

2026 LiveLaw (SC) 327

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
VIKRAM NATH; J., SANDEEP MEHTA; J.
SLP(Crl.) No(s). 3326, 3327 of 2026; APRIL 01, 2026
DR. RAJINDER RAJAN versus UNION OF INDIA & ANR.

Narcotic Drugs and Psychotropic Substances Act, 1985 – Section 67 – Section 8 – Section 22 – Grounds of Arrest – Constitutional Mandate – Article 22(1) and Article 21 – The Supreme Court set aside the rejection of bail by the High Court and ordered the immediate release of the appellants due to the failure of the Narcotics Control Bureau (NCB) to provide written grounds of arrest - The appellants, medical professionals at a corporate hospital, were arrested following the recovery of 2000 Tramadol tablets - While the NCB claimed the grounds of arrest were orally explained and noted in a template-style arrest memo, the Court found this insufficient under established legal mandates - Supreme Court emphasized that providing written grounds of arrest is a mandatory constitutional requirement to protect the fundamental rights of the arrestee.

Supreme Court laid down following key points - i. Mandatory Written Communication: Supreme Court reiterated that the constitutional mandate of informing an arrestee of the grounds of arrest is mandatory for all offences under all statutes; ii. Procedural Non-Compliance: Even if grounds are explained orally at the time of arrest, they must be communicated in writing at least two hours prior to the production of the arrestee before the Magistrate; iii. Template Arrest Memos: A mere statement in a template arrest memo indicating that grounds were "explained" orally does not substitute for the requirement of furnishing written grounds; iv. Consequence of Violation: Any deviation from these principles renders the arrest and subsequent remand illegal, entitling the person to be set free. [Relied on *Mihir Rajesh Shah v. State of Maharashtra & Another (2026) 1 SCC 500; Paras 20-23*]

[Arising out of impugned final judgment and order dated 13-11-2025 in CRMM No. 33675/2025 passed by the High Court of Punjab & Haryana at Chandigarh]

For Petitioner(s) :Mr. S. Nagamuthu, Sr. Adv. Mr. Sarthak Bhatia, Adv. Mr. Chaitanya Madhav, Adv. Ms. Maulshree, Adv. Mr. Mukesh Kumar Singh, Adv. Mr. Kadam Hans, Adv. Mr. Harsh Chaturvedi, Adv. Mr. A.k. Chaturvedi, Adv. Mr. Jeetendra Kumar, Adv. Ms. Kajal Rani, Adv. Ms. Komal Singh, Adv. Mr. Sanjay Kumar Jha, Adv. M/S. Mukesh Kumar Singh And Co., AOR Mr. P.V Dinesh, Sr. Adv. Reason: Mr. Sarthak Bhatia, Adv. Mr. Anna Oommen, Adv. Mr. Chaitanya Madhav, Adv. Mr. James Bedi, AOR

For Respondent(s): Mr. Anil Kaushik, A.S.G. Mr. Rajat Nair, Adv. Mr. Pranjal Singh, Adv. Mr. Pashupatinath Razdan, Adv. Mr. Raghav Sharma, Adv. Ms. Shubhi Bhardwaj, Adv. Mr. Arvind Kumar Sharma, AOR

ORDER

1. Heard.
2. Leave granted.
3. The appellants herein are both medical professionals concerned with the operation of Corporate Hospital at Batala Road, Amritsar.
4. An order for Tramadol tablets was placed with the manufacturer, M/s. Ballista Pharmaceuticals, under a written letter dated 19th April, 2025 issued under the signatures of the appellant, Dr. Jatinder Malhotra, who was managing the affairs of the Corporate Medicos (the pharmacy unit operating within the Corporate Hospital, Amritsar).

5. It is the case of the appellants that, owing to a supply-side error, M/s. Ballista Pharmaceuticals inadvertently shipped a consignment of 2000 Tramadol tablets to the hospital instead of the intended quantity of 200 tablets for which the order was placed. The consignment was received on 21st April, 2025, and, upon noticing the excess quantity, the same was neither opened nor put to use. The entire consignment continued to remain in a sealed box.
6. The appellants further claim that a letter dated 27th April, 2025 was issued by the hospital to M/s. Ballista Pharmaceuticals requesting for return of the excess 1800 tablets. As per the appellants, the Tramadol tablets had been ordered for providing treatment to the patients admitted in the hospital. However, before the excess tablets could be returned, the Officers of the Narcotics Control Bureau (NCB), Amritsar Zonal Unit conducted search and seizure on 1st May, 2025 in the premises of M/s. Ballista Pharmaceuticals and recovered 31,900 tablets of Tramadol.
7. Pursuant to the said recovery, a crime case bearing NCB Crime No.14/2025 dated 1st May, 2025 was registered against one Amit Bhandari, the proprietor of M/s. Ballista Pharmaceuticals. As a follow up, the NCB conducted a raid at the Corporate Medicos operating inside the Corporate Hospital, Amritsar and recovered the said consignment of 2000 Tramadol tablets in a sealed condition.
8. The appellant-Dr. Rajinder Rajan, who is a senior orthopaedic surgeon and owner of the hospital, and the appellant-Dr. Jatinder Malhotra being the proprietor of the pharmacy (Corporate Medicos) were initially summoned under Section 67 of the Narcotic Drugs and Psychotropic Substances Act, 1985¹ and after recording their statements, both were arrested and remanded to judicial custody on 3rd May, 2025.
9. The appellants applied for bail before the Punjab and Haryana High Court². Their applications for regular bail stand rejected by the learned Single Judge of the High Court by two separate orders dated 13th November, 2025 passed in CRM-M-33675-2025 and CRM-M-33573-2025.
10. A specific plea was taken on behalf of the appellants in the applications for bail filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 that they were not supplied with the 'grounds of arrest' before taking them into custody in the present case.
11. The bail applications of the appellants having been rejected by the High Court, the appellants are before us by way of these appeals with special leave.
12. Shri S. Nagamuthu and Shri P.V. Dinesh, learned senior counsel appearing for the appellants, placed reliance on the judgment of this Hon'ble Court in ***Mihir Rajesh Shah v. State of Maharashtra & Another***³, and urged that failure to furnish the 'grounds of arrest' to an accused in writing amounts to violation of the fundamental rights guaranteed under Articles 21 and 22 of the Constitution of India. It was submitted that where the arrested person has not been informed of the grounds of arrest, the inevitable consequence would be that the arrest is illegal and such person is entitled to be released from custody.
13. In particular, learned senior counsel relied upon the following conclusions recorded in ***Mihir Rajesh Shah*** (supra): -

¹ Hereinafter being referred to as "NDPS Act, 1985".

² Hereinafter being referred to as "High Court".

³ (2026) 1 SCC 500.

“66. In conclusion, it is held that:

66.1. The constitutional mandate of informing the arrestee the grounds of arrest is mandatory in all offences under all statutes including offences under IPC, 1860 (now BNS 2023);

66.2. The grounds of arrest must be communicated in writing to the arrestee in the language he/she understands;

66.3. In case(s) where, the arresting officer/person is unable to communicate the grounds of arrest in writing on or soon after arrest, it be so done orally. The said grounds be communicated in writing within a reasonable time and in any case at least two hours prior to production of the arrestee for remand proceedings before the Magistrate.

66.4. In case of non-compliance of the above, the arrest and subsequent remand would be rendered illegal and the person will be at liberty to be set free.”

14. It was vehemently and fervently contended that mere mentioning of the case details in the arrest memo would not be a substitute for mandatory requirement of furnishing the accused with the grounds of arrest. Learned senior counsel urged that the specific plea taken in this regard in the bail applications filed before the High Court on behalf of the appellants was not adverted to by the learned Single Judge while rejecting the applications filed on their behalf. Such ground though specifically pleaded in the petitions for special leave has not been traversed by the respondents in their counter affidavit. Learned counsel thus urged that the custody of the appellants in the present case is illegal and they deserve to be released forthwith.

15. Learned Additional Solicitor General, Shri Anil Kaushik, appearing for the respondents, vehemently and fervently opposed the submissions advanced by learned counsel for the appellants. He urged that the grounds of arrest have been specifically set out in the arrest memo itself and the mandatory requirement in **Mihir Rajesh Shah** (supra) stands complied with and thus, the appellants do not deserve to be released on bail.

16. Shri Kaushik further submitted that the fact regarding the grounds of arrest having been explained to the accused is specifically mentioned in the compliance report under Section 57 of the NDPS Act, 1985, forwarded by the seizure officer to the Assistant Director, NCB, Punjab.

17. Shri Kaushik submitted that the appellants intentionally and deliberately procured the huge consignment of Tramadol tablets from the manufacturer M/s. Ballista Pharmaceuticals, even though the license issued to the hospital specifically excluded Tramadol from the permitted items.

18. He fervently contended that there is no violation of the principles laid down by this Court in **Mihir Rajesh Shah** (supra) and even otherwise, the appellants are not entitled to be released on bail, considering the gravity of the offence.

19. We have given our anxious consideration to the submissions advanced at bar and have gone through the material available on record.

20. It is no longer *res integra* that supplying the grounds of arrest to the accused **in writing** before the arrest or, in a given case, under exceptional circumstances, immediately thereafter, is the mandate of the constitutional guarantees provided under Article 22(1) read with Article 21 of the Constitution of India. The ratio of the judgment in **Mihir Rajesh Shah** (supra) conclusively holds that any deviation from the above principle would lead to the arrest of the accused being declared illegal entitling such accused to be released forthwith.

21. Shri Kaushik tried to convince the Court that the grounds of arrest were orally explained to the accused at the time of preparation of the arrest memo. We have perused the arrest memo placed on record by Shri Kaushik and extract the same for the sake of ready reference: -

“Arrest Memo

Consequent upon the recovery/seizure of 2000 Tablets of Tramadol on 02/05/2025 from Corporate Chemist inside Corporate Hospital, Batola Road, Amritsar -14300/ and on the basis of voluntarily statement dated 02/05/2025 of Rajinder Rajan S/O Janak Raj R/o D-84, Ranjit Avenue , Amritsar ,Punjab recorded u/s 67 of NDPS Act, 1985 having reasons to believe that Rajinder Rajan has violated section 8 and 22 of NDPS act and committed offence punishable u/s 8 and 22 of NDPS Act; accordingly, I place Rajinder Rajan under arrest on 02/05/2025 at 2300 hrs. I have explained the ground of arrest to him/her before arrest.

(SD)”

22. On going through the arrest memo, we find that it has been prepared in a template format and contains a statement to the effect that the arresting officer had explained the grounds of arrest to the accused before the arrest. Thus, the arrest memo, by itself, reflects that the grounds of arrest had been orally explained to the accused before the process of formal arrest was undertaken. Consequently, it was incumbent upon the arresting officer to have supplied the memo of grounds of arrest in writing to the accused two hours prior to producing them before the Magistrate as per the mandate of **Mihir Rajesh Shah** (supra) which apparently has not been followed in this case.

23. In the wake of the above discussion, we are of the firm view that the appellants are entitled to be released from custody by giving them the benefit of the ratio laid down in **Mihir Rajesh Shah** (supra). Accordingly, it is hereby directed that the appellants shall be released on bail forthwith, subject to furnishing bail bonds to the satisfaction of the trial Court and such other conditions as it may deem fit to impose.

24. The appeals are allowed accordingly.

25. Pending application(s), if any, shall stand disposed of.

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