

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

(315)

CRM-M-7299-2026 (O&M)
Date of Decision:22.07.2026

Amritpal Kaur @ Amrit Kaur

... Petitioner

Versus

State of Punjab

... Respondent

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CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present:- Mr. Vipul Jindal, Advocate
for the petitioner.

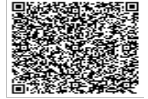
Mr. Baljinder Singh Sra, Addl. A.G. Punjab.

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VIRINDER AGGARWAL, J. (Oral)

1. The present is the first petition filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (corresponding to Section 439 of the Code of Criminal Procedure, 1973), seeking the concession of regular bail pending trial in FIR No. 143 dated 21.09.2025 (Annexure P-1), registered under Sections 21(c), 27-A and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985, Sections 10, 11 and 12 of the Aircraft Act, 1934, and Section 317(2) of the Bharatiya Nyaya Sanhita, 2023, at Police Station Dera Baba Nanak, Police District Batala, District Gurdaspur.

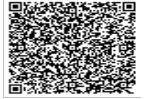
2. Briefly stated, the prosecution case is that on 21.09.2025, a police party headed by Inspector Gurwinder Singh was conducting a 'Naka' near the Railway Crossing on Ramdas Road, Dera Baba Nanak,



when it received specific secret information that certain smugglers were expected to receive and transport a consignment of heroin allegedly dropped by a drone from Pakistan in the area of Village Thetharke. Treating the information as credible, the Investigating Officer informed the Deputy Superintendent of Police, Sub-Division Dera Baba Nanak, whereupon additional police force was requisitioned and *Nakas* were established at strategic locations to intercept the suspects.

2.1. At about 2:00 A.M., two motorcycles carrying four persons, namely Gurmangal Singh @ Harsh, Jagbir Singh, Dilbagh Singh @ Billa and Jagdeep Singh @ Joban, were intercepted and apprehended. According to the prosecution, after compliance with the mandatory statutory formalities governing search and seizure under the NDPS Act, a recovery of 2.06 kilograms of heroin was allegedly effected from the possession of Gurmangal Singh @ Harsh, 4.02 kilograms of heroin from Jagbir Singh, 2.06 kilograms of heroin from Jagdeep Singh @ Joban, and 2.06 kilograms of heroin from Dilbagh Singh @ Billa. Consequently, the present FIR came to be registered and investigation was set into motion.

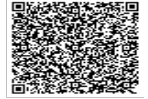
2.2. During the course of investigation, Bachittar Singh and Amritpal Kaur were nominated on the basis of the disclosure statements allegedly made by co-accused Jagdeep Singh @ Joban and Dilbagh Singh @ Billa, whereas Karan Singh, Raja and Boota Singh were nominated on the strength of the disclosure statements allegedly suffered by co-accused Jagbir Singh and Gurmangal Singh @ Harsh vide Rapat No. 45 dated 23.09.2025. The present applicant-petitioner, who was not named in the FIR, also came to be nominated during the course of investigation on the



basis of the aforesaid disclosure statements and was arrested on 23.09.2025.

3. Learned counsel appearing on behalf of the petitioner submits that the petitioner is innocent and has been falsely implicated in the present case. It is contended that the petitioner is a young woman having a minor son aged 2 years and 5 months, who is solely dependent upon her care and custody. Learned counsel further submits that no contraband or other incriminating article has been recovered from the petitioner and that she has been implicated solely on the basis of the disclosure statements allegedly made by the co-accused, which, by themselves, carry limited evidentiary value.

3.1. It is further contended that the only allegation against the petitioner is that she allegedly paid a sum of ₹40,000/- to a co-accused at the instance of her husband, Bachittar Singh, who is presently residing abroad, and that certain financial transactions are being relied upon by the prosecution to connect her with the alleged offence. Learned counsel submits that such allegations, in the absence of any recovery or independent incriminating material, are wholly insufficient to establish her involvement. It is also argued that at the time of her arrest, the investigating agency failed to communicate the grounds of arrest either to the petitioner or to any of her relatives, thereby violating the mandatory statutory safeguards governing arrest and rendering the arrest legally vulnerable. It is further contended that the essential ingredients of Section 27-A of the Narcotic Drugs and Psychotropic Substances Act, 1985 are not attracted, as there is no material on record to prima facie demonstrate that

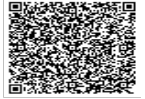


the petitioner had knowledge of the alleged narcotic activities of the co-accused or that the amounts allegedly transferred were towards financing illicit trafficking in narcotic drugs. On these premises, learned counsel prays that the petitioner be enlarged on regular bail.

4. Per contra, learned State counsel has vehemently opposed the prayer for grant of regular bail and submits that the present case involves the recovery of a commercial quantity, namely 10.020 kilograms of heroin, from the co-accused. It is contended that the investigation has disclosed the petitioner's involvement in the alleged conspiracy and that the trial is still at its initial stage. Learned State counsel further submits that in view of the embargo contained in Section 37 of the NDPS Act, particularly the twin conditions prescribed therein, the petitioner does not deserve the concession of regular bail.

4.1. The custody certificate produced by the learned State counsel is taken on record, subject to all just exceptions. As per the said certificate, the petitioner has undergone approximately nine months and twenty-six days of pre-trial incarceration as on date.

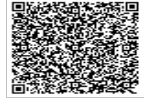
5. The right to life and personal liberty constitutes one of the most cherished and sacrosanct guarantees enshrined under Articles 21 and 22 of the Constitution of India. Article 21 mandates that no person shall be deprived of his or her life or personal liberty except in accordance with the procedure established by law. Such procedure must not only be lawful but also fair, just and reasonable. Article 22 further incorporates indispensable constitutional safeguards against arbitrary arrest and detention, one of which is embodied in Article 22(1), which mandates that every arrested



person shall be informed, as soon as may be, of the grounds of arrest and shall not be denied the right to consult and be defended by a legal practitioner of his or her choice. The relevant constitutional provision reads as under:-

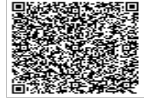
“No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest nor shall he be denied the right to consult, and to be defended by, a legal practitioner of his choice”.

5.1. The scope and ambit of Article 22(1) of the Constitution of India have repeatedly fallen for consideration before the Hon'ble Supreme Court. In ***Prabir Purkayastha v. State (NCT of Delhi), SLP (Crl.) Diary No. 42896 of 2023, decided on 15.05.2024, 2024 INSC 414***, the Hon'ble Supreme Court authoritatively held that the grounds of arrest must be communicated to the arrested person in writing with reasonable promptitude, and the said declaration of law is binding on all Courts in the country by virtue of Article 141 of the Constitution of India. Subsequently, in ***Vihaan Kumar v. State of Haryana and Another, Law Finder Doc. ID #2692674***, the Hon'ble Supreme Court held that whenever an arrested person is produced before a Judicial Magistrate for the purpose of remand, it is the bounden duty of the Magistrate to ascertain whether the constitutional mandate contained in Article 22(1) and other mandatory procedural safeguards have been duly complied with. It was further held that any violation of Article 22(1) at the time of arrest obligates the Court to order the immediate release of the accused, and such violation, by itself, constitutes a valid ground for grant of bail notwithstanding any statutory restrictions governing the grant of bail. The Hon'ble Supreme Court



further clarified that mere intimation of the factum of arrest to the relatives of the arrestee does not amount to compliance with the constitutional requirement of communicating the grounds of arrest. It was emphasised that the grounds of arrest must be communicated in writing not only to the arrested person but also to the friend, relative or any other person nominated by the arrestee, so as to render the guarantee under Article 22(1) meaningful, effective and enforceable. Failure to adhere to this mandatory constitutional mandate renders the arrest itself legally unsustainable.

5.2. A similar view has been adopted by this Court in ***Ashish Kakkar v. U.T. Chandigarh, 2025:PHHC:013798***, wherein it was held that an arrest memo cannot, by any stretch of interpretation, be equated with or treated as the grounds of arrest. Likewise, in ***Kasireddy Upender Reddy v. State of Andhra Pradesh and Others, 2025 INSC 768***, the Hon'ble Supreme Court observed that the grounds of arrest communicated to an arrested person must be sufficiently specific and meaningful, akin to the substance of the charge framed by the trial Court, so as to enable the arrestee to effectively exercise his constitutional and statutory rights. Further, in ***Radhika Agarwal v. Union of India, 2025 INSC 272***, a Three-Judge Bench of the Hon'ble Supreme Court reiterated that no person can be detained in custody without being informed, as soon as may be, of the grounds of arrest, and that denial of the grounds of arrest in writing amounts to infringement of the constitutional guarantee under Article 22(1) as well as the corresponding statutory safeguards. The Hon'ble Court further held that such denial effectively deprives the arrestee of the

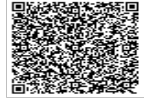


valuable right to consult and be defended by a legal practitioner of his or her choice. Earlier, in ***Kishan Chand v. State of Haryana, 2013(2) SCC 502***, the Hon'ble Supreme Court categorically held that where there is complete and unequivocal non-compliance with mandatory statutory or constitutional safeguards relating to arrest, the question whether any prejudice has actually been caused becomes wholly irrelevant, as such violation constitutes prejudice per se. The constitutional protections available to an arrested person are indefeasible safeguards, and their enforcement cannot be diluted or substituted by invoking the doctrine of substantial compliance.

6. The Hon'ble Supreme Court has reiterated the aforesaid constitutional principles in ***Mihir Rajesh Shah v. State of Maharashtra and Another, 2026(1) SCC 500***, wherein it was held as under:-

56. In conclusion, it is held that:

- i) 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);
- ii) The grounds of arrest must be communicated in writing to the arrestee in the language he/she understands;
- iii) 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.

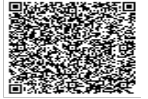


- iv) In case of non-compliance of the above, the arrest and subsequent remand would be rendered illegal and the person will be at liberty to be set free.

6.1. In ***Dr. Rajinder Rajan vs. Union of India and Another, SLP(Crl.) No.3327 of 2026***, Hon'ble Apex Court has held as under:-

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.

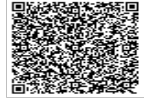
6.2. Section 52(1) of the Narcotic Drugs and Psychotropic Substances Act, 1985, mandates that the grounds of arrest must be communicated to the arrestee at the time of arrest. In the present case, a perusal of the arrest memo (**Annexure P-6**) reveals that it merely records the time of arrest of the petitioner-Amrit Kaur and states that she was informed about the consequences of the offences alleged against her before being arrested in accordance with the prescribed procedure. The arrest memo further records that she was apprised of her right to have the fact of her arrest communicated to a family member, relative or any person known to her, whereupon she requested that her father-in-law, Gurdeep Singh, be informed. **Annexure P-7** is the intimation memo evidencing



such communication. Significantly, neither Annexure P-6 nor Annexure P-7 discloses that the specific grounds of arrest were communicated either to the petitioner or to her father-in-law, in a language understood by them, as mandated by Article 22(1) of the Constitution of India read with Section 52(1) of the NDPS Act. Prima facie, therefore, the arrest of the petitioner appears to have been effected in derogation of the constitutional and statutory safeguards governing arrest.

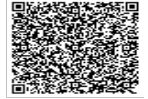
6.3. It is further not disputed that no contraband has been recovered from the conscious possession of the petitioner. The principal allegation against her is that she allegedly paid a sum of ₹40,000/- to the co-accused at the instance of her husband. Without expressing any opinion on the merits of the rival contentions, particularly the submission that such allegation does not, by itself, satisfy the essential ingredients of Section 27-A of the NDPS Act, this Court is of the view that the said issue necessarily requires appreciation of evidence during the course of trial and cannot be conclusively adjudicated at the present stage.

7. In ***Priti Kumari vs. State of Punjab, SLP (Crl.) No. 21253 of 2025, decided on 28.01.2026***, the Hon'ble Supreme Court granted the concession of bail, *inter alia*, having regard to the fact that the accused was a woman and required distinct consideration from the co-accused. Similar benefit was extended to female accused in ***Jaya Karmarkar vs. State of West Bengal, SLP (Crl.) No. 5449 of 2022, decided on 15.12.2022***; ***Soni Devi vs. State of West Bengal, SLP (Crl.) No. 7662 of 2022, decided on 15.12.2022***; and ***Basanti Mondal and Others vs. State of West Bengal, SLP (Crl.) No. 12586 of 2022, decided on 29.03.2023***.



7.1. The legal position emerging from the authoritative pronouncements of the Hon'ble Supreme Court of India may be succinctly summarised as follows:-

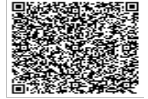
- A. The communication of the grounds of arrest to the arrested person is a mandatory constitutional safeguard flowing from Article 22(1) of the Constitution of India, and is not a mere procedural formality.
- B. The grounds of arrest must be furnished in writing and in a language which is understood by the arrestee, so as to enable the arrested person to effectively exercise the constitutional and statutory rights available to him/her.
- C. The grounds of arrest are legally distinct from an arrest memo. Mere preparation or service of an arrest memo cannot be construed as compliance with the constitutional mandate requiring communication of the grounds of arrest.
- D. The written grounds of arrest are required to be furnished not only to the arrested person but also to such relative, friend, or other person nominated by the arrestee, thereby ensuring meaningful compliance with the mandate of Article 22(1) of the Constitution.
- E. The grounds of arrest must be communicated to both the arrestee and the person so nominated expeditiously and, in any event, sufficiently prior to the production of the accused before the Magistrate for remand which should be at least two hours before production for remand, so as to enable the arrestee to effectively exercise the right to consult and be defended by a legal practitioner of choice.
- F. The Judicial Magistrate before whom the accused is first produced bears an independent and affirmative obligation to



satisfy himself/herself that the mandatory constitutional safeguards envisaged under Article 22(1) of the Constitution of India, together with all other statutory requirements governing arrest, have been duly complied with before authorising further detention.

- G. Any infraction or non-compliance with these mandatory constitutional safeguards strikes at the very legality of the arrest and renders the arrest constitutionally infirm and legally unsustainable, entitling the accused to appropriate relief in accordance with law.
- H. Substantial compliance would not serve purpose.
- I. Absence of prejudice to accused is no ground to condone the non-compliance.
- J. Ground of arrest which are to be served should be akin to that of charge.

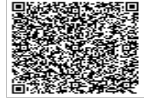
8. Having bestowed thoughtful consideration to the rival submissions and upon a *prima facie* evaluation of the material available on record, this Court finds that the petitioner has remained in judicial custody for more than nine months. *Prima facie*, the arrest appears to have been effected without due compliance with the constitutional mandate contained in Article 22(1) of the Constitution of India and the statutory requirement under Section 52(1) of the NDPS Act regarding communication of the grounds of arrest. It is further not disputed that no recovery has been effected from the petitioner, she is a young woman having a minor child aged about two and a half years to care for, and the trial is still at its nascent stage with no likelihood of its concluding in the near future. In these circumstances, continued incarceration of the petitioner would serve



no useful purpose and would amount to an unwarranted deprivation of personal liberty pending trial. Accordingly, without expressing any opinion on the merits of the case, lest it prejudice either side during trial, this Court is of the considered opinion that the petitioner has made out a case for grant of the concession of regular bail.

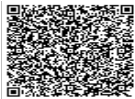
8.1. Consequently, the present petition is **allowed** and the petitioner is ordered to be released on regular bail, subject to her furnishing requisite bail and surety bonds to the satisfaction of the learned Chief Judicial Magistrate/Illaq Magistrate/Duty Magistrate concerned, as the case may be, and subject to the following conditions:-

- i. The petitioner(s) shall not, directly or indirectly, make any inducement, threat, or promise to any person acquainted with the facts and circumstances of the case so as to dissuade such person from disclosing such facts before the Court or to the Investigating Agency.
- ii. The petitioner(s) shall not tamper with the prosecution evidence in any manner whatsoever, nor shall the petitioner(s), directly or indirectly, attempt to influence, intimidate, or contact any prosecution witness.
- iii. The petitioner(s) shall not leave the territorial limits of India without obtaining the prior permission of the learned Trial Court. In the event any of the petitioner(s) is in possession of a passport, the particulars thereof shall be furnished before the Investigating Officer as well as the learned Trial Court.
- iv. Before accepting the bail and surety bonds, the learned Illaq Magistrate/Duty Magistrate/C.J.M. concerned shall obtain from the petitioner(s) the permanent residential address as well as the present correspondence address, duly supported by appropriate



documentary proof. The Investigating Officer shall verify the correctness of the said addresses within 48 hours of the acceptance of the bail bonds and place a verification report on record. In the event any of the addresses is found to be false, fictitious, or incorrect, it shall be open to the prosecution to seek cancellation of the concession of bail in accordance with law.

- v. The petitioner(s) shall furnish before the learned Trial Court, either at the time of furnishing the bail bonds or within such period as may be specified by the Court, the Permanent Account Number (PAN), Aadhaar Number, particulars of all operative bank accounts, and a declaration disclosing details of immovable properties, if any. Any concealment of material particulars or furnishing of false information shall constitute a valid ground for seeking cancellation of the concession of bail in accordance with law.
- vi. The petitioner(s) shall intimate the Investigating Officer as well as the learned Trial Court, in writing, of any change in residential address or mobile number within seven days of such change.
- vii. The petitioner(s) shall not commit any offence of a similar nature during the pendency of the trial and shall remain present before the learned Trial Court on each and every date fixed, unless personal appearance is exempted in accordance with law. The petitioner(s) shall not absent from the proceedings without obtaining prior permission of the learned Trial Court. In the event of violation of any of the aforesaid conditions or unauthorized absence from the trial proceedings, it shall be open to the learned Trial Court to proceed in accordance with law, including cancellation of the concession of bail and issuance of appropriate coercive process, including warrants of arrest.



9. In view of the final adjudication of the present petition, all pending miscellaneous applications, if any, arising out of or ancillary to the present proceedings, shall also stand disposed of. Since the principal lis has attained finality, no separate or further orders are called for in respect of such ancillary proceedings.

22.07.2026
Gaurav Sorot

(VIRINDER AGGARWAL)
JUDGE

Whether reasoned / speaking?	Yes / No
Whether reportable?	Yes / No