

Crl.OP(MD).No.1636 of 2026

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED ON : 18.06.2026

ORDER PRONOUNCED ON : 07.07.2026
CORAM

THE HONOURABLE MR JUSTICE R.VIJAYAKUMAR

Crl.OP(MD).No.1636 of 2026

1.Dhetchinamoorthy @ Dakshinamoorthy

2.Sivamoorthy

3.Maniraj

4.Gowtham

....Petitioners/Accused Nos.1 to 4

Vs

State Rep.by
The Inspector of Police
Keelaiyur Police Station
Nagappattinam District
Crime No.143 of 2024

...Respondent

Prayer:The Criminal Original Petition filed under Section 528 of Bharathiya Nagarik Suraksha Sanhita Act, 2023, to call for the records and set aside the remand order passed as against the petitioners in Crime No.143 of 2024 dated 04.07.2024 by the Munsif Cum Judicial Magistrate, Kilvelur in the interest of justice.

For Petitioner : Mr.K.Subburaj

For Respondent : Mr.P.Samuel Gunasingh
Government Advocate (Crl.side)



Crl.OP(MD).No.1636 of 2026

WEB COPY

ORDER

The present petition has been filed by Accused Nos.1 to 4 in Crime No. 143 of 2024 on the file of the respondent police seeking to set aside the order of remand passed by the Munsif Cum Judicial Magistrate, Kilvelur on 04.07.2024.

(A).Factual Matrix:

2.A perusal of the F.I.R reveals that the petitioners are alleged to have committed offences under Section 8(c), 20(b)(ii)(c), 29(1) and 25 of NDPS Act. They were arrested at 9.00 a.m on 04.07.2024 and were produced before the District Munsif Cum Judicial Magistrate, Kilvelur and they were remanded to judicial custody under the impugned order. This impugned remand order is put to challenge in the present petition on the following grounds:

a).The arrest memo did not contain full particulars and therefore, it is defective.

b)The arrest intimation was not given in writing to the family members/relatives of the accused persons.

c)According to the learned counsel for the petitioners, the arrest memo is in a printed format and it does not contain the grounds of arrest. Therefore, it is defective in nature.

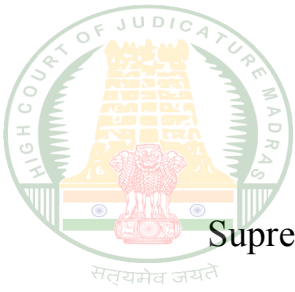


WEB COPY **(B).Submissions of the learned counsels appearing on either side:**

3.The learned counsel for the petitioners had relied upon a decision of the Hon'ble Supreme Court reported in ***2025 INSC 162 (Vihaan Kumar Vs. State of Haryana and another)*** and submitted that mere information of arrest will not amount to furnishing grounds of arrest. He further contended that the grounds of arrest should not only be communicated to the arrested person but also to his friends and relatives.

4.The learned counsel for the petitioners has also relied upon a decision of the Hon'ble Supreme Court reported in ***2024 INSC 414 (Prabir Purkayastha Vs. State (NCT of Delhi)*** and submitted that the “reasons for arrest” is different from “grounds of arrest” therefore, according to him, the grounds of arrest should contain all such details in hand of the Investigating Officer which necessitated the arrest of the accused. Simultaneously, the grounds of arrest should be informed in writing to the family members also, otherwise the order of remand is invalid in the eye of law.

5.The learned counsel for the petitioners has also relied upon the decision of the Hon'ble Supreme Court reported in ***2025 SCC Online SC 1318 (Ashish Kakkar Vs. UT of Chandigarh)*** and contended that non furnishing of grounds of arrest would vitiate the arrest and the order of remand. The learned counsel also relied upon a decision of the Hon'ble



Crl.OP(MD).No.1636 of 2026

Supreme Court reported in **2023 INSC 866 (Pankaj Bansal Vs. Union of India and others)** and contended that when grounds of arrest has not been

furnished to the arrest person in writing, that would vitiate the order of remand. He also relied up the same judgment and contended that intimation of arrest should be furnished to the family members.

6.The learned counsel for the petitioners also relied upon a decision of the Hon'ble Supreme Court reported in **2025 INSC 1288 (Mihir Rajesh Shah Vs. State of Maharashtra and another)** and contended that informing the arrestee about the grounds of arrest is mandatory in all the offences and grounds of arrest must be communicated in writing to the arrestee in the language in which she or he understands. He further submitted that the non-compliance of the above said condition would make the arrest and the subsequent remand order vitiated and the accused person shall be set free.

7.Relying upon the above said judgment, the learned counsel for the petitioners submitted that the arrest intimation has not been given in writing to the family members. That apart, the grounds of arrest, though served upon the petitioners, it does not contain the grounds of arrest and therefore defective in nature. It is only a printed format and hence, he prayed for setting aside the order of remand.

8.Per contra, the learned Government Advocate (Crl.side) appearing for the respondent submitted that the arrest memo clearly indicates that all of



Crl.OP(MD).No.1636 of 2026

them were arrested while they were carrying 200 kg of ganja for smuggling into Srilanka. He further pointed out that the grounds of arrest were intimated to the accused persons at 9.00 a.m on 02.07.2024 and the same has been signed by all the accused persons in the presence of the witnesses, the Sub Inspector of Police, Keelaiyur Police Station and therefore, it is clear that the grounds of arrest is not defective in nature and it has been provided in writing to the accused persons.

9.The learned Government Advocate (Crl.side) had further submitted that the arrest intimation has been given to the wife/relatives/parents of the respective accused person through phone and SMS on the same date. He further pointed out that the mobile of the relatives are also mentioned in the arrest intimation to which the messages and the phone calls have been made. Therefore, according to the learned counsel for the respondent, the judgment of the Hon'ble Supreme Court relating to the grounds of arrest and intimation of the arrest to the family members have strictly been complied with. He also relied upon a decision of the Hon'ble Supreme Court reported in **2025 SCC Online SC 1702 (State of Karnataka Vs. Sri Dharshan Etc.,)** and contended that if the accused is made aware of the arrest grounds in substance, even if not conveyed in writing, it is sufficient. However, in the present case, the grounds of arrest have been conveyed in writing to the petitioners.



Crl.OP(MD).No.1636 of 2026

10.The learned Government Advocate (Crl.side) had further submitted that the judgment in ***Mihir Rajesh Shah's case*** dated 06.11.2025 cited supra, as per paragraph No.58 of the said judgment, the mandating written communication of the grounds of arrest would be applicable to all the arrests made after the date of judgment namely after 06.11.2025.

11.In the present case, the arrest having been made on 04.07.2024, the alleged defectiveness in informing the grounds of arrest would not vitiate the arrest or the order of remand. He also relied upon a Full Bench decision of this Court in HCP(MD).No.1121 of 2022 batch cases dated 28.03.2024 wherein it is pointed out that non-intimation of the relatives about the arrest will have less bearing on the process of decision making by detaining authority. Hence, he prayed for dismissal of the petition.

12.Heard the learned counsel appearing on either side and perused the material records.

(C).Discussion:

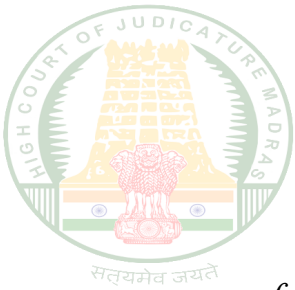
13.For better appreciation of the submissions made on either side Section 36 of BNSS (41-B of Cr.P.C) is extracted as follows:

36. Procedure of arrest and duties of officer making arrest.

Every police officer while making an arrest shall-

(a) bear an accurate, visible and clear identification of his name which will facilitate easy identification;

(b) prepare a memorandum of arrest which shall be-



Cri.OP(MD).No.1636 of 2026

(i) attested by at least one witness, who is a member of the family of the person arrested or a respectable member of the locality where the arrest is made;

(ii) countersigned by the person arrested; and

(c) inform the person arrested, unless the memorandum is attested by a member of his family, that he has a right to have a relative or a friend or any other person named by him to be informed of his arrest.”

14.A perusal of the arrest memo indicates that it is handwritten which points out that all the four accused persons were arrested at 9.00 a.m on 04.07.2024 for carrying 200 kg of ganja in three vehicles for the purpose of smuggling the same to Srilanka. The said arrest memo also points out that all the four accused persons have signed the same with an endorsement that they have been intimated about the grounds of arrest. It is attested by two witnesses and by the Taluk Police Inspector.

15.The arrest memo clearly points out that it is in writing and contains the grounds of arrest and the accused persons have been informed about the grounds of arrest. Therefore, it is clear that as per judgment of the Hon'ble Supreme Court in ***Prabir Purkayastha's case***, not only the formal reasons of ground, but the ground of arrest which necessitated the arrest of accused have been provided in writing to the petitioners herein. In such view of the matter, this Court is of the considered opinion that the contention of the



Cri.OP(MD).No.1636 of 2026

learned counsel appearing for the petitioners that the arrest memo is defective and is in violation of the judgment of the Hon'ble Supreme Court cannot be countenanced.

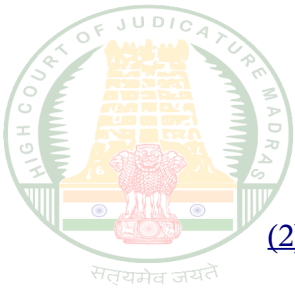
16.The learned counsel for the petitioners had further contended that the intimation of arrest has not been given to the relative in writing and therefore, there is a violation of provisions of BNSS as well as the judgment of the Hon'ble Supreme Court. This Court has called for the C.D.files and found that the intimation has been given separately to the family members of each one of the accused person namely the parents/wife/relatives, through the phone and SMS and the same has also been signed by the respective accused persons.

17.Section 48 of BNSS (Section 50A of Cr.P.C) is extracted as follows for better appreciation.

Section 48 in Bharatiya Nagarik Suraksha Sanhita, 2023

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.*



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Cri.OP(MD).No.1636 of 2026

(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.”

18.A perusal of Section 48 of BNSS clearly reveals that the information relating to the arrest and the place where the arrest person is being held, has to be informed to the relatives, friends or such other persons as may be disclosed or nominated by arrested person. In the present case, the accused persons have provided their respective relative names, address and their mobile numbers. Only based on the information provided by the accused persons, through phone call and SMS, the relatives have been informed. The statutory provisions does not provide for intimation in writing to the relative of the accused persons. The impugned remand order also records that the intimation has already been given. No affidavit has been filed by any one of the relatives of the accused persons alleging that they were not informed about the arrest and the place of arrest. In such circumstances, the contention of the learned counsel for the petitioners that the arrest intimation was not



Crl.OP(MD).No.1636 of 2026

given in writing to the relatives is not legally sustainable.

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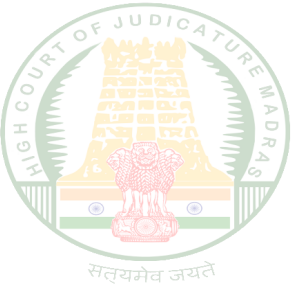
19.The petitioners have been arrested and remanded to judicial custody on 04.07.2024 and the present petition seeking to set aside the order of remand has been filed on 09.01.2026. Therefore, the present challenge made to the remand order is only an after thought, when the petitioners were not successful in getting regular bail after filing of the charge sheet.

(D).Conclusion:

20.In view of the above said deliberations, there are no merits in this petition and this Criminal Original Petition stands dismissed.

07.07.2026

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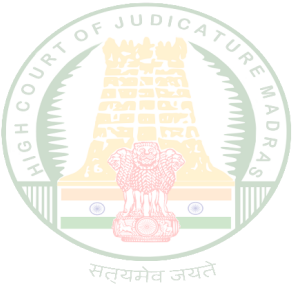
Cri.OP(MD).No.1636 of 2026

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1. The Munsif Cum Judicial Magistrate, Kilvelur

2.The Inspector of Police
Keelaiyur Police Station
Nagappattinam District
Crime No.143 of 2024

3.The Additional Public Prosecutor
Madurai Bench of Madras High Court,
Madurai



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Crl.OP(MD).No.1636 of 2026

R.VIJAYAKUMAR, J.

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Crl.OP(MD).No.1636 of 2026

07.07.2026