Article 22(5) of the Constitution was violated. The relevant para is extracted hereinbelow : (SCC OnLine SC para 7)

“7. ... clause (5) of Article 22 requires that the grounds of his detention should be made available to the detenu as soon as may be, and that the earliest opportunity of making a representation against the Order should also be afforded to him. In order that the detenu should have that opportunity, it is not sufficient that he has been physically delivered the means of knowledge with which to make his representation. In order that the detenu should be in a position effectively to make his representation against the Order, he should have knowledge of the grounds of detention, which are in the nature of the charge against him setting out the kinds of prejudicial acts which the authorities attribute to him. Communication, in this context, must, therefore, mean imparting to the detenu sufficient knowledge of all the grounds on which the Order of Detention is based. In this case the grounds are several, and are based on numerous speeches said to have been made by the appellant himself on different occasions and different dates. Naturally, therefore, any

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oral translation or explanation given by the police officer serving those on the detenu would not amount to communicating the grounds. Communication, in this context, must mean bringing home to the detenu effective knowledge of the facts and circumstances on which the Order of Detention is based.”

(emphasis supplied)

25. Further, this Court in Lallubhai Jogibhai Patel v. Union of India [Lallubhai Jogibhai Patel v. Union of India, (1981) 2 SCC 427 : 1981 SCC (Cri) 463], laid down that the grounds of detention must be communicated to the detenu in writing in a language which he understands and if the grounds are only verbally explained, the constitutional mandate of Article 22(5) is infringed. The relevant para is extracted hereunder : (SCC p. 436, para 20)

“20. ... “Communicate” is a strong word. It means that sufficient knowledge of the basic facts constituting the “grounds” should be imparted effectively and fully to the detenu in writing in a language which he understands. The whole purpose of communicating the “ground” to the detenu is to enable him to make a purposeful and effective representation. If the “grounds” are only verbally explained to the detenu and nothing in writing is left with him, in a language which he understands, then that purpose is not served, and the constitutional mandate in Article 22(5) is infringed.”

(emphasis supplied)

26. From a holistic reading of various judgments pertaining to the law of preventive detention including the Constitution Bench decision of this Court in Harikisan [Harikisan v. State of Maharashtra, 1962 SCC

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OnLine SC 117] , wherein, the provisions of Article 22(5) of the Constitution of India have been interpreted, we find that it has been the consistent view of this Court that the grounds on which the liberty of a citizen is curtailed, must be communicated in writing so as to enable him to seek remedial measures against the deprivation of liberty.

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28. The language used in Article 22(1) and Article 22(5) of the Constitution of India regarding the communication of the grounds is exactly the identical. Neither of the constitutional provisions require that the “grounds” of “arrest” or “detention”, as the case may be, must be communicated in writing. Thus, interpretation to this important facet of the fundamental right as made by the Constitution Bench while examining the scope of Article 22(5) of the Constitution of India would *ipso facto* apply to Article 22(1) of the Constitution of India insofar as the requirement to communicate the grounds of arrest is concerned.

29. Hence, we have no hesitation in reiterating that the requirement to communicate the grounds of arrest or the grounds of detention in writing to a person arrested in connection with an offence or a person placed under preventive detention as provided under Articles 22(1) and 22(5) of the Constitution of India is sacrosanct and cannot be breached under any situation. Non-compliance of this constitutional requirement and statutory mandate would lead to the custody or the detention being rendered illegal, as the case may be.

30. Furthermore, the provisions of Article 22(1) have already been interpreted by this Court in *Pankaj Bansal* [*Pankaj Bansal v. Union of India*, (2024) 7 SCC

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576] laying down beyond the pale of doubt that the grounds of arrest must be communicated in writing to the person arrested of an offence at the earliest. Hence, the fervent plea of the learned ASG that there was no requirement under law to communicate the grounds of arrest in writing to the appellant-accused is noted to be rejected.

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46. Now, coming to the aspect as to whether the grounds of arrest were actually conveyed to the appellant in writing before he was remanded to the custody of the investigating officer.

47. We have carefully perused the arrest memo (Annexure P-7) and find that the same nowhere conveys the grounds on which the accused was being arrested. The arrest memo is simply a pro forma indicating the formal “reasons” for which the accused was being arrested.

48. It may be reiterated at the cost of repetition that there is a significant difference in the phrase “reasons for arrest” and “grounds of arrest”. The “reasons for arrest” as indicated in the arrest memo are purely formal parameters viz. to prevent the accused person from committing any further offence; for proper investigation of the offence; to prevent the accused person from causing the evidence of the offence to disappear or tampering with such evidence in any manner; to prevent the arrested person for making inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to the investigating officer. These reasons would commonly apply to any person arrested on charge of a crime whereas the “grounds of arrest” would be required to contain all such details in hand of the investigating officer which necessitated the arrest of the

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accused. Simultaneously, the grounds of arrest informed in writing must convey to the arrested accused all basic facts on which he was being arrested so as to provide him an opportunity of defending himself against custodial remand and to seek bail. Thus, the “grounds of arrest” would invariably be personal to the accused and cannot be equated with the “reasons of arrest” which are general in nature.

49. From the detailed analysis made above, there is no hesitation in the mind of the court to reach to a conclusion that the copy of the remand application in the purported exercise of communication of the grounds of arrest in writing was not provided to the appellant-accused or his counsel before passing of the order of remand dated 4-10-2023 which vitiates the arrest and subsequent remand of the appellant.

In *Vihaan Kumar v. State of Haryana*, (2025) 5 SCC 799 the two judge bench of the Hon’ble Apex Court has held-

14. In the said decision, this Court in paras 42 and 43 observed [*Pankaj Bansal v. Union of India*, (2024) 7 SCC 576 : (2024) 3 SCC (Cri) 450] thus : (*Pankaj Bansal case* [*Pankaj Bansal v. Union of India*, (2024) 7 SCC 576 : (2024) 3 SCC (Cri) 450], SCC p. 597)

“42. That being so, there is no valid reason as to why a copy of such written grounds of arrest should not be furnished to the arrested person as a matter of course and without exception. There are two primary reasons as to why this would be the advisable course of action to be followed as a matter of principle. Firstly, in the event such grounds of arrest are orally read out to the arrested person or read by such person with nothing further and this fact is disputed in

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a given case, it may boil down to the word of the arrested person against the word of the authorised officer as to whether or not there is due and proper compliance in this regard. In the case on hand, that is the situation insofar as Basant Bansal is concerned. Though ED claims that witnesses were present and certified that the grounds of arrest were read out and explained to him in Hindi, that is neither here nor there as he did not sign the document. Non-compliance in this regard would entail release of the arrested person straightaway, as held in V. Senthil Balaji [V. Senthil Balaji v. State, (2024) 3 SCC 51 : (2024) 2 SCC (Cri) 1] . Such a precarious situation is easily avoided and the consequence thereof can be obviated very simply by furnishing the written grounds of arrest, as recorded by the authorised officer in terms of Section 19(1) PMLA, to the arrested person under due acknowledgment, instead of leaving it to the debatable ipse dixit of the authorised officer.

43. The second reason as to why this would be the proper course to adopt is the constitutional objective underlying such information being given to the arrested person. Conveyance of this information is not only to apprise the arrested person of why he/she is being arrested but also to enable such person to seek legal counsel and, thereafter, present a case before the court under Section 45 to seek release on bail, if he/she so chooses. In this regard, the grounds of arrest in V. Senthil Balaji [V. Senthil Balaji v. State, (2024) 3 SCC 51 : (2024) 2 SCC (Cri) 1] are placed on record and we find that the same run into as many as six pages. The grounds of arrest recorded in the case on hand in relation to Pankaj Bansal and Basant Bansal have not been produced before this Court, but it was contended

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that they were produced at the time of remand. However, as already noted earlier, this did not serve the intended purpose. Further, in the event their grounds of arrest were equally voluminous, it would be well-nigh impossible for either Pankaj Bansal or Basant Bansal to record and remember all that they had read or heard being read out for future recall so as to avail legal remedies. More so, as a person who has just been arrested would not be in a calm and collected frame of mind and may be utterly incapable of remembering the contents of the grounds of arrest read by or read out to him/her. The very purpose of this constitutional and statutory protection would be rendered nugatory by permitting the authorities concerned to merely read out or permit reading of the grounds of arrest, irrespective of their length and detail, and claim due compliance with the constitutional requirement under Article 22(1) and the statutory mandate under Section 19(1) PMLA.”

(emphasis supplied)

15. The view taken in *Pankaj Bansal* [*Pankaj Bansal v. Union of India*, (2024) 7 SCC 576 : (2024) 3 SCC (Cri) 450] was reiterated by this Court in *Prabir Purkayastha* [*Prabir Purkayastha v. State (NCT of Delhi)*, (2024) 8 SCC 254 : (2024) 3 SCC (Cri) 573] . In paras 28 and 29, this Court held thus : (*Prabir Purkayastha case* [*Prabir Purkayastha v. State (NCT of Delhi)*, (2024) 8 SCC 254 : (2024) 3 SCC (Cri) 573] , SCC p. 278)

“28. The language used in Article 22(1) and Article 22(5) of the Constitution of India regarding the communication of the grounds is exactly the identical. Neither of the constitutional provisions require that the “grounds” of “arrest” or “detention”, as the case may be, must be communicated in writing. Thus, interpretation to this

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important facet of the fundamental right as made by the Constitution Bench while examining the scope of Article 22(5) of the Constitution of India would ipso facto apply to Article 22(1) of the Constitution of India insofar as the requirement to communicate the grounds of arrest is concerned.

29. Hence, we have no hesitation in reiterating that the requirement to communicate the grounds of arrest or the grounds of detention in writing to a person arrested in connection with an offence or a person placed under preventive detention as provided under Articles 22(1) and 22(5) of the Constitution of India is sacrosanct and cannot be breached under any situation. Non-compliance of this constitutional requirement and statutory mandate would lead to the custody or the detention being rendered illegal, as the case may be.”

(emphasis supplied)

16. This Court held that the language used in Articles 22(1) and 22(5) regarding communication of the grounds is identical, and therefore, this Court held that interpretation of Article 22(5) made by the Constitution Bench in *Harikisan v. State of Maharashtra* [*Harikisan v. State of Maharashtra*, 1962 SCC OnLine SC 117] , shall ipso facto apply to Article 22(1) of the Constitution of India insofar as the requirement to communicate the ground of arrest is concerned. We may also note here that in para 21, in *Prabir Purkayastha* [*Prabir Purkayastha v. State (NCT of Delhi)*, (2024) 8 SCC 254 : (2024) 3 SCC (Cri) 573] , this Court also dealt with the effect of violation of Article 22(1) by holding that any infringement of this fundamental right would vitiate the process of arrest and remand. Para 21 reads thus : (*Prabir Purkayastha case* [*Prabir*

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Purkayastha v. State (NCT of Delhi), (2024) 8 SCC 254 : (2024) 3 SCC (Cri) 573], SCC p. 276)

“21. The right to be informed about the grounds of arrest flows from Article 22(1) of the Constitution of India and any infringement of this fundamental right would vitiate the process of arrest and remand. Mere fact that a charge-sheet has been filed in the matter, would not validate the illegality and the unconstitutionality committed at the time of arresting the accused and the grant of initial police custody remand to the accused.”

(emphasis supplied

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18. Therefore, as far as Article 22(1) is concerned, compliance can be made by communicating sufficient knowledge of the basic facts constituting the grounds of arrest to the person arrested. The grounds should be effectively and fully communicated to the arrestee in the manner in which he will fully understand the same. Therefore, it follows that the grounds of arrest must be informed in a language which the arrestee understands. That is how, in Pankaj Bansal [Pankaj Bansal v. Union of India, (2024) 7 SCC 576 : (2024) 3 SCC (Cri) 450], this Court held that the mode of conveying the grounds of arrest must necessarily be meaningful so as to serve the intended purpose. However, under Article 22(1), there is no requirement of communicating the grounds of arrest in writing. Article 22(1) also incorporates the right of every person arrested to consult an advocate of his choice and the right to be defended by an advocate. If the grounds of arrest are not communicated to the arrestee, as soon as may be, he will not be able to effectively exercise the right to consult an advocate. This requirement incorporated in Article 22(1)

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also ensures that the grounds for arresting the person without a warrant exist. Once a person is arrested, his right to liberty under Article 21 is curtailed. When such an important fundamental right is curtailed, it is necessary that the person concerned must understand on what grounds he has been arrested. That is why the mode of conveying information of the grounds must be meaningful so as to serve the objects stated above.

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

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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.

20. We have already referred to what is held in paras 42 and 43 of the decision in *Pankaj Bansal [Pankaj Bansal v. Union of India, (2024) 7 SCC 576 : (2024) 3 SCC (Cri) 450]*. This Court has suggested that the proper and ideal course of communicating the grounds of arrest is to provide grounds of arrest in writing. Obviously, before a police officer communicates the grounds of arrest, the grounds of arrest have to be formulated. Therefore, there is no harm if the grounds of arrest are communicated in writing. Although there is no requirement to communicate the grounds of arrest in writing, what is stated in paras 42 and 43 of the decision in *Pankaj Bansal [Pankaj Bansal v. Union of India, (2024) 7 SCC 576 : (2024) 3 SCC (Cri) 450]* are suggestions that merit consideration. We are aware that in every case, it may not be practicable to implement what is suggested. If the course, as suggested, is followed, the controversy about the non-compliance will not arise at all. The police have to balance the rights of a person arrested with the interests of the society. Therefore, the police should always scrupulously comply with the requirements of Article 22.

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

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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.

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23. In the present case, the first respondent relied upon an entry in the case diary allegedly made at 6.10 p.m. on 10-6-2024, which records that the appellant was arrested after informing him of the grounds of arrest. For the reasons which will follow hereafter, we are rejecting the argument made by the first respondent. If the police want to prove communication of the grounds of arrest only based on a diary entry, it is necessary to incorporate those grounds of arrest in the diary entry or any other document. The grounds of arrest must exist before the same are informed. Therefore, in a given case, even assuming that the case of the police regarding requirements of Article 22(1) of the Constitution is to be accepted based on an entry in the case diary, there must be a contemporaneous record, which records what the grounds of arrest were. When an arrestee pleads before a court that grounds of arrest were not communicated, the burden to prove the compliance of Article 22(1) is on the police.

24. An argument was sought to be canvassed that in view of sub-section (1) of Section 50CrPC, there is an option to communicate to the person arrested full particulars of the offence for which he is arrested or the other grounds

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for the arrest. Section 50 cannot have the effect of diluting the requirement of Article 22(1). If held so, Section 50 will attract the vice of unconstitutionality. Section 50 lays down the requirement of communicating the full particulars of the offence for which a person is arrested to him. The “other grounds for such arrest” referred to in Section 50(1) have nothing to do with the grounds of arrest referred to in Article 22(1). The requirement of Section 50 is in addition to what is provided in Article 22(1). Section 47 of the BNSS is the corresponding provision. Therefore, what we have held about Section 50 will apply to Section 47 of the BNSS.

25. 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) has been made. The reason is that due to non-compliance, the arrest is rendered illegal; therefore, the arrestee cannot be remanded after the arrest is rendered illegal. It is the obligation of all the courts to uphold the fundamental rights.

Conclusions

26. Therefore, we conclude:

26.1. The requirement of informing a person arrested of grounds of arrest is a mandatory requirement of Article 22(1);

26.2. The information of the grounds of arrest must be provided to the arrested person in such a manner that sufficient knowledge of the basic facts constituting the grounds is imparted and communicated to the arrested person effectively in the language which he understands. The mode and method of communication must be such that the object of the constitutional safeguard is achieved;

26.3. When arrested accused alleges non-compliance

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with the requirements of Article 22(1), the burden will always be on the investigating officer/agency to prove compliance with the requirements of Article 22(1);

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.

In 2026 SCC Online Megh 203 Labius Arengh *Versus* State of Meghalaya,

20. The contention of the petitioner is that what was produced before him at the time of his arrest was a format under the heading "Intimation of grounds of arrest" which

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appears to be a prepared format with a checklist of accusations/charges said to have been committed by the accused person. In the said format presented to the petitioner, two check boxes have been ticked to indicate the said charges against the petitioner, the relevant one as has been pointed out is that, he is suspected of being involved in a cognizable offence, the punishment of which is less than seven years which may extend to seven years.

21. What is relevant to note in the context of this case is the observations of the Supreme Court in the case of *Vihaan Kumar* (supra) at para 26 (series) which is reproduced herein below as:

“26. Therefore, we conclude:

26.1. The requirement of informing a person arrested of grounds of arrest is a mandatory requirement of Article 22(1);

26.2. The information of the grounds of arrest must be provided to the arrested person in such a manner that sufficient knowledge of the basic facts constituting the grounds is imparted and communicated to the arrested person effectively in the language which he understands. The mode and method of communication must be such that the object of the constitutional safeguard is achieved;

26.3. When arrested accused alleges non-compliance with the requirements of Article 22(1), the burden will always be on the investigating officer/agency to prove compliance with the requirements of Article 22(1);

26.4. Non-compliance with Article 22(1) will be a violation of the fundamental rights of the accused

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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.”

22. When the FIR was registered, the offence said to have been committed by the accused person including the petitioner herein are under Section 22(c)/25/29 of the NDPS Act 1985, which provides for punishment for an offence involving possession, etc. of commercial quantity of contraband substances. The punishment for such offence is imprisonment for a period of ten years minimum which may extend to twenty years with fine.

23. If one goes by the intimation of grounds of arrest

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presented to the petitioner, there is indeed no indication that the charges against him entails a punishment of ten years or so. This shows that sufficient knowledge of facts constituting grounds of arrest, has not been effectively communicated to the petitioner herein in clear terms.

24. As observed, since the charge sheet have been filed in the meantime, the petitioner is aware of the charges against him, being initially communicated of the grounds of arrest for having committed an offence carrying a punishment of seven years or so, but was ultimately informed that he is charged for having committed an offence prescribing a minimum punishment of ten years, therefore, it can be said that prejudice has been caused to him as far as his defense is concerned.

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28. Before parting, this Court having seen the format, wherein, the intimation of grounds of arrest have been drawn out, would observe that such format is contrary to law, since it has been clearly indicated that specific facts have to be spelled out for the accused person to understand the allegations against him, as such, such kind of format is found not compatible. The authorities concerned would do well to rectify this situation.

In State of Karnataka Versus Sri Darshan 2025 SCC Online SC 1702 a two judge bench of the Hon'ble Supreme Court has held-

20.1. Delay in furnishing the grounds of arrest cannot, by itself, constitute a valid ground for grant of bail.

20.1.1. The learned counsel for the respondents -

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accused contended that the arrest was illegal as the grounds of arrest were not furnished immediately in writing, thereby violating Article 22 (1) of the Constitution and Section 50 Cr. P.C. (now Section 47 of the Bharatiya Nagarik Suraksha Sanhita). This submission, however, is devoid of merit.

20.1.2. Article 22(1) of the Constitution mandates that “no person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest, nor shall he be denied the right to consult, and to be defended by, a legal practitioner of his choice”. Similarly, Section 50 (1) Cr. P.C. requires that “every police officer or other person arresting any person without warrant shall forthwith communicate to him full particulars of the offence for which he is arrested or other grounds for such arrest.

20.1.3. The constitutional and statutory framework thus mandates that the arrested person must be informed of the grounds of arrest - but neither provision prescribes a specific form or insists upon written communication in every case. Judicial precedents have clarified that substantial compliance with these requirements is sufficient, unless demonstrable prejudice is shown.

20.1.4. In *Vihaan Kumar v. State of Haryana*²², it was reiterated that Article 22(1) is satisfied if the accused is made aware of the arrest grounds in substance, even if not conveyed in writing. Similarly, in *Kasireddy Upender Reddy v. State of Andhra Pradesh*²³, it was observed that when arrest is made pursuant a warrant, reading out the warrant amounts to sufficient compliance. Both these post-*Pankaj Bansal* decisions clarify that written, individualised

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grounds are not an inflexible requirement in all circumstances.

20.1.5. While Section 50 Cr.P.C. is mandatory, the consistent judicial approach has been to adopt a prejudice-oriented test when examining alleged procedural lapses. The mere absence of written grounds does not ipso facto render the arrest illegal, unless it results in demonstrable prejudice or denial of a fair opportunity to defend.

20.1.6. The High Court, however, relied heavily on the alleged procedural lapse as a determinative factor while overlooking the gravity of the offence under Section 302 IPC and the existence of a prima facie case. It noted, inter alia, that there was no mention in the remand orders about service of memo of grounds of arrest (para 45); the arrest memos were allegedly template-based and not personalised (para 50); and eyewitnesses had not stated that they were present at the time of arrest or had signed the memos (para 48). Relying on *Pankaj Bansal v. Union of India*²⁴ and *Prabir Purkayastha v. State (NCT of Delhi)* (supra), it concluded (paras 43, 49 - 50) that from 03.10.2023 onwards, failure to serve detailed, written, and individualised grounds of arrest immediately after arrest was a violation entitling the accused to bail.

20.1.7. In the present case, the arrest memos and remand records clearly reflect that the respondents were aware of the reasons for their arrest. They were legally represented from the outset and applied for bail shortly after arrest, evidencing an immediate and informed understanding of the accusations. No material has been placed on record to establish that any prejudice was caused due to the alleged procedural lapse. In the absence of demonstrable prejudice,

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such as irregularity is, at best, a curable defect and cannot, by itself, warrant release on bail. As reiterated above, the High Court treated it as a determinative factor while overlooking the gravity of the charge under Section 302 IPC and the existence of a prima facie case. Its reliance on Pankaj Bansal and Prabir Purkayastha is misplaced, as those decisions turned on materially different facts and statutory contexts. The approach adopted here is inconsistent with the settled principle that procedural lapses in furnishing grounds of arrest, absent prejudice, do not ipso facto render custody illegal or entitle the accused to bail.

In Darshan's case (supra), the respondents were informed of the grounds of arrest orally at the time of arrest and served written grounds immediately thereafter. The arrest memos, checklists, and intimation documents were duly submitted before the Magistrate and counter-signed by persons acquainted with the accused. Thus the requirement under Section 50A Cr. P.C. to satisfy the Magistrate about arrest intimation was duly fulfilled.

When the FIR was registered, the sections under which the case has been registered against the accused is u/s 103(1)/238(a)/309(6)/3(6) BNS.

Perused Annexure 8 which is a prepared format under the heading "Intimation of Grounds of Arrest" with a checklist of accusations/charges said to have been committed by the accused person. In the said format presented to the petitioner, none of the check boxes have been ticked to indicate the said charges against the petitioner. Even the sections of law referred to therein is Sohra PS Case No. 7/2025 u/s 403(1)/238(a)/309(6)/3(6) BNS. However,

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the case has been registered u/s 103(1)/238(a)/309(6)/3(6) BNS. A bare perusal of the Intimation of Grounds of arrest would indicate that the Petitioner was not informed about the offence u/s 103(1) BNS. Though it has been argued that this is a clerical error, however such error cannot occur in all documents. Infact, in all documents pertaining to Sonam Raghuvanshi, from the check list for justification of arrest, memo of arrest, inspection memo, intimation of rights of the arrested person, extract of case dairy, the sections referred to in all the documents is Sohra PS Case No. 7/2025 u/s 403(1)/238(a)/309(6)/3(6) BNS. In none of the documents has the petitioner been intimated that she is arrested for the offence u/s 103(1) BNS. Even in the formats of the intimation of grounds of arrest it is observed that specific facts constituting the offence has not been communicated to the accused person. In view thereof, Darshan's case would have no application to the facts of the instant case.

Going by the intimation of grounds of arrest presented to the petitioner, there is no indication that the charges against her has been communicated to her. This shows that sufficient knowledge of facts constituting grounds of arrest, has not been effectively communicated to the petitioner herein in clear terms. Therefore, it can be said that prejudice has been caused to her as far as her defense is concerned. Moreover, there is nothing on record to show that the petitioner was represented by a counsel at the time when she was first produced before the court at Ghazipur, whereby this plea could have been raised by her.

Under the peculiar facts and circumstances of this case, this Court is convinced that the petitioner has been able to make out a

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case of not having been effectively communicated the grounds of arrest upon her arrest.

Accordingly, as has been observed in the case of *Vihaan Kumar* (supra) at para 26 and the judgment of our own High Court in *Labius Areng* (supra) the petitioner is entitled to be released on bail.

The petitioner is hereby directed to be released on bail on the following conditions:

- (i) That she shall not abscond or tamper with the evidence or witnesses;
- (ii) That she shall attend court on every date fixed;
- (iii) That she shall not leave the jurisdiction of this court, except with due permission; and
- (iv) That she shall execute a personal bond of Rs 50,000 (Rupees fifty thousand) only with two surety of like amount to the satisfaction of this court.

Application is allowed and disposed off.