



IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE G. S. AHLUWALIA

&

HON'BLE SMT. JUSTICE ANURADHA SHUKLA

ON THE 3rd OF JULY, 2026

WRIT PETITION No. 25312 of 2026

DHARMENDRA LODHI

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

.....
Appearance:

Shri Lokendra Sharivastava - Advocate for the petitioner.

Shri C.P. Singh - Government Advocate for the State.
.....

ORDER

Per. Justice Gurpal Singh Ahluwalia

This *habeas corpus* petition under Article 226 of the Constitution of India has been filed by the petitioner challenging arrest of his brother in Crime No.111/2026 registered at Police Station Basai District Datia for offence under Section 8/20 of NDPS Act on the ground that his arrest was illegal as grounds of arrest were not communicated to him in writing.

2. A similar objection was raised by the writ petitioner before the Trial Court which was rejected by order dated 05.06.2026 on the ground that 86.850 kgs of *Ganja* was seized from possession of accused. Before carrying out the search, a notice under Section 50 of the NDPS Act was also given in writing. The information of arrest of accused was also given in writing to his brother/petitioner. It is held that since the petitioner was already informed



about reasons of arrest in the form of notice under Section 50 of NDPS Act, therefore, there was substantial compliance of Section 47 of BNSS. Under these circumstances, it was held by the Trial Court that the arrest of the accused is not illegal.

3. Challenging the order, it is submitted by counsel for petitioner that Supreme Court in the Court of **Mihir Rajesh Shah Vs. State of Maharastra** reported in **2025 SCC OnLine SC 2356** has held that reasons of arrest should be communicated to the accused in writing. It is further submitted that in case if for any reasons, the communication of grounds in writing is not possible, then the grounds should be orally conveyed at the time of arrest and later on, a written copy of grounds of arrest must be supplied to the arrested person within a reasonable time and in no event later than two hours prior to production of the arrestee before the Magistrate for remand proceedings.

4. Counsel for petitioner has also relied upon the judgment passed by Division Bench of this Court in the case of **Anil Kumar Mishra Vs. State of M.P. & Others**, decided on 07.01.2026 in W.P. No.02/2026.

5. *Per contra*, it is submitted by counsel for the State that the very purpose of communication of grounds is to make the accused known about the reasons for his arrest. In order to avoid any controversy as to whether the reasons were communicated or not, it has been made mandatory that the reasons must be communicated to the arrestee in writing with a stipulation that in exceptional circumstances where communication of grounds of arrest in writing is impractical, then the grounds of arrest can be conveyed orally to the arrestee but the same should be supplied to him at-least two hours prior



to remand proceedings. It is submitted that there is no specific format under the law for supplying the reasons in writing, therefore, communication of reasons in any form is a substantive compliance of judgment passed by Supreme Court as well as the provision of Section 47 of BNSS and Article 23 of the Constitution of India.

6. Heard learned counsel for the parties.

7. The Supreme Court in the case of **Pankaj Bansal Vs. Union of India** reported in (2024)7 SCC 576, has held as under:-

"34. The more important issue presently is as to how ED is required to "inform" the arrested person of the grounds for his/her arrest. Prayer (iii) in the writ petitions filed by the appellants pertained to this.

35. Section 19 does not specify in clear terms as to how the arrested person is to be "informed" of the grounds of arrest and this aspect has not been dealt with or delineated in *Vijay Madanlal Choudhary* [*Vijay Madanlal Choudhary v. Union of India*, (2023) 12 SCC 1 : 2022 SCC OnLine SC 929 : (2022) 10 Scale 577] . Similarly, in *V. Senthil Balaji* [*V. Senthil Balaji v. State*, (2024) 3 SCC 51 : (2024) 2 SCC (Cri) 1] , this Court merely noted that the information of the grounds of arrest should be "served" on the arrestee, but did not elaborate on that issue. Pertinent to note, the grounds of arrest were furnished in writing to the arrested person in that case. Surprisingly, no consistent and uniform practice seems to be followed by ED in this regard, as written copies of the grounds of arrest are furnished to arrested persons in certain parts of the country but in other areas, that practice is not followed and the grounds of arrest are either read out to them or allowed to be read by them.

36. In this context, reliance is placed by ED upon the decision of a Division Bench of the Delhi High Court in *Moin Akhtar Qureshi v. Union of India* [*Moin Akhtar Qureshi v. Union of India*, 2017 SCC OnLine Del 12108] , wherein it was observed that Section 19 PMLA uses the expression "informed of the grounds of such arrest" and does not use the expression "communicate the grounds of such arrest" and, therefore, the obligation cast upon the authorised officer under Section 19(1) is only to inform the arrestee of the grounds of arrest and the provision does not oblige the authority to serve the grounds for such arrest on the arrestee. Reliance is also placed by ED on the judgment of a Division Bench of the Bombay High Court in *Chhagan Chandrakant Bhujbal v. Union of India* [*Chhagan Chandrakant Bhujbal v. Union of India*, 2016 SCC OnLine Bom 9938 : (2017) 1 AIR Bom R (Cri) 929] , which held that the grounds of arrest are to be



informed to the person arrested and that would mean that they should be communicated at the earliest but there is no statutory requirement of the grounds of arrest being communicated in writing.

37. No doubt, in *Vijay Madanlal Choudhary* [*Vijay Madanlal Choudhary v. Union of India*, (2023) 12 SCC 1 : 2022 SCC OnLine SC 929 : (2022) 10 Scale 577], this Court held that non-supply of the ECIR in a given case cannot be found fault with, as the ECIR may contain details of the material in ED's possession and revealing the same may have a deleterious impact on the final outcome of the investigation or inquiry. Having held so, this Court affirmed that so long as the person is "informed" of the grounds of his/her arrest, that would be sufficient compliance with the mandate of Article 22(1) of the Constitution.

38. In this regard, we may note that Article 22(1) of the Constitution provides, inter alia, 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. This being the fundamental right guaranteed to the arrested person, the mode of conveying information of the grounds of arrest must necessarily be meaningful so as to serve the intended purpose. It may be noted that Section 45 PMLA enables the person arrested under Section 19 thereof to seek release on bail but it postulates that unless the twin conditions prescribed thereunder are satisfied, such a person would not be entitled to grant of bail. The twin conditions set out in the provision are that, firstly, the court must be satisfied, after giving an opportunity to the Public Prosecutor to oppose the application for release, that there are reasonable grounds to believe that the arrested person is not guilty of the offence and, secondly, that he is not likely to commit any offence while on bail. To meet this requirement, it would be essential for the arrested person to be aware of the grounds on which the authorised officer arrested him/her under Section 19 and the basis for the officer's "reason to believe" that he/she is guilty of an offence punishable under the 2002 Act. It is only if the arrested person has knowledge of these facts that he/she would be in a position to plead and prove before the Special Court that there are grounds to believe that he/she is not guilty of such offence, so as to avail the relief of bail. Therefore, communication of the grounds of arrest, as mandated by Article 22(1) of the Constitution and Section 19 PMLA, is meant to serve this higher purpose and must be given due importance.

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 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.

(underline supplied)

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 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.

44. We may also note that the grounds of arrest recorded by the authorised officer, in terms of Section 19(1) PMLA, would be personal to the person who is arrested and there should, ordinarily, be no risk of sensitive material being divulged therefrom, compromising the sanctity and integrity of the investigation. In the event any such sensitive material finds mention in such grounds of arrest recorded by the authorised officer, it would always be open



to him to redact such sensitive portions in the document and furnish the edited copy of the grounds of arrest to the arrested person, so as to safeguard the sanctity of the investigation.

45. On the above analysis, to give true meaning and purpose to the constitutional and the statutory mandate of Section 19(1) PMLA of informing the arrested person of the grounds of arrest, we hold that it would be necessary, henceforth, that a copy of such written grounds of arrest is furnished to the arrested person as a matter of course and without exception. The decisions of the Delhi High Court in *Moin Akhtar Qureshi* [*Moin Akhtar Qureshi v. Union of India*, 2017 SCC OnLine Del 12108] and the Bombay High Court in *Chhagan Chandrakant Bhujbal* [*Chhagan Chandrakant Bhujbal v. Union of India*, 2016 SCC OnLine Bom 9938 : (2017) 1 AIR Bom R (Cri) 929] , which hold to the contrary, do not lay down the correct law. In the case on hand, the admitted position is that ED's investigating officer merely read out or permitted reading of the grounds of arrest of the appellants and left it at that, which is also disputed by the appellants. As this form of communication is not found to be adequate to fulfil compliance with the mandate of Article 22(1) of the Constitution and Section 19(1) PMLA, we have no hesitation in holding that their arrest was not in keeping with the provisions of Section 19(1) PMLA. Further, as already noted supra, the clandestine conduct of ED in proceeding against the appellants, by recording the second ECIR immediately after they secured interim protection in relation to the first ECIR, does not commend acceptance as it reeks of arbitrary exercise of power. In effect, the arrest of the appellants and, in consequence, their remand to the custody of ED and, thereafter, to judicial custody, cannot be sustained."

8. The Supreme Court in the case of **Mihir Rajesh Shah (Supra)** has held as under:-

"18. The genesis of informing the grounds of arrest to a person flows from the constitutional safeguard provided in Article 21 of the Constitution of India, which reads "No person shall be deprived of his life or personal liberty except according to procedure established by law". The expression "personal liberty" has been given a wide meaning through various judicial pronouncements. One of which is that personal liberty includes procedural safeguards from the abuse of power by the State agencies and scrutiny of the actions of the State.

20. The constitutional safeguard provided under Article 22 of the Constitution of India has been effectuated by the legislature by incorporating Section 50CrPC (now Section 47 of BNSS 2023) which puts into force the procedural mandate providing for the protection of the personal liberty of the person so arrested.

21. Section 47 of BNSS 2023 casts a duty on the police officer or other person arresting any person without a warrant shall



communicate him the grounds of arrest, which is reproduced herein below:

“47. Person arrested to be informed of grounds of arrest and of right to bail.—(1) 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.

(2) Where a police officer arrests without warrant any person other than a person accused of a non-bailable offence, he shall inform the person arrested that he is entitled to be released on bail and that he may arrange for sureties on his behalf.”

22. Section 50-A CrPc, now Section 48 of BNSS 2023, was further added to extend the scope of such protection by casting a duty upon the person arresting to inform such grounds of arrest to his friend, relative or any other person nominated by arrested person. Section 48 of BNSS 2023 reads as follows:

“48. Obligation of person making arrest to inform about arrest, etc. to relative or friend.—(1) Every police officer or other person making any arrest under this Sanhita shall forthwith give the information regarding such arrest and place where the arrested person is being held to any of his relatives, friends or such other persons as may be disclosed or nominated by the arrested person for the purpose of giving such information and also to the designated police officer in the district.

(2) The police officer shall inform the arrested person of his rights under sub-section (1) as soon as he is brought to the police station.

(3) An entry of the fact as to who has been informed of the arrest of such person shall be made in a book to be kept in the police station in such form as the State Government may, by rules, provide.

(4) It shall be the duty of the Magistrate before whom such arrested person is produced, to satisfy himself that the requirements of sub-section (2) and sub-section (3) have been complied with in respect of such arrested person.”

33. The impacts of arrest are multidimensional and are not only limited to societal impact but also extend to the physical and mental health of the person. Mental health issues like depression due to custodial confinement can be aggravated by inadequate and overcrowded conditions prevalent in prisons. Such conditions severely impinge upon the fundamental rights of the arrested person and curtail his dignity and personal liberty.

39. It is pertinent to note that the arrested person must be given early access to legal assistance to enable him to defend himself and oppose the remand. The early access to legal counsel becomes a quintessential object to ensure that the personal liberty of the arrested person is protected. This Court in *Suhas Chakma v. Union of India* [*Suhas Chakma v. Union of India*, (2024) 16 SCC 1] while emphasizing on the need of pre-litigation assistance has



directed that the “*Guidelines on Early Access to Justice at Pre-arrest, Arrest and Remand Stage Framework*” as framed by the National Legal Services Authority, are to be diligently pursued.

40. The guidelines provide for legal assistance to the arrested person at the stage before remand. The remand advocate shall interact with the arrestee with the objective to inform him about the allegations against him and the grounds being put by the prosecution for seeking remand. The guidelines also provide for making available the translated copy of documents to the arrested person in the language he/she understands.

41. The purpose of securing legal assistance before remand is not merely symbolic, but it is to ensure that the accused is afforded an effective opportunity to oppose the prayer for police custody and to place before the Magistrate any circumstances that may warrant refusal or limitation of such custody. If the accused is not represented through a counsel, he/she should be made aware that he/she is entitled for legal aid. As far as possible, it shall be ensured that every accused person is represented by an advocate, if he is not able to avail such assistance, he should be given free legal aid. A three-Judge Bench of this Court in *Ashok v. State of U.P.* [*Ashok v. State of U.P.*, (2025) 2 SCC 381 : (2025) 1 SCC (Cri) 744] held that an accused who is not represented by an advocate is entitled for free legal aid at all material stages starting from remand.

42. This statutory safeguard of legal assistance stands also reinforced by Section 38 of the BNSS 2023, which confers upon an arrested person the right to meet an advocate of his choice during interrogation, albeit not throughout its course. The object of this provision is to ensure meaningful access to legal assistance at the earliest stage, so that the advocate, once informed, may effectively exercise the rights available in law, including representation during remand proceedings and invocation of the right to seek bail.

43. Section 167CrPC (now Section 187 of BNSS 2023) while dealing with remand provides for a positive mandate on the police officer to forward the accused to the Magistrate before expiry of such period as fixed under Section 57CrPC (now Section 58 of BNSS 2023) when investigation cannot be completed in twenty-four hours. It further mandates that the Magistrate to not authorize the detention of accused unless he is physically produced before him. The purpose of this provision mandating the production of accused before Magistrate for exercise of the power of remanding him to custody under this section is with the dual purpose. First, ensuring physical presence of the accused and second to afford him an opportunity to be heard. The intent of this provision is not merely to be heard at the stage of remand but to be represented by the counsel of his choice. Thereafter, the duty is cast upon the Magistrate to apply his judicial mind to the material produced before him, hear the accused or the counsel representing him to determine whether the accused should be remanded to police custody or should be detained at all within the parameters



prescribed in Section 167CrPC (Section 187 of BNSS 2023). The Magistrate is not acting as a post office simply putting a stamp of approval to the remand papers as presented before him. In *Manubhai Ratilal Patel v. State of Gujarat* [*Manubhai Ratilal Patel v. State of Gujarat*, (2013) 1 SCC 314 : (2013) 1 SCC (Cri) 475] this Court held that it is obligatory on the part of the Magistrate to satisfy himself whether the materials placed before him justify such a remand.

44. These above discussed principles embody the manifestation of the constitutional safeguard sought to be achieved in Article 22 of the Constitution of India which is that the arrested person must be well equipped with the information not only about his arrest but the reasons and grounds thereof prior to his production before the Magistrate so as to enable him to effectively defend himself and oppose the police and judicial custody and even press for bail. The obligation to inform the grounds of arrest to the arrestee is thus, not just a mere procedural formality, instead it flows from the fundamental right of personal liberty which sets the further course for protection from the oppressive restrictions imposed upon the free movement in the society of an arrestee during remand.

45. A plain reading of Article 22(1) of the Constitution of India shows that the intent of the Constitution makers while incorporating the provisions was not to create any exceptional circumstances, instead it reads as “No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest...”, it casts a mandatory unexceptional duty on the State to provide the arrested person with the grounds of such arrest with the objective to enable that person to be able to defend himself by consulting a legal practitioner of his choice. This mandate of Article 22(1) is notwithstanding any exception. This Court has made it explicit that the constitutional obligation under Article 22 is not statute-specific and it is grounded in fundamental right of life and personal liberty under Article 21 of the Constitution of India, therefore making it applicable to all offences including those under the Penal Code, 1860 (now BNS 2023).

46. The requirement of informing the arrested person the grounds of arrest, in the light of and under Article 22(1) of the Constitution of India, is not a mere formality but a mandatory binding constitutional safeguard which has been included in Part III of the Constitution under the head of Fundamental Rights. Thus, if a person is not informed of the grounds of his arrest as soon as maybe, it would amount to the violation of his fundamental rights thereby curtailing his right to life and personal liberty under Article 21 of the Constitution of India, rendering the arrest illegal."

9. Thus, it is clear that the arrestee must know the reasons for his arrest and in order to avoid any confusion or dispute as to whether the



reasons were really communicated or not, the Supreme Court in the case of **Pankaj Bansal (Supra)** had held that "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 a given case, it may boil down to the word of the arrested person against the word of the authorized officer as to whether or not there is due and proper compliance in this regard".

10. Under these circumstances, it is clear that the reason behind furnishing reasons of arrest in writing is to cut short the controversy as to whether the arrestee was informed about the reasons for his arrest or not. In the present case, it is not the case of petitioner that accused was not aware about the reasons of his arrest. It is true that reasons for arrest were not communicated to him separately but the moment a notice under section 50 of NDPS Act was given pointing out that he is required to be bodily searched for the contraband and the contrabands were also seized from the vehicle and seizure memos were also prepared which were duly signed by the accused, then it cannot be said that accused was not aware about the reasons of his arrest. Furthermore petitioner/brother of accused was also duly informed by Police.

11. However, before concluding this order, this Court would like to express its anguish with regard to the working of Police Authorities. It is really surprising that Supreme Court in the case of **Pankaj Bansal (Supra)** had laid down categorically that in every case, the communication of reasons of arrest in writing is mandatory. In spite of said judgment, the Madhya Pradesh Police was completely ignorant about the requirement of law. They



were not following the law laid down by the Supreme Court and only when this Court, by order dated 7/1/2026 passed in the case of **Anil Mishra (Supra)** declared the arrest of petitioner therein as illegal on account of non communication of grounds of arrest in writing, the Police Department woke up and, accordingly, on 13/2/2026, Police Head Quarters (CID), M.P., Bhopal issued Circular No. AAVI/Law/Miscellaneous-07/222/26 which reads as under:-

पुलिस मुख्यालय (अपराध अनुसंधान विभाग) म.प्र.भोपाल

क्र. अअवि/विधि/1/विधि-07/222/26

दिनांक- 13/02/26

प्रति,

1. पुलिस आयुक्त
नगरीय पुलिस भोपाल एवं इंदौर
2. समस्त पुलिस इकाई एसटीएफ
3. समस्त पुलिस इकाई नारकोटिक्स
4. समस्त पुलिस इकाई सायबर
5. समस्त पुलिस इकाई अअवि
6. समस्त पुलिस इकाई पुलिस मुख्यालय भोपाल

विषय:- गिरफ्तारी से पूर्व गिरफ्तार किये जाने वाले व्यक्ति को गिरफ्तारी के आधारों का विवरण बताने के संबंध में।

संदर्भ :- माननीय सर्वोच्च न्यायालय द्वारा मिहिर राजेश शाह विरुद्ध महाराष्ट्र राज्य क्रिमिनल अपील नं. 2195/2025 में पारित निर्णय दिनांक 06-11-2025

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कृपया विषयांतर्गत संदर्भित माननीय सर्वोच्च न्यायालय के निर्णय का अवलोकन करने का कष्ट करें जिसमें माननीय न्यायालय द्वारा अपने निर्णय के पैरा 56 में निम्नानुसार दिशा-निर्देश जारी किये हैं:-

56. अंत में, यह माना जाता है कि:

- i) गिरफ्तारी के आधारों के बारे में गिरफ्तार व्यक्ति को सूचित करने का संवैधानिक आदेश आईपीसी 1860 (अब बीएनएस 2023) के तहत अपराधों सहित सभी कानूनों के तहत सभी अपराधों में अनिवार्य है;
- ii) गिरफ्तारी के कारणों को गिरफ्तार व्यक्ति को उसकी समझ में आने वाली भाषा में लिखित रूप में सूचित किया जाना चाहिए;



iii) यदि गिरास्तार करने वाला अधिकारी व्यक्ति गिरफ्तारी के समय या उसके तुरंत बाद गिरफ्तारी के आधार लिखित रूप में बताने में असमर्थ हो, तो उसे मौखिक रूप से बताया जाए।

उक्त आधारों को उचित समय के भीतर लिखित रूप में सूचित किया जाना चाहिए और किसी भी स्थिति में मजिस्ट्रेट के समक्ष हिरासत की कार्यवाही के लिए गिरफ्तार व्यक्ति को पेश किए जाने से कम से कम दो घंटे पहले सूचित किया जाना चाहिए।

iv) उपरोक्त का अनुपालन न करने की स्थिति में, गिरफ्तारी और उसके बाद की हिरासत अवैध मानी जाएगी और व्यक्ति को रिहा करने की स्वतंत्रता होगी।

न्यायालय के निर्देशों के पालन में गिरफ्तारी का आधार बताने की सूचना संबंधी प्रारूप संलग्न कर प्रेषित है। प्रारूप अनुसार गिरफ्तार किये जाने वाले व्यक्ति को गिरफ्तारी के आधार बावत् सूचना प्रदान करते हुए माननीय सर्वोच्च न्यायालय द्वारा जारी दिशा-निर्देशों का पालन करना सुनिश्चित करें।

संलग्न - सूचना का प्रारूप।

सहायक पुलिस महानिरीक्षक (विधि-1)
हेतु - विशेष पुलिस महानिदेशक,
अ.अ.वि., पु.मु. भोपाल

प्रतिलिपि :- समस्त जोनल पुलिस महानिरीक्षक म.प्र. ।

सहायक पुलिस महानिरीक्षक (विधि-1)
हेतु - विशेष पुलिस महानिदेशक,
अ.अ.वि., पु.मु. भोपाल

12. It appears that Police Department itself is not ready to adhere to the circulars issued by the Police Headquarters. Either it is on account of negligence on the part of Investigating Officer or it is done deliberately by the Investigating Officer in order to create a ground for the accused to get released by getting his arrest declared as illegal. In both the circumstances, it is an alarming situation for the Police department, who instead of upholding the majesty of law, is trying very hard to some how protect the wrongdoers. If the Police Headquarters is of the view that by hook and crook wrong doers are to be protected, then it must introspect itself as to whether it is meant for protection of innocent persons by prosecuting the offenders or the Police



department is meant for protecting the offenders. In case if Police Headquarter is of the view that the Police department is meant for protection of innocent persons by prosecuting the offenders, then they must take harsh and coercive action against those Police Officers who either bonafidely or intentionally leave lacuna so that the accused may get benefit of the same. In this case also although this Court has held that the notice issued under section 50 of the NDPS Act to the brother of petitioner who has been arrayed as an accused in Crime No.111/2026, is a substantial compliance, but the Police department must realize that when a certain action is to be taken in a particular manner, then it must be done, otherwise it should draw a presumption that non compliance of law laid down by Supreme Court, as well as, circular dated 13/2/2026 issued by Police Headquarters (CID), M.P., Bhopal was with a clear intention to facilitate the offenders and must take harsh departmental action against such persons, who although wear the Police uniform, but from the bottom of their heart, they are with the offenders.

13. In the present case, this Court has already come to a conclusion that notice issued to brother of petitioner/accused in writing under section 50 of the NDPS Act is a substantial compliance, therefore, no case is made out for entertaining this writ petition.

14. However, Police Headquarters is directed to issue a letter of warning to all the Investigating Officers that in case if it is found that there was a violation of law laid down by Supreme Court in the case of **Pankaj Bansal (Supra)**, **Vihaan Kumar Vs. State of Harayana** and another reported



i n (2025)5 SCC 799 and **Mihir Rajesh Shah (Supra)**, then it shall be presumed that the grounds of arrest in writing were deliberately not supplied to the offender with a solitary intention to facilitate him to seek his arrest as illegal and not only such Police Officer shall be placed under suspension, but a departmental enquiry shall also be instituted against him for imposing major penalty.

15. The Director General of Police is directed to issue aforesaid circular within a period of one month from today. The Director General of Police is also directed to submit his compliance report along with guidelines before Principal Registrar of this Court latest by 18/8/2026, failing which this Court may initiate contempt proceedings against him.

16. Petition fails and is, accordingly, dismissed in *limine*.

(G. S. AHLUWALIA)
JUDGE

(ANURADHA SHUKLA)
JUDGE

(and)