

IN THE HIGH COURT OF ANDHRA PRADESH, AMARAVATI

CRIMINAL PETITION Nos.6456, 6463 and 6467 of 2026

Criminal Petition No.6456 of 2026:

Between:

1. KESSIREDDY RAJASEKHAR REDDY, S/O. UPENDER REDDY, AGED ABOUT 48 YEARS, R/O. 1 A, JOURNALIST COLONY, JUBILEE HILLS, SHAIKPET, HYDERABAD, TELANGANA PRESENTLY CONFINED AT THE CENTRAL PRISON, CHANCHALGUDA, HYDERABAD

...PETITIONER/ACCUSED

AND

1. THE STATE OF ANDHRA PRADESH, REP., BY ITS PUBLIC PROSECUTOR, A.P., HIGH COURT, THROUGH S.H.O., ADDITIONAL SUPERINTENDENT OF POLICE, SPECIAL INVESTIGATION TEAM, C.I.D.
2. THE ADDITIONAL SUPERINTENDENT OF POLICE, SPECIAL INVESTIGATION TEAM, C.I.D., STATE OF ANDHRA PRADESH, VIJAYAWADA INVESTIGATING OFFICER IN CR.NO. 11 OF 2026

...RESPONDENT/COMPLAINANT(S):

Criminal Petition No.6463 of 2026:

Between:

1. DONTTHIREDDY VASUDEVA REDDY, S/O SRI D. VENKATESWAR REDDY, AGED ABOUT 48 YEARS, OCC GOVERNMENT EMPLOYEE FORMER MANAGING DIRECTOR, APSBCL, R/O FLAT NO. 602, MYSCAPE MEA, A BLOCK, NANAKRAMGUDA, RANGA REDDY DISTRICT, TELANGANA.

...PETITIONER/ACCUSED

AND

1. THE STATE OF ANDHRA PRADESH, REPRESENTED BY ITS SPL PUBLIC PROSECUTOR, HIGH COURT OF ANDHRA PRADESH, HIGH COURT BUILDINGS AT NELAPADU, GUNTUR DISTRICT, ANDHRA PRADESH. THROUGH S.H.O., ADDITIONAL SUPERINTENDENT OF POLICE, SPECIAL INVESTIGATION TEAM, C.I.
2. THE ADDITIONAL SUPERINTENDENT OF POLICE, SPECIAL INVESTIGATION TEAM, C.I.D., STATE OF ANDHRA PRADESH, VIJAYAWADA, NTR DISTRICT, ANDHRA PRADESH. INVESTIGATING OFFICER IN CR.NO.11 OF 2026

...RESPONDENT/COMPLAINANT(S):

Criminal Petition No.6467 of 2026:

Between:

1. KESSIREDDY RAJASEKHAR REDDY, S/O. UPENDER REDDY, AGED ABOUT 48 YEARS, R/O. 1 A, JOURNALIST COLONY, JUBILEE HILLS, SHAIKPET, HYDERABAD, TELANGANA PRESENTLY CONFINED AT THE CENTRAL PRISON, CHANCHALGUDA, HYDERABAD

...PETITIONER/ACCUSED

AND

1. THE STATE OF ANDHRA PRADESH, REP., BY ITS PUBLIC PROSECUTOR, A.P., HIGH COURT, THROUGH S.H.O., ADDITIONAL SUPERINTENDENT OF POLICE, SPECIAL INVESTIGATION TEAM, C.I.D.
2. THE ADDITIONAL SUPERINTENDENT OF POLICE, SPECIAL INVESTIGATION TEAM, C.I.D., STATE OF ANDHRA PRADESH, VIJAYAWADA INVESTIGATING OFFICER IN CR.NO.L 1 OF 2026

...RESPONDENT/COMPLAINANT(S):

ORDER PRONOUNCED ON **13.08.2026**

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE TUHIN KUMAR GEDELA

- | | |
|---|--------|
| 1. Whether Reporters of Local newspapers may be allowed to see the Judgments? | Yes/No |
| 2. Whether the copies of judgment may be marked to Law Reporters/Journals | Yes/No |
| 3. Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? | Yes/No |

JUSTICE TUHIN KUMAR GEDELA

THE HON'BLE SRI JUSTICE TUHIN KUMAR GEDELA
CRIMINAL PETITION Nos.6456, 6463 and 6467 of 2026

% 13.08.2026

Criminal Petition No.6456 of 2026:

Between:

1. KESSIREDDY RAJASEKHAR REDDY, S/O. UPENDER REDDY, AGED ABOUT 48 YEARS, R/O. 1 A, JOURNALIST COLONY, JUBILEE HILLS, SHAIKPET, HYDERABAD, TELANGANA PRESENTLY CONFINED AT THE CENTRAL PRISON, CHANCHALGUDA, HYDERABAD

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AND

1. THE STATE OF ANDHRA PRADESH, REP., BY ITS PUBLIC PROSECUTOR, A.P., HIGH COURT, THROUGH S.H.O., ADDITIONAL SUPERINTENDENT OF POLICE, SPECIAL INVESTIGATION TEAM, C.I.D.
2. THE ADDITIONAL SUPERINTENDENT OF POLICE, SPECIAL INVESTIGATION TEAM, C.I.D., STATE OF ANDHRA PRADESH, VIJAYAWADA INVESTIGATING OFFICER IN CR.NO. 11 OF 2026

...RESPONDENT/COMPLAINANT(S):

Criminal Petition No.6463 of 2026:

Between:

1. DONTTHIREDDY VASUDEVA REDDY, S/O SRI D. VENKATESWAR REDDY, AGED ABOUT 48 YEARS, OCC GOVERNMENT EMPLOYEE FORMER MANAGING DIRECTOR, APSBCL, R/O FLAT NO. 602, MYSCAPE MEA, A BLOCK, NANAKRAMGUDA, RANGA REDDY DISTRICT, TELANGANA.

...PETITIONER/ACCUSED

AND

1. THE STATE OF ANDHRA PRADESH, REPRESENTED BY ITS SPL PUBLIC PROSECUTOR, HIGH COURT OF ANDHRA PRADESH, HIGH COURT BUILDINGS AT NELAPADU, GUNTUR DISTRICT, ANDHRA PRADESH. THROUGH S.H.O., ADDITIONAL SUPERINTENDENT OF POLICE, SPECIAL INVESTIGATION TEAM, C.I.
2. THE ADDITIONAL SUPERINTENDENT OF POLICE, SPECIAL INVESTIGATION TEAM, C.I.D., STATE OF ANDHRA PRADESH, VIJAYAWADA, NTR DISTRICT, ANDHRA PRADESH. INVESTIGATING OFFICER IN CR.NO.11 OF 2026

...RESPONDENT/COMPLAINANT(S):

Criminal Petition No.6467 of 2026:

Between:

1. KESSIREDDY RAJASEKHAR REDDY, S/O. UPENDER REDDY, AGED ABOUT 48 YEARS, R/O. 1 A, JOURNALIST COLONY, JUBILEE HILLS, SHAIKPET, HYDERABAD, TELANGANA PRESENTLY CONFINED AT THE CENTRAL PRISON, CHANCHALGUDA, HYDERABAD

...PETITIONER/ACCUSED

AND

1. THE STATE OF ANDHRA PRADESH, REP., BY ITS PUBLIC PROSECUTOR, A.P., HIGH COURT, THROUGH S.H.O., ADDITIONAL SUPERINTENDENT OF POLICE, SPECIAL INVESTIGATION TEAM, C.I.D.
2. THE ADDITIONAL SUPERINTENDENT OF POLICE, SPECIAL INVESTIGATION TEAM, C.I.D., STATE OF ANDHRA PRADESH, VIJAYAWADA INVESTIGATING OFFICER IN CR.NO.L 1 OF 2026

...RESPONDENT/COMPLAINANT(S):

! Counsel for the Appellant : Mr.Nikhil Goel, learned Senior Counsel for Mr.B.Abhay Siddhanth Mootha, Ms.Lis Mathew, and Mr.P.Gowtham, learned counsel for Mr.V.Sai Kumar.

! Counsel for the Respondent : Mr.B.Adinarayana Rao, learned Senior Counsel for Mr.J.Sarath Chandra, learned Special Counsel for SIT

<Gist :

>Head Note:

- ? Cases referred:
1. (2026) 1 SCC 500
 2. (2024) 7 SCC 576
 3. (2024) 8 SCC 254
 4. (2025) 5 SCC 799
 5. 2024 SCC OnLine SC 2550
 6. (1983) 2 SCC 417

7. (2025) 6 SCC 545
8. 2024 SCC OnLine Bom 3817
9. 2025 SCC OnLine SC 2650
10. (2024) 10 SCC 336
11. 2024 SCC OnLine Cal 11828
12. 2025 SCC OnLine Del 1936
13. 2026 GAU AS 4310 DB
14. 2026 SCC OnLine SC 208
15. 2025 SCC OnLine Del 3045
16. 2024 SCC OnLine SC 374
17. Crl.Misc.W.P.No.25626 of 2025, dated 27.07.2026
18. 2026 SCC OnLine SC 1392
19. (1987) 2 SCC 69
20. 2025 SCC OnLine Del 548
21. W.P.No.45762 of 2018, dated 29.03.2019.
22. 2025 SCC OnLine SC 1228
23. 2025 SCC OnLine SC 1702
24. 2024 SCC OnLine AP 5532
25. 2026 SCC OnLine AP 1044
26. (1997) 1 SCC 416
27. 2026 SCC Online Bom 4488
28. 1954 cri LJ 865 (SC)
29. (1988) 2 SCC 602
30. (1983) 4 SCC 141
31. (1984) 1 SCC 339
32. (2019) 6 SCC 619

APHC010395912026



**IN THE HIGH COURT OF ANDHRA PRADESH
 AT AMARAVATI
 (Special Original Jurisdiction)**

[3548]

THURSDAY, THE 13th DAY OF AUGUST 2026

PRESENT

THE HONOURABLE SRI JUSTICE TUHIN KUMAR GEDELA

CRIMINAL PETITION Nos:6456, 6463 and 6467 of 2026

CRIMINAL PETITION No.6456 of 2026:

Between:

1. KESSIREDDY RAJASEKHAR REDDY, S/O. UPENDER REDDY, AGED ABOUT 48 YEARS, R/O. 1 A, JOURNALIST COLONY, JUBILEE HILLS, SHAIKPET, HYDERABAD, TELANGANA PRESENTLY CONFINED AT THE CENTRAL PRISON, CHANCHALGUDA, HYDERABAD

...PETITIONER/ACCUSED

AND

1. THE STATE OF ANDHRA PRADESH, REP., BY ITS PUBLIC PROSECUTOR, A.P., HIGH COURT, THROUGH S.H.O., ADDITIONAL SUPERINTENDENT OF POLICE, SPECIAL INVESTIGATION TEAM, C.I.D.
2. THE ADDITIONAL SUPERINTENDENT OF POLICE, SPECIAL INVESTIGATION TEAM, C.I.D., STATE OF ANDHRA PRADESH, VIJAYAWADA INVESTIGATING OFFICER IN CR.NO. 11 OF 2026

...RESPONDENT/COMPLAINANT(S):

Petition under Section 437/438/439/482 of Cr.P.C and 528 of BNSS praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to call for the records in Order, dated 20.07.2026 in Crime No.11 of 2026 on the file of the CID Police Station Mangalagiri by the learned Special Judge for SPE & ACB Cases-cum-III Additional District Judge, Vijayawada, ordering remand of the petitioner/accused No.4 till 03.08.2026 and declare the arrest made on 20.07.2026 as illegal and to quash and set aside Order, dated 20.07.2026 in Crime No.11 of 2026 and consequently direct the Respondents to forthwith release the Petitioner and set him at liberty insofar as Crime No.11 of 2026 on the file of CID Police Station is concerned

IA NO: 1 OF 2026

Petition under Section 482 of Cr.P.C and 528 of BNSS praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to dispense with filing of the certified copy of the remand order dated 20.07.2026 passed by the learned Special Judge for SPE & ACB Cases-cum-III Additional District Judge, Vijayawada in Cr.No.11 of 2026

IA NO: 2 OF 2026

Petition under Section 482 of Cr.P.C and 528 of BNSS praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to stay all further proceedings pursuant to the purported arrest of the Petitioner dated 20.07.2026, including the petition filed by the Respondent SIT/police under Section 187 of the BNSS seeking police custody of the Petitioner and direct that the Petitioner shall not be taken into or remanded to police custody in Cr.No.11 of 2026 to avoid multiplicity of proceedings and equity

IA NO: 3 OF 2026

Petition under Section 482 of Cr.P.C and 528 of BNSS praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to suspend the operation of the remand order dated 20.07.2026 passed by the learned Special Judge for SPE & ACB Cases-cum-III Additional District Judge, Vijayawada in Cr.No.11 of 2026 to avoid multiplicity of proceedings

Counsel for the Petitioner/accused:

1.B.ABHAY SIDDHANTH MOOTHA

Counsel for the Respondent/complainant(S):

1.PUBLIC PROSECUTOR

2.JAVVAJI SARATH CHANDRA

&

CRIMINAL PETITION NO: 6463/2026

Between:

1.DONTHIREDDY VASUDEVA REDDY, S/O SRI D. VENKATESWAR REDDY, AGED ABOUT 48 YEARS, OCC GOVERNMENT EMPLOYEE FORMER MANAGING DIRECTOR,APSBCL, R/O FLAT NO. 602, MYSCAPE MEA, A BLOCK, NANAKRAMGUDA,RANGA REDDY

DISTRICT, TELANGANA.

...PETITIONER/ACCUSED

AND

1. THE STATE OF ANDHRA PRADESH, REPRESENTED BY ITS SPL PUBLIC PROSECUTOR, HIGH COURT OF ANDHRA PRADESH, HIGH COURT BUILDINGS AT NELAPADU, GUNTUR DISTRICT, ANDHRA PRADESH. THROUGH S.H.O., ADDITIONAL SUPERINTENDENT OF POLICE, SPECIAL INVESTIGATION TEAM, C.I.
2. THE ADDITIONAL SUPERINTENDENT OF POLICE, SPECIAL INVESTIGATION TEAM, C.I.D., STATE OF ANDHRA PRADESH, VIJAYAWADA, NTR DISTRICT, ANDHRA PRADESH. INVESTIGATING OFFICER IN CR.NO.11 OF 2026

...RESPONDENT/COMPLAINANT(S):

Petition under Section 437/438/439/482 of Cr.P.C and 528 of BNSS praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to call for the records relating to and in connection with Remand Order dated 20.07.2026 (Learned Special Judge for SPE & ACB Cases-cum-III Additional District Judge, Vijayawada) in Crime No. 11 of 2026 on the file of the CID Police Station, Mangalagiri to quash the same

IA NO: 1 OF 2026

Petition under Section 482 of Cr.P.C and 528 of BNSS praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to dispense with filing of the certified copy of the remand order dated 20.07.2026 passed by the learned Special Judge for SPE & ACB Cases-cum-III Additional District Judge, Vijayawada in Cr.No.11 of 2026 and pass

IA NO: 2 OF 2026

Petition under Section 482 of Cr.P.C and 528 of BNSS praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to suspend the operation of the remand order dated 20.07.2026 passed by the learned Special Judge for SPE & ACB Cases-cum-III Additional District Judge, Vijayawada in Cr.No.11 of 2026 (CID Police Station, Mangalagiri) to avoid multiplicity of proceedings and equity pending disposal of the main quash petition

Counsel for the Petitioner/accused:

1.V SAI KUMAR

Counsel for the Respondent/complainant(S):

- 1.PUBLIC PROSECUTOR
- 2.JAVVAJI SARATH CHANDRA

&

CRIMINAL PETITION NO: 6467/2026

Between:

- 1.KESSIREDDY RAJASEKHAR REDDY, S/O. UPENDER REDDY,AGED ABOUT 48 YEARS, R/O. 1 A, JOURNALIST COLONY,JUBILEE HILLS, SHAIKPET, HYDERABAD, TELANGANA PRESENTLY CONFINED AT THE CENTRAL PRISON, CHANCHALGUDA,HYDERABAD

...PETITIONER/ACCUSED

AND

- 1.THE STATE OF ANDHRA PRADESH, REP., BY ITS PUBLIC PROSECUTOR,A.P., HIGH COURT, THROUGH S.H.O., ADDITIONAL SUPERINTENDENT OF POLICE,SPECIAL INVESTIGATION TEAM, C.I.D.
- 2.THE ADDITIONAL SUPERINTENDENT OF POLICE, SPECIAL INVESTIGATION TEAM, C.I.D., STATE OF ANDHRA PRADESH, VIJAYAWADA INVESTIGATING OFFICER IN CR.NO.L 1 OF 2026

...RESPONDENT/COMPLAINANT(S):

Petition under Section 437/438/439/482 of Cr.P.C and 528 of BNSS praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to call for records in Order, dated 14.07.2026 in CrI.M.P.No.1513 of 2026 on the file of the Special Judge for SPE and ACB Cases-cum-III Additional District Judge, Vijayawada Crime No. 11 of 2026 on the file of the CID Police Station Mangalagiri by the learned Special Judge for SPE and ACB Cases-cum-III Additional District Judge, Vijayawada and to quash and set aside the same

IA NO: 1 OF 2026

Petition under Section 482 of Cr.P.C and 528 of BNSS praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the

High Court may be pleased to dispense with filing of the certified copy of the Order, dated 14.07.2026 in Crl.M.P.No.1513 of 2026 on the file of the Special Judge for SPE & ACB Cases-cum-III Additional District Judge, Vijayawada Crime No.11 of 2026 on the file of the CID Police Station Mangalagiri by the learned Special Judge for SPE & ACB Cases-cum-III Additional District Judge, Vijayawada

IA NO: 2 OF 2026

Petition under Section 482 of Cr.P.C and 528 of BNSS praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to stay all further proceedings pursuant to the purported arrest of the Petitioner dated 20.07.2026, including the petition filed by the Respondent SIT/police under Section 187 of the BNSS seeking police custody of the Petitioner to avoid multiplicity of proceedings and equity

IA NO: 3 OF 2026

Petition under Section 482 of Cr.P.C and 528 of BNSS praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to suspend the operation of the Order, dated 14.07.2026 in Crl.M.P.No.1513 of 2026 on the file of the Special Judge for SPE & ACB Cases-cum-III Additional District Judge, Vijayawada, in Crime No.11 of 2026 on the file of the CID Police Station Mangalagiri by the learned Special Judge for SPE & ACB Cases-cum-III Additional District Judge, Vijayawada to avoid multiplicity of proceedings and equity

Counsel for the Petitioner/accused:

1.B.ABHAY SIDDHANTH MOOTHA

Counsel for the Respondent/complainant(S):

1.PUBLIC PROSECUTOR

2.JAVVAJI SARATH CHANDRA

The Court made the following:

THE HONOURABLE SRI JUSTICE TUHIN KUMAR GEDELA

CRIMINAL PETITION Nos:6456, 6463 and 6467 OF 2026

COMMON ORDER:

“BAIL OR JAIL”

(As per Hon'ble Justice V.R.Krishna Iyer
[(1978) 1 SCC 240]).

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Heard,

Mr.Nikhil Goel, learned Senior Counsel, assisted by Mr.B.Abhay Siddhanth Mootha, learned counsel for the petitioner in Crl.P.Nos.6456 and 6467 of 2026, Ms.Lis Mathew, learned Senior Counsel, Mr.P.Gowtham, learned counsel, assisted by Mr.V.Sai Kumar, learned counsel for the petitioner in Crl.P.No.6463 of 2026, and Mr.B.Adinarayana Rao, learned Senior Counsel, assisted by Mr.Javvaji Sarath Chandra, learned counsel appearing for the State/SIT.

2. The Criminal Petition No.6456 of 2026 is filed calling for the records in the Order, dated 20.07.2026, passed by the learned Special Judge for SPE & ACB Cases-cum-III Additional District Judge, Vijayawada, in Crime No.11 of 2026, on the file of the CID Police Station, Mangalagiri, ordering remand of the petitioner/accused No.4 till 03.08.2026 and declare the arrest made on 20.07.2026 as illegal and to quash and set aside the Order, dated 20.07.2026, in Crime No.11 of 2026, *inter alia* to direct the respondents to forthwith release the petitioner and set him at liberty insofar as Crime No.11 of 2026 on the file of the CID Police Station, Mangalagiri, is concerned.

3. Learned Senior Counsel, Mr.Nikhil Goel, reproduced the conspectus of facts leading to the registration of F.I.R.No.11 of 2026 and the consequential order, dated 20.07.2026, to enlighten:

i. Learned Senior Counsel, Mr.Nikhil Goel, commenced his arguments, stating that, on 23.09.2024, the CID Police Station, Mangalagiri, registered F.I.R.No.21 of 2024 (Liquor Scam), alleging manipulation of the Excise Policy, brand allocations, and procurement process of the Andhra Pradesh State Beverages Corporation Limited (APSBCL) during 2019–2024, and collection of kickbacks of about Rs.3,500 crores. On 21.04.2025, the petitioner (Accused No. 4) was arrested in connection with Crime No. 21 of 2024 as treating the F.I.R.No.21 of 2024 as predicate offence, registers ECIR.No.33 of 2025. Thereafter, on 10.02.2026, while the petitioner was in judicial custody in connection with F.I.R.No.21 of 2024, the CID Police Station, Mangalagiri, registered F.I.R.No.11 of 2026 for the offences punishable under Sections 409, 420, 468, 471 read with Section 120-B of the Indian Penal Code (IPC) and Sections 111, 212, 217, and 317 of the Bharatiya Nyaya Sanhita, 2023 (BNS), alleging manipulation of liquor transportation tender process of the very same APSBCL in the same period on substantially the same allegations against the petitioner.

ii. Learned Senior Counsel, Mr.Nikhil Goel, would submit that, though the F.I.R.No.11 of 2026 was lodged against the petitioner, the same was kept dormant and no steps were taken to arrest the petitioner for a period of two months, where he remained readily available in the judicial custody. He would further contend that the petitioner was enlarged on regular bail in F.I.R.No.21 of 2024, by an order of this Court, dated 07.04.2026, in Criminal Petition No.2235 of 2026. He has stressed his submissions that the Investigating Officer did not inform this Court of the existing F.I.R.No.11 of 2026 while the bail order was being passed. He would narrate this as an intentional illegality committed by the respondents.

iii. Learned Senior Counsel would submit that, on 08.04.2026, at about 10:00 a.m., a notice was served on the petitioner under Section 179 of

the BNSS in F.I.R.No.11 of 2026, by which time the F.I.R. was two months old. As stipulated, the petitioner appeared before the Investigating Officer on 12.04.2026. As the petitioner was apprehending arrest, Criminal Petition No.3077 of 2026 was filed before this Court on 15.04.2026. Thereafter, on 17.04.2026, the offences punishable under Sections 7, 7-A, 8, 9, 10, 12, 13(1), and 13(2) of the Prevention of Corruption Act, 1988, were added in the F.I.R. No.11 of 2026 by way of a Memo. Thereafter, on 04.05.2026, when this Court heard Criminal Petition No.3077 of 2026 filed for anticipatory bail, the learned Special Public Prosecutor stated that the crime was registered on 10.02.2026 and as the investigation is at a nascent stage; had the authorities intended to arrest the petitioner, they could have already done so.

iv. Mr.Nikhil Goel, learned Senior Counsel, stresses at this point that on the assurance given by the learned Special Public Prosecutor for the State, this Court directed the petitioner to appear before the Investigating Agency and cooperate with the investigation, and the matter stood posted after Summer Vacation, i.e., on 24.06.2026. Pursuant to the order, dated 04.05.2026, passed by this Court, the petitioner again appeared before the Investigating Officer on 06.05.2026 and, thereafter, continued to appear before the Investigating Officer and cooperated with the investigation so conducted and there was no complaint by the investigating team that the petitioner is not cooperating or absconding or interfering with the witnesses or tampering with the records. On 11.06.2026, the Enforcement Directorate arrested the petitioner in ECIR/HYZO/17/2026, which was registered on the basis of F.I.R. No.11 of 2026, while the petitioner was in the judicial custody in the Central Prison, Chanchalguda, Hyderabad.

v. Mr.Nikhil Goel, learned Senior Counsel, would further submit that, on 10.07.2026, during the pendency of Criminal Petition No.3077 of 2026 filed for anticipatory bail, the State filed Crl.M.P.No.1513 of 2026 under Section

267 of Cr.P.C./Section 302 of BNSS, before the learned Special Judge for SPE and ACB Cases-cum-III Additional District Judge, Vijayawada, seeking a P.T. warrant for production of the petitioner in connection with F.I.R. No.11 of 2026, without disclosing the fact that the anticipatory bail petition was pending before this Court.

vi. The application which was filed for issuance of a P.T. warrant for production of the petitioner has come up before the learned Special Judge on 14.07.2026, wherein the application was allowed, directing the production of the petitioner on 20.07.2026 by way of a Common Order. On 20.07.2026, in pursuance of the execution of the P.T. warrant, the petitioner was arrested and remanded. This statement was emphasized by the learned Senior Counsel that, at 09:35 a.m., the petitioner was taken into custody from the Central Prison, Chanchalguda, Hyderabad, and at about 03:00 p.m., brought the petitioner to Vijayawada, and at about 04:20 p.m., remand report was served on the petitioner during the hearing. He would submit that no written grounds of arrest were furnished to the petitioner at any point of time, either at the time of arrest or at least two hours prior to his production before the jurisdictional Court. Learned Senior Counsel would contend that the action of the State is illegal and impermissible in view of the law laid down by the Hon'ble Supreme Court, and also the provisions enunciated as per the Code of Criminal Procedure, 1973, and the Bharatiya Nagarik Suraksha Sanhita, 2023.

vii. Learned Senior Counsel would further submit that, before issuing the remand report and arresting the petitioner in the Court at 04:20 p.m., the petitioner was taken for medical examination. He would submit that this fact is not denied by the State and indeed emphatically admitted in the counter. He would further submit that, without entering into the other merits of the case as raised in the grounds appended to the petition, he is confining his submissions

only to the very action of the State/Special Investigation Team (SIT), in arresting the petitioner at 04:20 p.m. in the Court and not serving the remand report as per the procedure prescribed under BNSS/Cr.P.C., and *ipso facto* in the teeth of the rulings of the Hon'ble Apex Court.

viii. This Court, taking note of the strong submission made by the learned Senior Counsel that the merits of the case need not be ventured into, confines its consideration only to the legal issue raised by learned Senior Counsel appearing for the petitioner.

ix. Learned Senior Counsel, Mr.Nikhil Goel, would randomly envisage this Court to the grounds appended to the petition that the purported arrest of the petitioner, on 20.07.2026, without furnishing the grounds of arrest in writing, is in direct violation of Article 22(1) read with Article 21 of the Constitution of India and Section 47 of BNSS (50 of Cr.P.C.). To that, he relied upon the judgment of the Hon'ble Supreme Court in ***Mihir Rajesh Shah vs. State of Maharashtra and another***¹, wherein it was held that “*the constitutional mandate of informing the arrestee the grounds of arrest is mandatory in all offences under all statutes and that **the grounds must be communicated in writing in the language of arrestee understands and in any case at least 2 hours prior to the production of remand***”. He further continues to argue that in a case of non-compliance of the above, the arrest and subsequent remand would be rendered illegal and the person will be set at liberty. The Hon'ble Supreme Court, in the aforesaid judgment, at paragraph 66, held as follows:

“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);

¹ (2026) 1 SCC 500

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.

x. Learned Senior Counsel would further submit that the aforesaid principle was reiterated by the Hon'ble Supreme Court in **Pankaj Bansal vs. Union of India and others**², **Prabir Purkayastha vs. State (NCT of Delhi)**³ and **Vihaan Kumar vs. State of Haryana and another**⁴.

xi. Lucidly unfolding the legal atrocities committed by the Investigating Agency, while arresting the petitioner, learned Senior Counsel would state that the grounds of arrest were not supplied to the petitioner in writing and the burden of proof shifted upon the police to prove the contrary and the same can only be done by producing cogent and contemporaneous evidence to the effect that the grounds of arrest were supplied to the petitioner at the time of arrest. In support of the said contention, he places reliance upon the judgment of the Hon'ble Supreme Court in **Vihaan Kumar vs. State of Haryana and another** (supra 4).

xii. Learned Senior Counsel would further argue that the impugned order, dated 20.07.2026, is vitiated in law and that the petitioner was informed of the grounds of arrest and received copies thereof, which was denied by the petitioner specifically and the very order passed by the Court below is totally

² (2024) 7 SCC 576

³ (2024) 8 SCC 254

⁴ (2025) 5 SCC 799

incorrect and falls to the very scrutiny of the legal precedents laid down by the Hon'ble Supreme Court.

xiii. The other contention of the learned Senior Counsel, Mr.Nikhil Goel, restricting to the arrest of the petitioner in view of the issuance of the P.T. warrant on 14.07.2026 is totally non-application of mind and constitute an abuse of the process of law. He further emphatically submits that the petitioner was enlarged on bail by this Court on 07.04.2026 in connection with Crime No.21 of 2024. Though Crime No.11 of 2026 was registered on 10.02.2026, the respondent-police took no steps to question or arrest the petitioner for a period of two months and only in a hectic measure, soon after the order enlarging the petitioner on bail is passed, the respondent-police issued a notice under Section 179 of BNSS at about 10:00 a.m., and ultimately, arrested the petitioner on 20.07.2026, wherein both Crime No.21 of 2024 and Crime No.11 of 2026 relating to APSBCL, are *pari materia*, and the investigation conducted had already been concluded and the material had been collected in Crime No.21 of 2024 and any arrest thereof will be unfounded. He would submit that it is only a colourable exercise of the power of arrest, intended to neutralize the bail granted to the petitioner in Crime No.21 of 2024 and to perpetuate his incarceration by shifting him from one proceeding to another and relies upon the judgment of the Hon'ble Supreme Court in **Arvind Kejriwal vs. Central Bureau of Investigation**⁵.

xiv. Finally, learned Senior Counsel would submit that the acts of the respondent-police demonstrates a political vengeance against the petitioner and the arrest exercised is not for any *bona fide* investigation, but for the collateral and punitive purpose of ensuring the petitioner's continued incarceration and frustrating his pending criminal proceedings before this Court. He would further submit that the State/respondent flagrantly violated

⁵ 2024 SCC OnLine SC 2550

the Articles 21 and 22(1) of the Constitution of India, which are considered to be an effective right regarding personal liberty.

xv. In support of the aforesaid submissions, learned Senior Counsel, Mr.Nikhil Goel, places reliance upon the following decisions:

1. Mihir Rajesh Shah vs. State of Maharashtra and another (2026) 1 SCC 500]
2. Vihaan Kumar vs. State of Haryana and another [(2025) 5 SCC 799]
3. Ahmed Mansoor and others vs. State Rep. by Assistant Commissioner of Police and another [2025 SCC OnLine SC 2650]
4. Dhanraj Aswani vs. Amar S.Mulchandani and another [(2024) 10 SCC 336]
5. In Re:Sujay Krishna Bhadra [2024 SCC OnLine Cal 11828]
6. Lalit Shyam Tekchandani vs. State of Maharashtra and another [2024 SCC OnLine Bom 3817]
7. Vikas Chawla vs. State (NCT of Delhi) [2025 SCC OnLine Del 1936]
8. Uday Chand and others vs. Sheikh Mohd. Abdullah [(1983) 2 SCC 417]
9. State of Meghalaya vs. Sonam Raghuvanshi [2026 SCC OnLine SC 1392]
10. Tsering Dolkar vs. Adminstrator, Union Territory of Delhi and others [(1987) 2 SCC 69]
11. Rakesh vs. State of U.P. and others [2026 SCC OnLine All 23984]

4. Responding to the arguments and pleadings in the Criminal Petition, the respondents/SIT filed counter-affidavit stating that all the allegations, inferences and legal submissions made in the petition are denied as false and misconceived contrary to contemporaneous judicial and official record.

5. The Counter refuting the said contentions in the petition are elucidated hereunder:

i. The petitioner was already in lawful judicial custody in the Central Prison, Chanchalguda, Hyderabad, in ECIR/HYZO/17/2026 of the Directorate of Enforcement, Hyderabad. On an application moved by the Investigating Agency, the learned Special Judge for SPE and ACB Cases-cum-III Additional District Judge, Vijayawada, by a common order dated 14.07.2026, directed production of the petitioner in connection with Crime No.11 of 2026 and further addressed that the said order, dated 14.07.2026, has not been stayed or set aside by any Court.

ii. It is further averred in the counter affidavit that the learned Special Judge issued a separate official memorandum, dated 17.07.2026, in Crl.M.P.No.1513 of 2026 relating to Accused No.4 and Crl.M.P.No.1514 of 2026 relating to Accused No.1, directing the Superintendent, Central Prison, Chanchalguda, Hyderabad to hand over the respective remand prisoners to the named escort party comprising of Sri G.Shankar Naik, Inspector of Police, SIT, and other police personnel identified therein, so as to enable their production before the learned Special Court in Crime No.11 of 2026.

iii. Pursuant to the order, dated 17.07.2026, an application was moved before the learned Sessions Judge, Nampally Court, Hyderabad, wherein, by order, dated 18.07.2026, the learned Sessions Judge permitted and directed the Superintendent, Central Prison, Chanchalguda, Hyderabad, to hand over the petitioner and the other remand prisoners to Sri G.Shankar Naik, Inspector of Police, SIT, Vijayawada, for execution of the production warrants under proper police escort.

iv. It is further stated in the counter affidavit that the aforesaid orders have not been challenged till date. The counter would further explain the expression "*taken into custody*" at the Central Prison is being selectively

isolated and assigned a meaning which the record does not bear. It cannot be taken as arrest and escort team, as per the judicial orders, dated 17.07.2026, and in order to implement the said orders, the petitioner was taken into custody, which cannot be treated as arrest by the investigation team. It would further fortify that the arrest was only in the Court at 04:20 p.m. after producing before the Court. The respondent-police would further contend that the escort party received the petitioner from the Central Prison at 09:35 a.m. on 20.07.2026 and brought him directly to the Government General Hospital, Vijayawada, at about 02:35 p.m. for medical examination, and thereafter produced him before the learned Special Judge, who subsequently remanded the petitioner to judicial custody.

v. It is further stated in the counter affidavit that the moment from the Chanchalguda to Vijayawada, there was custodial transportation under judicial authority and cannot be assumed character of police custody for the purpose of investigation. At paragraph 8 of the counter affidavit, it is specifically averred that, at that stage of production before the learned Special Judge, a request was made for remand and was considered and then the petitioner was furnished with a copy of the detailed remand report/case record concerning him. The intervening period of serving a copy of remand report and the actual order of remand by the learned Special Judge was well beyond minimum period contemplated under law, affording adequate opportunity to consult his counsel and oppose the remand.

vi. It is further stated in the counter affidavit that there was no prejudice caused to the petitioner and that the requirements under Article 22(1) of the Constitution of India and Section 47 of BNSS stood complied with. It would further elucidate that the law looks to the substantive of written communication not to the presence of separate caption reading grounds of arrest. The counter would further state that there was no objection or protest

by the petitioner before the learned Special Judge that the remand report has not been supplied, the grounds had not been communicated or the Court had incorrectly recorded the answers given on enquiry and more so, the petitioner was effectively represented by the counsel and submissions were made, which the Court has taken note of.

vii. At paragraph 13 of the counter affidavit, it is averred that when a solemn judicial record transpired by the Court cannot be displaced in collateral proceedings by a subsequent bare denial. If a litigation considers that a statement attributed to him, or an occurrence recorded by a Court is incorrect, the proper and immediate course is to approach the very Court for correction while the event is fresh. In the absence of any such contemporaneous step, the judicial record must be accorded due sanctity. The respondents have, in any event, discharged their burden of producing the accused and this belated assertion now cannot be raised going contrary to the judicial order. In the counter, there is a usual denial of the contention that the police did not inform the Court while the bail application in Crime No.21 of 2024 was being considered and that there is no requirement under law to place the same before the Court regarding pending crimes.

viii. The respondents have also appended to the counter affidavit the official memorandum issued in Crl.M.P.No.1513 of 2026 arising out of Crime No.11 of 2026 of the CID Police Station, Mangalagiri, wherein the learned Special Judge directed the Superintendent, Central Prison, Chanchalguda, Hyderabad, to hand over Accused No.4, Kessireddy Rajasekhar Reddy @ Raj, S/o. Upender Reddy, aged 43 years, Ektha Villas, 1A, Journalist Colony, Jubilee Hills, Shaikpet, Hyderabad, who is in judicial custody in ECIR/HYZO/17/2026, to the escort party Sri G.Shankar Naik, Inspector of Police, Sri K.Suresh, Sub-Inspector of Police, Sri T.Rama Krishna, Sub-Inspector of Police, Sri Ch.Frankline, PC 2728, Sri P.Venkatesh, PC 387,

Sri K.V.V.N.Murthy, PC 4384. This official memorandum is issued to all the concerned accused, who are three in number.

ix. In addition to the counter affidavit, the respondents/police filed preliminary note of submissions, which is a replica of the counter affidavit, and additionally, at paragraph 2 under the heading “Chronology from the Passport and Connected Record”, the following has been stated:

Date/time	Authority/record	Event and legal significance
18.07.2026 10:00 hrs	SIT Passport, O/o CPO, Vijayawada	Passport issued authorising the named escort team to proceed to Central Prison, Chanchalguda, receive and escort A-1, A-4 and A-8 under the three PT warrants, produce them before the Special Court at Vijayawada on 20.07.2026, and thereafter obey the Court's further orders.
20.07.2026 approx. 9:35 a.m.	Central Chanchalguda Prison.	Three undertrial prisoners handed over to the authorised SIT escort. This was execution of the judicial production process and commencement of escorted transit, not an independent investigative pick-up.
20.07.2026 Approx. 3:03 p.m.	Government Hospital, Vijayawada endorsement	Medical examination/attendance completed before production.
20.07.2026 4:20 p.m. to 8:25 p.m.	Special Court- connected handwritten entry and remand proceedings	The Petitioners were brought to the Special Court and remained present until the remand proceedings concluded. On the Respondent's record, the detailed remand report/case papers were furnished upon arrival and before the judicial remand enquiry. The period is more than four hours.
20.07.2026 By 8:25 p.m.	Special Court	Remand proceedings concluded; judicial custody in Crime No. 11 of 2026 ordered till 03.08.2026, with return to Central Prison, Chanchalguda.
21.07.2026 1:40 a.m.	Central Prison, Chanchalguda gate	The three undertrial prisoners were readmitted into Central Prison along with the three warrants after return

	endorsement	transit from Vijayawada.
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x. In support of the aforesaid contentions, learned Senior Counsel, Mr. B. Adinarayana Rao, placed reliance upon the following judgments:

1. State of Karnataka vs. Sri Darshan [2025 INSC 979]
2. Kasireddy Upender Reddy vs. State of Andhra Pradesh and others [2025 INSC 768]
3. Pappula Chalama Reddy vs. State of Andhra Pradesh [2024 SCC OnLine AP 5352 (DB)]
4. Bolla Kiran vs. State of Andhra Pradesh and others [2026 SCC OnLine AP 1044]

SUBMISSIONS ON BEHALF OF THE PETITIONER/ACCUSED NO.4:-

6. The principal contention advanced by learned Senior Counsel, Mr. Nikhil Goel, is that, pursuant to the order of this Court, dated 07.04.2026, releasing the petitioner/Accused No.4 on bail in F.I.R.No.21 of 2024, summons were served immediately on 08.04.2026 in F.I.R.No.11 of 2026. It is stated that non-disclosing of the pendency of F.I.R.No.11 of 2026 to the Court while dictating the order in F.I.R.No.21 of 2024 regarding the Anticipatory Bail is sufficient to treat the arrest in the subsequent case as illegal. To this, he places reliance upon the judgment of the Hon'ble Supreme Court in **Uday Chand and others vs. Sheikh Mohd. Abdullah**⁶, wherein, at paragraph 5, it was held as follows:

“5. Mr Kacker stated before us that the petitioners were enlarged on bail in pursuance of the Order passed by this Court on March 2, 1981 but they were subsequently arrested for some other offences alleged to have been committed by them prior to March 2, 1981. We are quite amazed at this statement and we should have expected that if after the order of bail passed by us the authorities of the State considered it fit to arrest any of the petitioners for any other offences, it was their bounden duty to apprise this Court before taking these persons in custody, especially when no disclosure was made to us when we passed the order of bail that any case or cases were

⁶ (1983) 2 SCC 417

under investigation against any of the petitioners. We regret that this elementary courtesy to this Court was not shown. We would like to reiterate that the petitioners shall be treated as free citizens inspite of the fact that they have been subsequently arrested which arrests are clearly contrary to the order of bail passed by this Court.”

7. Learned Senior Counsel would further argue that the order, dated 20.07.2026, passed by the learned Special Judge records that the petitioner was produced before the Court at about 03:00 p.m. and that the police sought judicial custody after informing the Court that they had taken the petitioner into custody at about 09:35 a.m. on 20.07.2026. He would emphasize that the finding recorded by the learned Special Judge that the material and grounds of arrest had been intimated to the petitioner is expressly disputed by the petitioner, since there is no date or time of arrest mentioned in the counter affidavit. He would further contend that, without any arrest, it would not be possible for the learned Special Judge to record that the grounds of arrest have been given and then remand the petitioner to judicial custody. He would further submit that only after arrest has been caused, the application for police custody/judicial custody will be accorded. This cardinal rule of law has not been followed in itself.

8. Learned Senior Counsel would draw the attention of this Court to the fact that the principles enunciated in ***Radhika Agarwal vs. Union of India and others***⁷, that the illegality of arrest can be judicially reviewed both before and after filing the charge sheet and that the legal parameters have to be followed, which he explains that no arrest can be caused without informing the grounds of arrest, and that such grounds are required to be communicated in writing at the time of arrest, which is mandatory and in an exceptional scenario, where it is not immediately possible to inform the grounds of arrest in writing at the time of arrest, the same may be furnished thereafter, but, in any event, sufficiently at least two hours before the production of the accused

⁷ (2025) 6 SCC 545

before the concerned Magistrate. Non-compliance of this requirement, results in declaration of arrest as illegal, irrespective of the stage of the investigation/trial. He would further submit that, once the accused specifically alleges in writing that the grounds of arrest were not furnished to him, the burden shifts to the Investigating Officer to establish due compliance with the mandate of Article 22(1) of the Constitution of India. To substantiate this, learned Senior Counsel relied upon **Vihaan Kumar's** case (supra 4), wherein the Hon'ble Supreme Court, at paragraph 26, held as follows:

"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 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 chargesheet 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.”

9. Learned Senior Counsel further relied upon the judgment of the Hon’ble Supreme Court in **Mihir Rajesh Shah**’s case (supra 1), wherein, at paragraphs 61 to 66, it was held as follows:

“61. Supplanting the above situation, there may be a case wherein the Investigating Officer has sent a notice for appearance of the accused to join the investigation under Section 41A of Cr.P.C. 1973 (now Section 35(3) to 35(6) of BNSS 2023) pursuant to which the accused has joined the investigation. The Investigating Officer, after perusal of material available before him and/or on interrogating the accused, makes up his mind that the arrest of the accused person is required for further investigation or has other reason(s) for arrest, in such cases, since the accused is under the supervision of the Investigating Agency and there exists no apprehension of him absconding, it becomes incumbent upon the Police Officer to supply the grounds of arrest in writing on arresting the accused person. This can also be followed, for instance, in cases involving offences which are primarily based on documentary evidence/records, economic offences such as under PMLA where the grounds of arrest in writing be furnished to the arrested person on arrest simultaneously.

62. We thus hold, that, in cases where the police are already in possession of documentary material furnishing a cogent basis for the arrest, the written grounds of arrest must be furnished to the arrestee on his arrest. However, in exceptional circumstances such as offences against body or property committed in flagrante delicto, where informing the grounds of arrest in writing on arrest is rendered impractical, it shall be sufficient for the police officer or other person making the arrest to orally convey the same to the person at the time of arrest. Later, 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. The remand papers shall contain the grounds of arrest and in case there is delay in supply thereof, a note indicating a cause for it be included for the information of the magistrate.

63. The above indicated lower limit of two hours minimum interval before the production is grounded in the functional necessity so that the right as provided to an arrestee under the Constitution and the statute is safeguarded effectively. This period would ensure that the counsel has adequate time to scrutinize the basis of arrest and gather relevant material to defend the arrestee proficiently and capably

while opposing the remand. Any shorter interval may render such preparation illusory, thereby resulting in non-compliance of the constitutional and statutory mandate. The two-hour threshold before production for remand thus strikes a judicious balance between safeguarding the arrestee's constitutional rights under Article 22(1) and preserving the operational continuity of criminal investigations.

64. In view of the above, we hold with regard to the second issue that non supply of grounds of arrest in writing to the arrestee prior to or immediately after arrest would not vitiate such arrest on the grounds of non-compliance with the provisions of Section 50 of the Cr.P.C. 1973 (now Section 47 of BNSS 2023) provided the said grounds are supplied in writing within a reasonable time and in any case two hours prior to the production of the arrestee before the magistrate for remand proceedings.

65. It goes without saying that if the abovesaid schedule for supplying the grounds of arrest in writing is not adhered to, the arrest will be rendered illegal entitling the release of the arrestee. On such release, an application for remand or custody, if required, will be moved along with the reasons and necessity for the same, after the supply of the grounds of arrest in writing setting forth the explanation for non-supply thereof within the above stipulated schedule. On receipt of such an application, the magistrate shall decide the same expeditiously and preferably within a week of submission thereof by adhering to the principles of natural justice.

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."

10. Learned Senior Counsel further places reliance upon the judgment of the Bombay High Court in **Lalit Shyam Tekchandani vs. State**

of Maharashtra and another⁸, wherein the law postulated that explanation of grounds of arrest by the Court before whom the arrest is produced or a recital in the remand order that the grounds were explained never construe compliance with Article 22(1) of the Constitution of India. In the said judgment, at paragraphs 28 and 29, it was held as follows:

“28. The aforesaid observations by the Apex Court has left no doubt in our mind that even though the arrest of the Petitioner is pursuant to a production of P.T.Warrant, it amounts to an arrest within the meaning of Code of Criminal Procedure and, since, there exist no distinction between the arrest effected, when the petitioner was produced on Production Warrant in the two subsequent cases and the F.I.R.st case when he was M.M.Salgaonkar 33/34 J WP-3601-24+2.odt arrested, as a free man, the procedural safeguards which were then available must also be made available to him, when he is arrested pursuant to a production or transfer warrant, which necessarily include communication of the 'grounds of arrest' in writing.

29. Communication of 'grounds of arrest' intended to have an avowed purpose, being to enable an accused to know as to what is the material in the hand of the Investigating Officer, which justify his arrest and enable him to oppose the remand and secure his release on bail, the safeguards provided in law must be availed by the accused at the time, when he is shown to be arrested in the subsequent two CRs i.e. C.R.No.18 of 2024 registered with Talaja Police Station and C.R.No.20 of 2024 registered with CBD Belapur Police Station.”

11. Learned Senior Counsel further places reliance upon the judgment of the Hon'ble Supreme Court in **Ahmed Mansoor and others vs. State Rep. by Assistant Commissioner of Police and another**⁹, wherein, at paragraphs 4 to 9, it was held as follows:

“4. The issue involved in the present appeal is no longer res integra. In our considered view, the High Court has misconstrued the earlier judgments passed by this Court. On facts, there is no dispute that the grounds of arrest were not furnished, either to the appellants or to the persons arrested with them. On the contrary, the only contention on behalf of the respondents is that the grounds of arrest was duly explained by the Court at the time of remand, followed by

⁸ 2024 SCC OnLine Bom 3817

⁹ 2025 SCC OnLine SC 2650

furnishing of a copy of the same containing the grounds of arrest to the counsel who appeared with them. In *Pankaj Bansal v. Union of India & Ors.* (2024) 7 SCC 576, the aforesaid aspect of mandatory information, in writing, of grounds of arrest has been explained by this Court as follows:

“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* and the Bombay High Court in *Chhagan Chandrakant Bhujbal*, 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 fulfill 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 F.I.R.st 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.”

5. The aforesaid position has been reiterated in *Prabir Purkayastha v. State (NCT of Delhi)* - (2024) 8 SCC 254 as stated under:

“45. We are of the F.I.R.m opinion that once this Court has interpreted the provisions of the statute in context to the constitutional scheme and has laid down that the grounds of arrest have to be conveyed to the accused in writing expeditiously, the said ratio becomes the law of the land binding on all the courts in the country by virtue of Article 141 of the Constitution of India.

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 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 proforma 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 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.”

6. In *Vihaan Kumar v. State of Haryana & Anr.*, this Court, in the supplementing judgment, was pleased to observe as follows:

“3. The purpose of inserting Section 50A of the Cr.P.C., making it obligatory on the person making arrest to inform about the arrest to the friends, relatives or persons nominated by the arrested person, is to ensure that they would be able to take immediate and prompt actions to secure the release of the arrested person as permissible under the law. The arrested person, because of his detention, may not have immediate and easy access to the legal process for securing his release, which would otherwise be available to the friends, relatives and such nominated persons by way of engaging lawyers, briefing them to secure release of the detained person on bail at the earliest. Therefore, the purpose of communicating the grounds of arrest to the detainee, and in addition to his relatives as mentioned above is not merely a formality but to enable the detained person to know the reasons for his arrest but also to provide the necessary opportunity to him through his relatives, friends or nominated persons to secure his release at the earliest possible opportunity for actualising the fundamental right to liberty and life as guaranteed under Article 21 of the Constitution. Hence, the requirement of communicating the grounds of arrest in writing is not only to the arrested person, but also to the friends, relatives or such other person as may be disclosed or nominated by the arrested person, so as to make the mandate of Article 22(1) of the Constitution meaningful and effective failing which, such arrest may be rendered illegal.”

7. Learned Senior counsel appearing for the respondent(s) has placed reliance on recent decisions of this Court in *Kasireddy Upender Reddy v. State of Andhra Pradesh* and *Ors.- Criminal Appeal No.2808/2025 dated 23.05.2025* and *State of Karnataka v. Sri*

Darshan Etc. - Criminal Appeal Nos. 3528- 3534/2025 dated 14.08.2025.

8. *In State of Karnataka v. Sri Darshan Etc.(supra) the facts governing are quite different. It was a case dealing with the cancellation of bail where the charge sheet had been filed and the grounds of detention were served immediately. This Court has, in fact, given its approval to the decision in Vihaan Kumar v. State of Haryana & Anr.(supra). Similarly, in Kasireddy Upender Reddy v. State of Andhra Pradesh and Ors. (supra), this Court was pleased to hold in para 27 that the object underlying the provision that the grounds of arrest should be communicated has been explained by this Court in Vihaan Kumar v. State of Haryana & Anr (supra). Therefore, the law as laid down in Vihaan Kumar v. State of Haryana & Anr (supra) has been approved and reiterated in the abovesaid decisions.*

9. *In such view of the matter, we are inclined to hold that the present appeal deserves to succeed only on the ground that the mandate of furnishing the grounds of arrest at the time of securing the appellants has not been complied with. Therefore, we are not inclined to go into the merits of the case. However, while setting aside the order passed by the High Court and consequently setting aside the order of arrest and remand, we would only say that liberty is granted to the respondents to take recourse to law, to arrest, if a case is made out.”*

12. Learned Senior Counsel further relied upon the judgment of the Hon'ble Supreme Court in ***Dhanraj Aswani vs. Amar S.Mulchandani and another***¹⁰, wherein, at paragraphs 45, 48, 51, 52, 55, 57, it was held as follows:

“45. It was submitted on behalf of the appellant that a person already in judicial custody in relation to an offence, cannot have a “reason to believe” that he may be arrested on the accusation of having committed a different offence. However, we do not find any merit in the aforesaid submission. There are two ways by which a person, who is already in custody, may be arrested –

¹⁰ (2024) 10 SCC 336

(a) F.I.R.st, no sooner than he is released from custody in connection with the F.I.R.st case, the police officer can arrest and take him into custody in relation to a different case; and

(b) Secondly, even before he is set free from the custody in the F.I.R.st case, the police officer investigating the other offence can formally arrest him and thereafter obtain a Prisoner Transit Warrant ("P.T. Warrant") under Section 267 of the Cr.P.C. from the jurisdictional magistrate for the other offence, and thereafter, on production before the magistrate, pray for remand;

OR

Instead of effecting formal arrest, the investigating officer can make an application before the jurisdictional magistrate seeking a P.T. Warrant for the production of the accused from prison. If the conditions required under 267 of the Cr.P.C. are satisfied, the jurisdictional magistrate shall issue a P.T. Warrant for the production of the accused in court. When the accused is so produced before the court in pursuance of the P.T. Warrant, the investigating officer will be at liberty to make a request for remanding the accused, either to police custody or judicial custody, as provided in Section 167(1) of the Cr.P.C.. At that time, the jurisdictional magistrate shall consider the request of the investigating officer, peruse the case diary and the representation of the accused and then, pass an appropriate order, either remanding the accused or declining to remand the accused. [See: State v. K.N. Nehru reported in 2011 SCC OnLine Mad 1984]

48. As discussed in the preceding paragraphs, an accused could be arrested either when he is free or when he is in custody in some offence. Similarly, an arrest can be made by a police officer either without a warrant or with a warrant issued by a court. Thus, the following possibilities emerge:

(a) If an accused is arrested without a warrant while he is free and not in custody, then he has to be produced before the nearest Magistrate, who may remand him to police or judicial custody or may grant bail if applied for by the accused.

(b) If an accused is arrested with a warrant while he is free and not in custody, then Section 81 of the Cr.P.C. permits the production of such a person before the court issuing the warrant.

(c) If an accused is arrested with or without a warrant while he is already in custody in one offence, then it is only under Section 267 of the Cr.P.C. that he can be removed from such custody and produced before the Magistrate under whose territorial jurisdiction the other offence is registered.

51. The term 'arrest' is not defined either in the procedural Acts or in the various substantive Acts, though Section 46, Cr.P.C., lays

down the mode of arrest to be effected. Black's Law Dictionary (5th Edition, 1979) defines arrest as follows:

"To deprive a person of his liberty by legal authority. Taking, under real or assumed authority, custody of another for the purpose of holding or detaining him to answer a criminal charge or civil demand. Arrest involves the authority to arrest, the assertion of that authority with the intent to effect an arrest, and the restraint of the person to be arrested. All that is required for an 'arrest' is some act by officer indicating his intention to detain or take person into custody and thereby subject that person to the actual control and will of the officer, as formal declaration of arrest is required."

52. Similarly, the term 'custody' too is not defined either in the Cr.P.C. or the IPC. The Corpus Juris Secundum (Vol. 25 at Page 69) defines 'custody' as follows:

"When it is applied to persons, it implies restraint and may or may not imply physical force sufficient to restrain depending on the circumstances and with reference to persons charged with crime, it has been defined as meaning on actual confinement or the present means of enforcing it, the detention of the person contrary to his will. Applied to things, it means to have a charge or safe-keeping, and connotes control and includes as well, although it does not require, the element of physical or manual possession, implying a temporary physical control merely and responsibility for the protection and preservation of the thing in custody. So used, the word does not connote dominion or supremacy of authority. The said term has been defined as meaning the keeping, guarding, care, watch, inspection, preservation or security of a thing, and carries with it the idea of the thing being within the immediate personal care and control of the prisoner to whose custody it is subjected; charge; charge to keep, subject to order or direction; immediate charge and control and not the final absolute control of ownership." [See: Roshan Beevi and others v. Joint Secretary to Government of Tamil Nadu and others, 1983 SCC OnLine Mad 163]

55. The aforesaid decision fortifies the view that the actual seizing or touching of the body of the person to be arrested is not necessary in a case where the arrester by word brings to the notice of the accused that he is under compulsion and thereafter the accused submits to that compulsion. This is in conformity with the modality of the arrest contemplated under Section 46 of the Cr.P.C. wherein also it is provided that the submission of a person to be arrested to the custody of the arrester by word or action can amount to an arrest. The essence of the decision in Alderson (supra) is that there must be an actual seizing or touching, and in the absence of that, it must be brought to the notice of the person to be arrested that he is under compulsion, and as a result of such notice, the said person should submit to that compulsion, and then only the arrest is consummated.

57. The only reason why we have delineated the procedure followed in cases where a person already in custody is required to be arrested in relation to a different offence is to negate the reasoning of the Rajasthan, Delhi and Allahabad High Courts that once in custody, it is not possible to re-arrest a person in relation to a different offence. When a person in custody is confronted with a P.T. Warrant obtained in relation to a different offence, such a person has no choice but to submit to the custody of the police officer who has obtained the P.T. Warrant. Thus, in such a scenario, although there is no confinement to custody by touch, yet there is submission to the custody by the accused based on the action of the police officer in showing the P.T. Warrant to the accused. Thereafter, on production of the accused before the jurisdictional Magistrate, like in the case of arrest of a free person who is not in custody, the accused can either be remanded to police or judicial custody, or he may be enlarged on bail and sent back to the custody in the F.I.R.st offence. A number of decisions have held that although Section 267 of the Cr.P.C. cannot be invoked to enable production of the accused before the investigating agency, yet it can undoubtedly be invoked to require production of the accused before the jurisdictional Magistrate, who can thereafter remand him to the custody of the investigating agency. Such an interpretation of the provision would give true effect to the words “other proceedings” as they appear in the text of Section 267 of the Cr.P.C., which cannot be construed to exclude proceedings at the stage of investigation. [See: C. Natesan v. State of Tamil Nadu and Others, 1998 SCC OnLine Mad 931; Ranjeet Singh v. State of Uttar Pradesh, 1995 Cri LJ 3505; State of Maharashtra v. Yadav Kohachade, 2000 Cri LJ 959]”

13. Learned Senior Counsel further relied upon the judgment of the Hon’ble Supreme Court in **Arvind Kejriwal vs. Central Bureau of Investigation** (supra 5), wherein, at paragraphs 22 and 31, it was held as follows:

“22. Contrarily, if the Appellant’s contention is taken to its logical conclusion, it could lead to detrimental consequences. For instance, serving a notice 14 | P a g e upon an undertrial in jail through the Jail Superintendent, without informing the court that placed them in judicial custody, would effectively enable the police to arrest such individuals in a new case without the court’s knowledge. This could result in a misuse of police authority and a violation of the Constitutional and procedural rights afforded to undertrials. Alternatively, when the court’s permission is sought, it ensures the application of judicial scrutiny to assess whether custodial interrogation is necessary and, if so, for what duration.

31. In this vein, the language of Section 41(1)(b) postulates as follows:

“41. When police may arrest without warrant.—

(1) Any police officer may without an order from a Magistrate and without a warrant, arrest any person—

.....

(b) against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists that he has committed a cognizable offence punishable with imprisonment for a term which may be less than seven years or which may extend to seven years whether with or without fine, if the following conditions are satisfied, namely:—

(i) the police officer has reason to believe on the basis of such complaint, information, or suspicion that such person has committed the said offence;

(ii) the police officer is satisfied that such arrest is necessary—

(a) to prevent such person from committing any further offence; or

(b) for proper investigation of the offence; or

(c) to prevent such person from causing the evidence of the offence to disappear or tampering with such evidence in any manner; or

(d) to prevent such person from making any 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 police officer; or

(e) as unless such person is arrested, his presence in the Court whenever required cannot be ensured, and the police officer shall record while making such arrest, his reasons in writing:

Provided that a police officer shall, in all cases where the arrest of a person is not required under the provisions of this sub-section, record the reasons in writing for not making the arrest.

.....”

14. Learned Senior Counsel further relied upon the judgment of the Calcutta High Court in ***In Re:Sujay Krishna Bhadra***¹¹, wherein, at paragraphs 8 and 15 to 17, it was held as follows:

“8. Issue which stems from the aforesaid submissions is as follows :-

Does service of the production warrant upon a person in custody amount to arrest of the said person by the police officer and thereby deprive the said person of his right to apply for anticipatory bail?

15. The aforesaid enunciation make it amply clear when a production warrant is served upon the person in custody, the said person comes under the control and dominion of the police officer who seeks execution of the production warrant and for all practical purposes the said person submits to the custody of the said police officer. This amounts to arrest of the person in custody by police in execution of the production warrant in contradistinction to a formal / paper arrest which may precede a prayer to production warrant.

16. Referring to paragraph 60(iv) of the report it is argued since accused has not been produced before the jurisdictional court and prayer for police remand has not been allowed, the application for anticipatory bail is maintainable.

17. We are unable to read the ratio in Dhanraj Aswani (Supra) as proposed. Once the production warrant has been served upon the accused in custody through the Officer-in-charge of the correctional home, the accused submits to the custody of the police officer seeking to execute the production warrant and cannot be released from custody unless he is produced in Court or the production warrant is recalled in view of the report of the Officer-in-charge of the correctional home concerned citing reasons for its non-execution. This amounts to arrest by the police in execution of the production warrant akin to execution of warrant of arrest in respect of a free individual. It is not a formal or paper arrest which is envisaged prior to issuance of production warrant.”

15. Learned Senior Counsel further relied upon the judgment of the Delhi High Court in ***Vikas Chawla vs. State (NCT of Delhi)***¹², wherein, at paragraphs 53 to 55, it was held as follows:

¹¹ 2024 SCC OnLine Cal 11828

¹² 2025 SCC OnLine Del 1936

“53. Furthermore, this Bench has held in *Marfing Tamang vs. State (NCT of Delhi)*²⁰ that the requirement under section 50 Cr.P.C. of serving the grounds of arrest forthwith must be read to mean that the investigating officer/arresting officer must serve upon an arrestee the grounds of arrest simultaneously with the issuance, or as part, of the arrest memo.²¹ Furthermore, in *Marfing Tamang* this court has also expressed that serving the grounds of arrest in writing to an arrestee just sometime before the remand hearing cannot possibly be due or adequate compliance of the requirements set-out in section 50 Cr.P.C., since the purpose of serving the grounds of arrest in writing is to grant to an arrestee sufficient time to enable them to engage and confer with legal counsel, so as to grant to an arrestee a meaningful opportunity to resist his remand to police custody or judicial custody.²²

54. In any event, in the present case, even the remand application, a copy of which is stated to have been served upon the petitioner, did not contain any grounds of arrest, viz. any grounds specific to the 2025 SCC OnLine Del 548 *Marfing Tamang* at para 30.7 *Marfing Tamang* at para 36 petitioner which necessitated his arrest, which was in clear violation of the mandate of the Supreme Court in *Prabir Purkayastha*. Therefore, the grounds of arrest were never served upon the petitioner, at any stage, in any form, or in any document. This omission clearly vitiates the petitioner’s arrest.

55. It may be added that in *Vihaan Kumar vs. State of Haryana & Anr.*,²³ the Supreme Court has reiterated that when an arrestee alleges that grounds of arrest were not supplied to him, the burden to prove compliance of Article 22(1) of the Constitution of India is always on the investigating officer/agency. 24 In the present case, the investigating officer has failed to discharge that burden.”

16. Learned Senior Counsel further relied upon the judgment of the Gauhati High Court in ***Hemkholal Mate vs. NIA***¹³, wherein, at paragraphs 16 to 22, it was held as follows:

“16. Coming back to the facts of the instant case, the prosecution has been unable to show any notice under Section 50/50A CrPC given to the appellants at the time of their arrest on 29.01.2024. The prosecution has also not been able to show any notice under Section 50A CrPC pertaining to furnishing of grounds of arrest to family member of the arrested person or his nominated person. As far as the arrest memo is concerned, we find that the columns pertaining to signature of the arrestees is blank, though signatures of witnesses are available.

¹³ 2026 GAU AS 4310 DB

17. With regard to the grounds of arrest, it has been contended by the prosecution that the appellants were aware of the facts and circumstances of their arrest and hence, of the grounds, and this is proved by the fact that they had engaged learned counsels to represent them before the learned Trial Courts and that they had also filed bail applications.

18. We have perused the relevant portions of the case diary produced by the prosecution. We do not find any contemporaneous endorsements or noting in the case diary about furnishing of grounds of arrest to the accused/ arrestee and his family members/nominated persons at the time of their arrest on 29.01.2024. However, it is mentioned in the case diary with regard to the arrests that at the time of their arrests, the accused persons refused to put their signatures on the Arrest Memo. Further, it appears that the signatures of the witnesses were that of police officials of Moreh Police Station, though the accused petitioners were detained and arrested at Assam Rifles Camp which was located not at the same place.

19. It has been held in *Vihaan Kumar (supra)* in Para 31, that mentioning the grounds of arrest in the remand application is not a substitute for furnishing the grounds of arrest to the accused because such information is for the perusal of the Remand Court. For ready reference, the said paragraph may be reproduced herein below:

"31. A contention has been raised in the written argument that the grounds of arrest were incorporated in the remand report. This contention has been raised for the F.I.R.st time in written submissions before this Court. This is not pleaded in the reply filed before the High Court and this Court. The police submit a remand report before the learned Magistrate for seeking remand without serving a copy thereof to the arrestee. The reason is that the Police cannot divulge the details of the investigation to the accused till the final report is filed. Mentioning the grounds of arrest in the remand report is no compliance with the requirement of informing the arrestee of the grounds of arrest."

20. It follows from these principles that the constitutional mandate under Article 22(1) requires the grounds of arrest to be furnished to the arrested person and his relatives/nominated person. In our considered opinion, merely because the arrested accused persons choose to be represented by lawyers and prefer bail applications, that would not substitute for lack of or gross inadequacy in furnishing grounds of arrest.

21. Upon perusing the relevant materials as indicated above, and in the backdrop of the discussion in the preceding paragraphs we come to the considered opinion that at the time of arrest of the petitioners on 29.01.2024, the requirement of furnishing grounds of arrest under Section 50/50A Code of Criminal Procedure, 1973 were

violated and therefore, the mandate of Article 22(1) of the Constitution of India was not fulfilled in terms of the laws laid down in this regard by the Hon'ble Supreme Court in the decision of Prabir Purkayastha (supra), Vihaan Kumar (supra) and Mihir Rajesh Shah (supra), amongst others.

22. Accordingly, despite the serious nature of the offences and the concerns in this regard pointed out by the prosecution - the continued under trial detention of the petitioners has become untenable in terms of the aforesaid laws laid down by the Hon'ble Supreme Court and, therefore, they are required to be granted bail, subject, of course to suitable conditions."

17. Learned Senior Counsel further relied upon the judgment of the Hon'ble Supreme Court in **Binay Kumar Singh and another vs. State of Jharkhand and others**¹⁴, wherein, at paragraphs 5 to 13, it was held as follows:

"5. The thrust of the arguments of the learned Senior Counsels appearing for the petitioner is to the effect that the respondents authorities initially after having called upon petitioner No.1 to appear for inquiry and failing in their attempt to extract the confession to suit their convenience started filing one F.I.R. after the another in order to ensure that despite bail being granted not only by the trial court but also by this Court is not given its effect or in other words, petitioner No.1 would continue to languish behind the bars.

6. On the other hand, Mr. Mukul Rohatgi, learned Senior Counsel appearing for respondent No.1 – State would contend that in the two subsequent F.I.R.s, namely, F.I.R. No.20/2025 and F.I.R. No.458/2025 wherein petitioner No.1 himself has sought for grant of bail before the trial court and having suffered an order of dismissal as devised, this Writ Petition has arose to contend as though there is violation of fundamental right and invoking the extra-ordinary jurisdiction of this Court and same should not be astute by this Court. He would also vehemently contend that petitioner No.1 is having the remedy of seeking bail before the jurisdictional High Court as such the Writ Petition ought not to be entertained and it is liable to be dismissed. He would also elaborate his submission by contending that in the instant case, there has been large scale of irregularities under the Jharkhand Excise Policy also and though in the initial F.I.R. registered as F.I.R. No.9/2025, no role had been attributed to petitioner No.1. The fact remains that the preliminary inquiries revealed that petitioner Nos.1 and 2 had purchased the forest land and

¹⁴ 2026 SCC OnLine SC 208

got mutation done in connivance with the Government Officials and it is being a large scale illegalities, the custodial interrogation of petitioner No.1 would be warranted and as such he seeks for dismissal of the Writ Petition.

7. Having heard the learned counsels appearing for the parties, we are reminded of what the Chairman of the Constituent Assembly Dr. B.R. Ambedkar had said by moving the Constituent Assembly on Article 32 of the Constitution of India, he said that Article 32 of the Indian Constitution is deemed to be "heart and soul" of the Constitution as it empowers any citizen to directly approach the Supreme Court for the enforcement of fundamental rights. It enables the Court to issue Writs of Habeas Corpus, Mandamus, Quo Warranto, Prohibition and Certiorary and to rectify any other errors which is prima facie illegal.

8. This Court on many occasions have reiterated the said fundamental principle of Article 32 of the Constitution of India and it has been emphasized that this Court will not readily refuse to hear a petition under Article 32 of the Constitution of India if there is violation of the fundamental right is prima facie established, by keeping in mind the similar powers granted to the High Court under Article 226 of the Constitution of India. Keeping this the salutary principles in mind when we turn our attention to the facts on hand, we are inclined to accept the submission of learned counsels appearing for the petitioners in the facts and circumstances obtained and revealed in the instant case and for the reasons enumerated hereinbelow.

9. At the outset, it requires to be noticed that petitioner No.1 was called for by the ACB Ranchi in F.I.R. No.9/2025 for the purposes of investigation. While taking up the investigation and on the same day, F.I.R. No.11/2025 came to be registered by the ACP Hazaribagh for the offences punishable referred to hereinsupra, namely, pertaining to alleged mutation of forest land in the name of petitioner Nos.1 and 2 in the year 2010 with alleged connivance of the Government Officials. Though, it is very intriguing to note that the mutation entry having taken place in the year 2010 with the approval of hierarchy of Revenue Officials yet for fifteen long years, they did not pursue the matter and only in the year 2025, the said F.I.R. has been registered. We do not propose to go into the correctness or otherwise of the said registration of the F.I.R. at this stage as it is likely to prejudice the rights of the parties. We leave at it.

10. This Court while entertaining the prayer for grant of bail in Special Leave Petition (Criminal) No.20248/2025 whereunder, bail which came to be refused by the Jharkhand High Court in B.A. No.10499/2025 had granted interim bail on 17.12.2025. It is rather intriguing and aghast, we notice that while submissions were being made before this Court on 17.12.2025, there was not even a whisper with regard to F.I.R. No.20/2025 or F.I.R. No.458/2025.

11. Mr. Mukul Rohatgi, learned Senior Counsel appearing for respondent No.1 – State though would draw the attention of this Court to the counter- affidavit filed by the State to buttress his argument that it had been brought to the notice of this Court of said F.I.R.s having been registered, it is to be noticed that the said counter-affidavit was filed on 19.01.2026 and as such the subsequent or succeeding F.I.R.s registered against the petitioners prima facie seems to be to ensure that petitioner No.1 is kept in continued custody despite the order of bail granted by this Court and to trunk it to the said order. Even otherwise, the alleged non-cooperation of the petitioners with the investigation is to be considered with a pinch of salt. He say so for the simple reason that cooperation of the accused in the investigation does not necessarily mean and include that the accused would be rendering the confession to suit the convenience of the prosecution.

12. In the instant case, this Court is fully satisfied the successive registration of F.I.R.s was to ensure to keep petitioner No.1 within the custody and we are also fortified by the fact that on grant of bail by this Court on 17.12.2025, petitioner No.1 has been remanded to custodial interrogation by order dated 19.12.2025 passed by the jurisdictional Magistrate in F.I.R. No.458/2025 and again further remand was granted for seven days as against the prayer of fourteen days by the order dated 20.12.2025 in F.I.R. No.20/2025 by the jurisdictional Magistrate. These continued acts and conduct of the prosecution would clearly establish that the respondents have consciously ensure that petitioner No.1 is kept in custody.

13. For these cumulative reasons, we are of the considered view that petitioner No.1 is entitled to be released forthwith on bail in F.I.R. No.20/2025 registered on 24.11.2025 and F.I.R. No.458/2025 registered on 26.11.2025 and he not being an accused in F.I.R. No.9/2025 registered on 20.05.2025 for which he has already been granted anticipatory bail by the jurisdictional Court, we do not propose to pass any orders in that regard. Since petitioner No.2 has not yet been arrested, we make it clear that no coercive steps shall be taken against her subject to the condition that she shall cooperate with the investigation. Accordingly, the Writ Petition is allowed. Rule made absolute.”

18. Learned Senior Counsel further relied upon the judgment of the Delhi High Court in **Directorate of Revenue Intelligence vs. Kiran Verma and another**¹⁵, wherein, at paragraphs 7 and 20, it was held as follows:

“7. The Order dated 31.01.2018 granting Anticipatory Bail to the Respondents is challenged on the grounds that the offence involved

¹⁵ 2025 SCC OnLine Del 3045

was of conspiracy, wherein 57 Kg gold had been smuggled. The order granting Anticipatory Bail is bad in law as well as on facts as it was not considered that the remaining 50 Kg of gold is yet to be recovered. Furthermore, the Anticipatory Bail Application itself was not maintainable and premature. The matter was at the crucial stage of enquiry. The arrest of the Respondents herein was not even proposed by the Competent Authority. Unless the Petitioners were able to establish that they were being unnecessarily harassed by the Investigating Agency, there was no case for grant of Anticipatory Bail. Moreover, number of judgments had been relied upon before learned ASJ, which do not find mention in the Order.

20. Merely because the DRI stated that they had no intention to arrest the Respondents, was not sufficient to allay their apprehension of arrest since they were being served with Notices for joining the inquiry.”

19. Learned Senior Counsel further relied upon the judgment of the Hon’ble Supreme Court in **Radhika Agarwal vs. Union of India and others** (supra 7), wherein, at paragraphs 35 to 40 and 86, it was held as follows:

“35. Arvind Kejriwal (supra) also holds that the courts can judicially review the legality of arrest. This power of judicial review is inherent in Section 19 as the legislature has prescribed safeguards to prevent misuse. After all, arrests cannot be made arbitrarily on the whims and fancies of the authorities. This judicial review is permissible both before and after criminal proceedings or prosecution complaints are filed.

36. On the nature of “material” examined by the DoE, Arvind Kejriwal (supra) states that such “material” must be admissible before a court of law. This is because the designated officer is required to arrive at a conclusion of guilt based on the “material” examined and such guilt can only be based on admissible evidence. The relevant portion reads:

“47. DoE has drawn our attention to the use of the expression ‘material in possession’ in Section 19(1) of the PML Act instead of ‘evidence in possession’. Though etymologically correct, this argument overlooks the requirement that the designated officer should and must, based on the material, reach and form an opinion that the arrestee is guilty of the offence under the PML Act. Guilt can only be established on admissible evidence to be led before the court, and cannot be based on inadmissible evidence. While there is an element of hypothesis, as oral evidence has not been led and the documents are to be proven, the decision to arrest should be rational, fair and as per law. Power to arrest under Section 19(1) is not for the purpose of investigation. Arrest can and should wait, and the power in terms of Section 19(1) of the PML Act can be exercised

only when the material with the designated officer enables them to form an opinion, by recording reasons in writing that the arrestee is guilty.”

37. The investigating officer is also required to look at the whole material and cannot ignore material that exonerates the arrestee. A wrong application of law or arbitrary exercise of duty by the designated officer can lead to illegality in the process. The court can exercise judicial review to strike down such a decision. Referring to errors in the decision-making process, Arvind Kejriwal (*supra*) records how such errors can vitiate the judgment or decision of the statutory authority. The relevant portion reads:

“67. Error in decision making process can vitiate a judgment/decision of a statutory authority. In terms of Section 19(1) of the PML Act, a decision-making error can lead to the arrest and deprivation of liberty of the arrestee. Though not akin to preventive detention cases, but given the nature of the order entailing arrest - it requires careful scrutiny and consideration. Yet, at the same time, the courts should not go into the correctness of the opinion formed or sufficiency of the material on which it is based, albeit if a vital ground or fact is not considered or the ground or reason is found to be non-existent, the order of detention may fail.

68. In *Centre for PIL v. Union of India*, this Court observed that in judicial review, it is permissible to examine the question of illegality in the decision-making process. A decision which is vitiated by extraneous considerations can be set aside. Similarly, in *Uttamrao Shivdas Jankhar v. Ranjitsinh Vijaysinh Mohite Patil*, elaborating on the expression “decision making process”, this Court held that judicial interference is warranted when there is no proper application of mind on the requirements of law. An error in the decision-making process crops up where the authority fails to consider a relevant factor and considers irrelevant factors to decide the issue.”

38. On the extent of judicial review available with the court viz. “reasons to believe”, it was held that judicial review cannot amount to a merits review. The exercise is confined to ascertain if, based upon “material” in possession of the DoE, the DoE had “reasons to believe” that the arrestee is guilty of an offence under the PML Act. The relevant portion reads:

“44. We now turn to the scope and ambit of judicial review to be exercised by the court. Judicial review does not amount to a mini-trial or a merit review. The exercise is confined to ascertain whether the “reasons to believe” are based upon material which ‘establish’ that the arrestee is guilty of an offence under the PML Act. The exercise is to ensure that the DoE has acted in accordance with the law. The courts scrutinize the validity of the arrest in exercise of power of judicial review. If adequate and due care is taken by the DoE to ensure that the “reasons to believe” justify the

arrest in terms of Section 19(1) of the PML Act, the exercise of power of judicial review would not be a cause of concern. Doubts will only arise when the reasons recorded by the authority are not clear and lucid, and therefore a deeper and in-depth scrutiny is required. Arrest, after all, cannot be made arbitrarily and on the whims and fancies of the authorities. It is to be made on the basis of the valid “reasons to believe”, meeting the parameters prescribed by the law. In fact, not to undertake judicial scrutiny when justified and necessary, would be an abdication and failure of constitutional and statutory duty placed on the court to ensure that the fundamental right to life and liberty is not violated.”

39. On the different facets of judicial review available with the Court while examining the legality of arrests, Arvind Kejriwal (supra) states:

“65. ...We have already referred to the contours of judicial review expounded in Padam Narain Aggarwal (supra), and Dr. Pratap Singh (supra). We have also referred to the principles of Wednesbury reasonableness.

66. In Amarendra Kumar Pandey v. Union of India, this Court elaborated on the different facets of judicial review regarding subjective opinion or satisfaction. It was held that the courts should not inquire into correctness or otherwise of the facts found except where the facts found existing are not supported by any evidence at all or the finding is so perverse that no reasonable man would say that the facts and circumstances exist. Secondly, it is permissible to inquire whether the facts and circumstances so found to exist have a reasonable nexus with the purpose for which the power is to be exercised. In simple words, the conclusion has to logically flow from the facts. If it does not, then the courts can interfere, treating the lack of reasonable nexus as an error of law. Thirdly, jurisdictional review permits review of errors of law when constitutional or statutory terms, essential for the exercise of power, are misapplied or misconstrued. Fourthly, judicial review is permissible to check improper exercise of power. For instance, it is an improper exercise of power when the power is not exercised genuinely, but rather to avoid embarrassment or for wreaking personal vengeance. Lastly, judicial review can be exercised when the authorities have not considered grounds which are relevant or has accounted for grounds which are not relevant.”

40. Arvind Kejriwal (supra) also refers to the doctrine of proportionality, which has come to permeate constitutional law when questions of life and liberty are involved.⁴⁵ Courts may employ this four-part doctrinal test in their examination of the legality of arrest as arrest often involves contestation between the fundamental right to life and liberty of individuals against the public purpose of punishing the guilty.

86. Whenever the jurisdiction of the High Court or the Supreme Court is invoked under Article 226 or Article 32 as the case may be, challenging the punitive or preventive detention, the Court is expected to take into consideration the nature of right infringed, the scope and object of the legislation under which such arrest or detention is made, the need to balance the rights and interests of the individual as against those of the society, the circumstances under which and the persons by whom the jurisdiction is invoked etc. In exercise of their discretionary jurisdiction, the High Courts and the Supreme Court do not, as courts of appeal or revision, correct errors of law or of facts. The judicial intervention is warranted only in exceptional circumstances when the arrest is *prima facie* found to be *malafide*; or is prompted by extraneous circumstances, or is made in contravention of or in breach of provisions of the concerned statute; or when the authority acting under the concerned statute does not have the requisite authority etc.”

20. Learned Senior Counsel further relied upon the judgment of the Hon’ble Supreme Court in **Sabita Paul vs. State of West Bengal**¹⁶, wherein, at paragraph 9, it was held as follows:

“9. Grant of bail based on parity is not a claim of right. The same is well- established. While applying this principle of parity, the Court is required, as was recently observed in *Tarun Kumar v. Assistant Director Directorate of Enforcement*, the Court is required to focus on the role attached to the accused whose application is under consideration. In the facts, the prime accused who is alleged to have initially conducted the blackmail, whom the complainant is said to have paid ‘hush-money’, has been granted bail and the role played by the instant appellant was only to further the alleged acts of her son. She has not acted independently, to further aggravate the situation.”

21. Learned Senior Counsel further relied upon the judgment of the Allahabad High Court in **Rakesh vs. State of U.P. and others**¹⁷, wherein, at paragraphs 17 to 27 and 35, it was held as follows:

“17. There has been considerable debate about the right guaranteed under Article 22(1) of the Constitution for reason that while the right under Article 22(1) of the Constitution is indeed a fundamental right of the foremost importance, as it safeguards the liberty of an individual from deprivation by State Authority, the Police and police like forces empowered to arrest persons in connection with

¹⁶ 2024 SCC OnLine SC 374

¹⁷ Crl.Misc.W.P.No.25626 of 2025, dated 27.07.2026

crimes, they are suspected or accused to have committed, have traditionally paid scant regard to the requirements of Article 22(1). The man in uniform, by his training, duties and sometimes compulsion, thinks small of rights, including the fundamental rights. He looks sometimes with his scorn at judgments enforcing these rights and enumerating principles that seeks to realize the fundamental right to liberty. In the nature of things, the policeman, who sees every suspect and accused as guilty, is almost inclined to think that he understands the truth of the matter better than anyone, and, most certainly than a Judge sitting in a Court far away from the scene or the transaction of crime. The policemen never understands that there are always two sides to a fact, a thing or an allegation regarding an offence and he is per compulsion partisan looking at one side alone. The training, bereft of the knowledge of the law, deprives the policeman of the forensic eye to understand legal implications. The result is that the effort by Courts to crystallize the rights of an individual, who is suspect or accused of an offence, both under the statute and the Constitution, remain at the centre-stage of a tug of war between the holdings of the Court and dogged breaches by the Police. Since Courts, depending on facts, at times have to yield ground and carve a niche to make place for an exception to the rule they have developed, the Police think that they were right and they must go ahead the way they have done for centuries in this country, irrespective of pronouncements of Superior Courts declaring the effect of fundamental rights and statutory safeguards regarding an individuals liberty.

18. The law regarding the necessity to furnish grounds of arrest came to be recently emphasized in view of Article 22(1) of the Constitution, not to say that it was earlier not emphasized, by the Supreme Court in **Pankaj Bansal v. Union of India**, (2024) 7 SCC 576. Apparently, as the facts of the case in **Pankaj Bansal** (supra) would show the importance of the right to be informed of the grounds of arrest were highlighted because of onerous conditions for seeking bail involved there, as the arrest was in connection with a case under the Prevention of Money Laundering Act, 2002 (for short, the PMLA). Also Section 19 of the PMLA obliges the authorized officer to record reasons for his belief that a person is guilty and needs to be arrested. Nevertheless, what was expounded was the requirement of communicating the grounds of arrest to the accused at the time of his/her arrest or as soon as may be, as required by Article 22(1) of the Constitution. In **Pankaj Bansal**, it was observed by the Supreme Court:

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, F.I.R.stly, 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. F.I.R.stly, 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.

19. The next authority, that has bearing on the point, is **Prabir Purkayastha v. State (NCT of Delhi), (2024) 8 SCC 254**. This was a

case under the Unlawful Activities (Prevention) Act, 1967 (for short, the UAPA). The challenge was to the arrest and remand without furnishing the grounds of arrest, as required by Article 22(1) of the Constitution. In **Prabir Purkayastha** (supra), it was held by the Supreme Court:

18. We may note that the modified application of Section 167CrPC is also common to both the statutes. Thus, we have no hesitation in holding that the interpretation of statutory mandate laid down by this Court in *Pankaj Bansal* [*Pankaj Bansal v. Union of India*, (2024) 7 SCC 576] on the aspect of informing the arrested person the grounds of arrest in writing has to be applied *pari passu* to a person arrested in a case registered under the provisions of the UAPA.

19. Resultantly, there is no doubt in the mind of the court that any person arrested for allegation of commission of offences under the provisions of UAPA or for that matter any other offence(s) has a fundamental and a statutory right to be informed about the grounds of arrest in writing and a copy of such written grounds of arrest have to be furnished to the arrested person as a matter of course and without exception at the earliest. The purpose of informing to the arrested person the grounds of arrest is salutary and sacrosanct inasmuch as this information would be the only effective means for the arrested person to consult his advocate; oppose the police custody remand and to seek bail. Any other interpretation would tantamount to diluting the sanctity of the fundamental right guaranteed under Article 22(1) of the Constitution of India.

20. The right to life and personal liberty is the most sacrosanct fundamental right guaranteed under Articles 20, 21 and 22 of the Constitution of India. Any attempt to encroach upon this fundamental right has been frowned upon by this Court in a catena of decisions. In this regard, we may refer to the following observations made by this Court in *Roy V.D. v. State of Kerala* [*Roy V.D. v. State of Kerala*, (2000) 8 SCC 590 : 2001 SCC (Cri) 42] : (SCC p. 593, para 7)

7. The life and liberty of an individual is so sacrosanct that it cannot be allowed to be interfered with except under the authority of law. It is a principle which has been recognised and applied in all civilised countries. In our Constitution Article 21 guarantees protection of life and personal liberty not only to citizens of India but also to aliens.

Thus, any attempt to violate such fundamental right, guaranteed by Articles 20, 21 and 22 of the Constitution of India, would have to be dealt with strictly.

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.

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 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.

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 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.

37. The interpretation given by the learned Single Judge that the grounds of arrest were conveyed to the accused in writing vide the arrest memo is unacceptable on the face of the record because the arrest memo does not indicate the grounds of arrest being incorporated in the said document. Column 9 of

the arrest memo (Annexure P-7) which is being reproduced hereinbelow simply sets out the reasons for arrest which are formal in nature and can be generally attributed to any person arrested on accusation of an offence whereas the grounds of arrest would be personal in nature and specific to the person arrested.

9. Reason for arrest

(a) Prevent the accused person from committing any further offence.

(b) For proper investigation of the offence.

(c) To prevent the accused person from causing the evidence of the offence to disappear or tampering with such evidence in any manner.

(d) To prevent such person from making any 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 police officer.

(e) As unless such person is arrested, his presence in the court whenever required cannot be ensured.

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 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.

20. The next authority of significance is **Vihaan Kumar v. State of Haryana, (2025) 5 SCC 799**. The facts in **Vihaan Kumar** (supra), which was a case of arrest in connection with offences under the Penal Code, unlike the special statutes, with onerous conditions of bail involved in **Pankaj Bansal** and **Prabir Purkayastha**, can best be

recapitulated in the words of their Lordships as these appear from the report in **Vihaan Kumar**. These read:

Factual aspect

2. A reference to a few factual aspects would be necessary. The challenge in this appeal is to the judgment and order dated 30-8-2024 [Vihaan Kumar v. State of Haryana, 2024 SCC OnLine P&H 15495] passed by the learned Single Judge of the Punjab and Haryana High Court. The appellant was arrested in connection with F.I.R.st Information Report No. 121 of 2023 dated 25-3-2023 registered for the offences under Sections 409, 420, 467, 468 and 471 read with Section 120-B of the Penal Code, 1860 (for short IPC). According to the appellant's case, he was arrested on 10-6-2024 at about 10.30 a.m. at his office premises on the 3rd-5th floor of HUDA City Centre, Gurugram, Haryana. He was taken to DLF Police Station, Sector 29, Gurugram. He was allegedly produced before the learned Judicial Magistrate (in charge) at Gurgaon on 11-6-2024 at 3.30 p.m. Therefore, there was a violation of Article 22(2) of the Constitution and Section 57 of the Code of Criminal Procedure Code, 1973 (for short CrPC). The allegation is that neither in the remand report nor in the order dated 11-6-2024 passed by the learned Magistrate was the time of arrest mentioned. The F.I.R. was registered at the instance of the second respondent. We may note here that, according to the case of the F.I.R.st respondent, the appellant was arrested on 10-6-2024 at 6.00 p.m. Therefore, compliance with the requirement of Article 22(2) was made.

3. There is another very serious factual aspect. The order dated 4-10-2024 [Vihaan Kumar v. State of Haryana, 2024 SCC OnLine SC 4701] passed by this Court records that after the appellant was arrested, he was hospitalised in Pgims, Rohtak. The learned counsel appearing for the appellant produced photographs which showed that while he was admitted to the hospital, he was handcuffed and chained to the hospital bed. Therefore, a notice was issued on 4-10-2024 [Vihaan Kumar v. State of Haryana, 2024 SCC OnLine SC 4701] to the Medical Superintendent of Pgims, calling upon him to file an affidavit stating whether the appellant was handcuffed and chained to the hospital bed. The order dated 21-10-2024 [Vihaan Kumar v. State of Haryana, 2024 SCC OnLine SC 4702] records the admission of the Medical Superintendent of Pgims that when the appellant was admitted to the hospital, he was handcuffed and chained to the bed. On this aspect, we may note that an affidavit was filed on 24-10-2024 by Shri Abhimanyu, HPS, Assistant Commissioner of Police, EOW I and II, Gurugram, Haryana. The affidavit states that the officials who were deployed to escort the appellant to Pgims have been suspended, and a departmental enquiry was ordered against them by the Deputy Commissioner of Police on 23-10-2024.

21. In **Vihaan Kumar**, stipulating the consequences of non-furnishing of grounds of arrest and its effect on the validity thereof, it was held:

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) 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 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 F.I.R.st 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 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.

23. In the present case, the F.I.R.st 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 F.I.R.st 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 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 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.

22. At this stage, we must notice an unreported decision of the Supreme Court in **State of Madhya Pradesh and others v. Kusum Sahu in Criminal Appeal No. 4710 of 2025**, decided on 03.11.2025, to which our attention was drawn by the learned A.G.A. The facts in **Kusum Sahu** (supra) would show that the accused there, one Jibrakhan Lal Sahu, was arrested in connection with Crime No.157 of 2021, under Sections 409, 420 IPC on 12.12.2023. A charge sheet was filed on 09.02.2024. He made a bail application before the High Court, which was dismissed as withdrawn on 23.01.2024. He then filed a second bail application, which was dismissed by the High Court on 05.03.2024. A third bail application filed by the accused was rejected on 14.03.2024. A fourth bail application was also filed, which was dismissed by the High Court on 29.05.2024. The Supreme Court has remarked that the facts show that within a period of four months, the accused preferred four bail applications before the High Court and all failed. The accused's daughter then filed a writ petition before the High Court, seeking grant of a writ of habeas corpus to seek the accused's release from custody, which was termed as unlawful detention by the State. This writ petition was allowed by the High Court, which brought the State of Madhya Pradesh in appeal to the Supreme Court by special leave. It was in this context of these facts that it was held by the Supreme Court in **Kusum Sahu**:

16. The facts of the case, as noticed above, in brief, indicate that the manner in which the case has been dealt with really shocks the conscience of this Court. It is a case where accused was arrested and filed four bail applications before the

High Court, which were rejected. Despite this, in a habeas corpus petition filed by his daughter, his custody has been held to be unlawful and he was directed to be released while examining the case on merits as if the Court was hearing appeal against the order rejecting the bail application. The process followed is totally unknown to law. Lest the High Court starts following the impugned order as a precedent to scuttle the due process of law, to nip the evil in the bud, we hold that custody of an accused in a criminal case registered against him cannot be held to be unlawful especially when his bail applications have been dismissed. In the case at hand, it is not disputed that Jibrakhan Lal Sahu, father of the respondent herein, is an accused in a criminal case registered against him in which chargesheet has also been filed.

23. The last authority in point is **Mihir Rajesh Shah v. State of Maharashtra, (2026) 1 SCC 500**. The facts, giving rise to the issues involved in **Mihir Rajesh Shah** (supra), can best be noticed from the words of their Lordships as these appear in the report. These read:

2. The main issue as raised by the appellants in these appeals is the violation of the appellants' right under Article 22(1) of the Constitution of India and Section 50 of the Criminal Procedure Code, 1973 (CrPC), now Section 47 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS 2023) as the appellants assert that they were not informed of grounds of their arrest in writing.

3. For convenience, Criminal Appeal No. 2195 of 2025 is taken as the lead case. The facts in a nutshell are that on 7-7-2024, a white BMW car, driven at a high speed, collided violently with the complainant's scooter from behind. The force of the impact propelled both the complainant and his wife onto the car's bonnet, whereby the complainant was thrown to the side, and tragically, his wife became ensnared between the vehicle's front left wheel and bumper. Notwithstanding this grievous state, the driver, alleged to be Mihir Rajesh Shah, the appellant herein, persisted in his reckless flight, dragging the victim, thereafter absconding without rendering assistance or reporting the incident to authorities. The victim succumbed to the severe injuries sustained in this collision, as medically conF.I.R.med, while the complainant sustained minor injuries.

4. F.I.R. No. 378/2024 was registered at Worli Police Station under the relevant provisions of Bharatiya Nyaya Sanhita, 2023 (BNS 2023), and the Motor Vehicles Act, 1988. Initial investigative steps included the identification of the offending vehicle through CCTV footage, and the discovery near Kalanagar Junction Flyover of the damaged BMW alongside Rajrishi Rajendra Singh Bindawat and Rajesh Shah, father of Mihir Rajesh Shah (hereinafter the appellant). Arrests soon followed, with co-accused Rajrishi Rajendra Singh

Bindawat being taken into custody on the same day and Mihir Rajesh Shah being apprehended on 9-7-2024. The evidence collected F.I.R.mly established the appellant as the driver at the material time, including CCTV footage capturing his presence at the wheel, consumption of alcohol shortly before the incident, an attempt to alter his appearance, and use of a Fastag registered in his name, amongst other incriminating particulars.

5. The remand proceedings saw the appellant being produced before the Judicial Magistrate F.I.R.st Class with initial police custody extending subsequently into judicial custody; a course contested on the grounds that the grounds of arrest were not furnished in writing as mandated by Article 22(1) of the Constitution of India and Section 47 of BNSS 2023 equivalent to Section 50CrPC.

24. Two questions were formulated by their Lordships of the Supreme Court for consideration, that read:

7. This Court, while considering the special leave petition recorded that the Court is not inclined to entertain the petition on its merits and issued notice only to the extent of considering the question of law/legal position. In connected cases, being Criminal Appeal No. 2189 of 2025 and Criminal Appeal No. 2190 of 2025, this Court vide order dated 22-4-2025 [Mihir Rajesh Shah v. State of Maharashtra, 2025 SCC OnLine SC 2531], has granted ad interim relief and directed the appellants to be released on bail during pendency of these appeals. In Special Leave Petition (Criminal) No. 8704 of 2025 vide order dated 2-6-2025 [Ajit Atmaram Apraj v. State of Maharashtra, 2025 SCC OnLine SC 2532] , ad interim relief was also granted to the petitioner therein directing his release on bail. On 13-12-2024 [Mihir Rajesh Shah v. State of Maharashtra, 2024 SCC OnLine SC 5780] , Mr Shri Singh, learned counsel, who was present in the Court was appointed as Amicus Curiae to assist this Court in this matter.

25. It was held in Mihir Rajesh Shah:

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.

47. Another aspect, which flows from the above discussion and merits consideration is the mode of informing grounds of arrest to the arrested person to effectively serve the intended purpose of Article 22(1) of the Constitution of India. This Court, as observed above, had held that it would not be ideal to read out the grounds of arrest to a person who is arrested, as he may not be in the frame of mind to remember the contents of grounds that are read out to him. The Court underscored that if the authorities are permitted to read out the grounds and claim compliance with the constitutional and statutory mandate, the very purpose of the constitutional protection would be nugatory.

48. As mentioned above, it has been held while dealing with the mode of communicating the grounds of arrest so as to serve the intended purpose of the constitutional mandate that the language used in Articles 22(1) and 22(5) regarding communication of the grounds is identical and therefore the interpretation of Article 22(5) shall ipso facto apply to Article 22(1). The grounds of arrest must be furnished in writing, in order to attend the true intended purpose of Article 22(1). Reference at this stage may be made to the Constitution Bench judgment of this Court in *Harikisan* [*Harikisan v. State of Maharashtra*, 1962 SCC OnLine SC 117] wherein while dealing

with Article 22(5) of the Constitution of India in the context of the right of a detainee to be made aware of the grounds of arrest, it has been held that the same should be furnished in a language which he can understand and in a script which he can read, if he is a literate person.

49. The relevant portion thereof reads thus: (Harikisan case [Harikisan v. State of Maharashtra, 1962 SCC OnLine SC 117] , SCC OnLine SC paras 7-8)

7. It has not been found by the High Court that the appellant knew enough English to understand the grounds of his detention. The High Court has only stated that he has studied up to 7th Hindi standard, which is equivalent to 3rd English standard. The High Court negated the contention raised on behalf of the appellant not on the ground that the appellant knew enough English, to understand the case against him, but on the ground, as already indicated, that the service upon him of the order and grounds of detention in English was enough communication to him to enable him to make his representation. We must, therefore, proceed on the assumption that the appellant did not know enough English to understand the grounds, contained in many paragraphs, as indicated above, in order to be able effectively to make his representation against the order of detention. The learned Attorney-General has tried to answer this contention in several ways. He has first contended that when the Constitution speaks of communicating the grounds of detention to the detainee, it means communication in the official language, which continues to be English; secondly, the communication need not be in writing and the translation and explanation in Hindi offered by the Inspector of Police, while serving the order of detention and the grounds would be enough compliance with the requirements of the law and the Constitution; and thirdly, that it was not necessary in the circumstances of the case to supply the grounds in Hindi. In our opinion, this was not sufficient compliance in this case with the requirements of the Constitution, as laid down in clause (5) of Article 22. To a person, who is not conversant with the English language, service of the order and the grounds of detention in English, with their oral translation or explanation by the police officer serving them does not fulfil the requirements of the law. As has been explained by this Court in *State of Bombay v. Atma Ram Sridhar Vaidya* [State of Bombay v. Atma Ram Sridhar Vaidya, 1951 SCC 43 : 1951 SCR 167] clause (5) of Article 22 requires that the grounds of his detention should be made available to the detainee 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 detainee 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 detainee 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 detainee 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 oral translation or explanation given by the police officer serving those on the detainee would not amount to communicating the grounds. Communication, in this context, must mean bringing home to the detainee effective knowledge of the facts and circumstances on which the order of detention is based.

8. We do not agree with the High Court in its conclusion that in every case communication of the grounds of detention in English, so long as it continues to be the official language of the State, is enough compliance with the requirements of the Constitution. If the detained person is conversant with the English language, he will naturally be in a position to understand the gravamen of the charge against him and the facts and circumstances on which the order of detention is based. But to a person who is not so conversant with the English language, in order to satisfy the requirements of the Constitution, the detainee must be given the grounds in a language which he can understand, and in a script which he can read, if he is a literate person.

*50. Further, the above judgment has been reiterated and followed by 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 : (1982) 52 Comp Cas 543] wherein it has been reafF.I.R.med that grounds of detention must be communicated to the detenu in writing in a language which he understands.*

51. On perusal of the above two judgments, it turns out that mere communication of the grounds in a language not understood by the person arrested does not fulfil the constitutional mandate under Article 22 of the Constitution of India. The failure to supply such grounds in a language understood by the arrestee renders the constitutional safeguards illusory and infringes the personal liberty of the person as guaranteed under Articles 21 and 22 of the Constitution of India. The objective of the constitutional mandate is to place the person in a position to comprehend the basis of the allegations levelled against him and it can only be realised when the grounds are furnished in a language understood by the person, thereby enabling him to exercise his rights effectively.

52. From the catena of decisions discussed above, the legal position which emerges is that the constitutional mandate provided in Article 22(1) of the Constitution of India is not a mere procedural formality but a constitutional safeguard in the form of fundamental rights. The intent and purpose of the constitutional mandate is to prepare the arrested person to

defend himself. If the provisions of Article 22(1) are read in a restrictive manner, its intended purpose of securing personal liberty would not be achieved rather curtailed and put to disuse.

53. The mode of communicating the grounds of arrest must be such that it effectively serves the intended purpose as envisioned under the Constitution of India which is to enable the arrested person to get legal counsel, oppose the remand and effectively defend himself by exercising his rights and safeguards as provided in law. The grounds of arrest must be provided to the arrestee in such a manner that sufficient knowledge of facts constituting grounds is imparted and communicated to the arrested person effectively in a language which he/she understands. The mode of communication ought to be such that it must achieve the intended purpose of the constitutional safeguard. The objective of the constitutional mandate would not be fulfilled by mere reading out the grounds to the arrested person, such an approach would be antithesis to the purpose of Article 22(1).

54. There is no harm in providing the grounds of arrest in writing in the language the arrestee understands, this approach would not only fulfil the true intent of the constitutional mandate but will also be beneficial for the investigating agency to prove that the grounds of arrest were informed to the arrestee when a challenge is made to the arrest on the plea of non-furnishing of the grounds of arrest.

55. This Court is of the opinion that to achieve the intended objective of the constitutional mandate of Article 22(1) of the Constitution of India, the grounds of arrest must be informed to the arrested person in each and every case without exception and the mode of the communication of such grounds must be in writing in the language he understands.

56. It would not be out of context now to refer to an obligation which has been imposed on a person making arrest, as provided under Section 50-A read in relation to Section 50CrPC (now Sections 48 and 47 of BNSS 2023 respectively), to inform the arrestee of his right to indicate his relative, friend or such other person for the purpose of giving information with regard to his arrest. Simultaneously, a duty has also been cast on the person making arrest to forthwith thereafter inform of such arrest with reasons and the place where the arrested person is being held to the such indicated person. The police officer/person making any arrest shall make an entry of the fact as to who has been informed of such an arrest in a book to be kept in the police station. Further protection in this regard is reflected when a duty has been cast on the Magistrate to satisfy himself, when the arrestee is produced before him, that the above requirement stands complied with. This requirement is in addition to the rights of an arrestee to be made aware of the grounds of arrest.

58. It is by now settled that if the grounds of arrest are not furnished to the arrestee in writing, this non-compliance will result in breach of the constitutional and statutory safeguards hence rendering the arrest and remand illegal and the person will be entitled to be set at liberty. The statute is silent with regard to the mode, nature or the time and stage at which the grounds of arrest has to be communicated. Article 22 says as soon as may be which would obviously not mean prior to arrest but can be on arrest or thereafter. The indication is as early as it can be conveyed. There may be situations wherein it may not be practically possible to supply such grounds of arrest to the arrested person at the time of his arrest or immediately.

26. We must remark here that there are some features regarding safeguards attending the arrest of the accused, which have been given a more definitive shape in *Mihir Rajesh Shah*. It has been beyond cavil for sometime now that there is an obligation upon the Police or the other enforcement agencies arresting an accused in a crime or a suspect, to furnish the grounds of detention at the time of arrest, or as soon as may be. It has also been settled that if the grounds of arrest in the language understood by the accused are not furnished, the arrest would be rendered illegal, notwithstanding the filing of a charge sheet or a prosecution going ahead. The grounds of arrest, as distinguished from reasons of arrest, have already been the subject matter of pronouncement in *Prabir Purkayastha*. The principle that grounds of detention should be in writing has also been clearly propounded in *Prabir Purkayastha* and that the breach of this obligation on the part of the investigating agency would render the custody illegal. The principle that the mere fact that a charge sheet has been filed, would not validate the illegality emanating from non-communications of the grounds of arrest, is well crystallized in *Prabir Purkayastha*. These principles have been developed on the edifice of the earlier decisions governing the issue.

27. *Mihir Rajesh Shah* further crystallized the obligations of the Police or other investigating agency by saying that if the grounds are not furnished at the time of arrest, these have to be done as soon as may be, is a matter, which has to be confined to a precise time. Earlier what meant 'as soon as may be' was not defined with reference to a particular event or a calendar. Now, in *Mihir Rajesh Shah*, it has been held that if the grounds cannot be furnished at the time of arrest for any reason, this must be done within a reasonable time, and, in any case, at least two hours prior to production of the accused before the Magistrate for remand. The pegging down of time to two hours before remand proceedings is a principle laid down in *Mihir Rajesh Shah*. We notice that *Mihir Rajesh Shah*, on its own terms, makes the law there, applicable prospectively, that is to say, the future arrests. All arrests made after *Mihir Rajesh Shah* would have to abide by the further principles developed there. It has no retrospective application.

35. This is a classical case of a remand order made by the Judicial Magistrate, being rendered illegal due to the failure to ensure compliance with the requirements of Article 22(1) of the Constitution. In paragraph no. 25 of the report in **Vihaan Kumar**, the principle delineated is clear that when the arrested person is produced before a Magistrate, it is his duty to ascertain whether compliance with Article 22(1) has been made. If there is non-compliance, the arrest is rendered illegal and the accused cannot be remanded. A remand made without following the aforesaid procedure and ascertaining adherence to the mandate of Article 22(1) would be illegal and so also the ensuing custody.”

22. Learned Senior Counsel further relied upon the judgment of the Hon’ble Supreme Court in **State of Meghalaya vs. Sonam Raghuvanshi**¹⁸, wherein, at paragraph 11, it was held as follows:

“11. We find that the respondent is not entitled for bail, both on merits and on the grounds discussed by both the Courts. There is a fundamental difference between non-service of grounds of arrest and non-furnishing of adequate reasons thereunder. While the F.I.R.st category might vitiate the arrest, in the second category, one has to see the prejudice caused to the accused. In the facts of the instant case, it is not as if the respondent was not served with the grounds of arrest. Hence, the case of the respondent falls within the second category discussed above. The respondent has also not taken the said plea at the earliest point of time, having done so only in her 4th Bail Application before the trial court.”

23. The Hon’ble Supreme Court, while discussing as to the prejudice caused to the accused when non-furnishing of adequate reasons, categorically observed that fundamental difference between non-service of grounds of arrest and non-furnishing of adequate reasons thereunder. While the 1st category might vitiate the arrest, in the 2nd category, one has to see the prejudice caused to the accused.

24. Learned Senior Counsel, Mr.Nikhil Goel, would contend that non-furnishing of adequate reasons to the petitioner, the entire proceedings of arrest stands vitiated. He would place reliance upon the judgment of the

¹⁸ 2026 SCC OnLine SC 1392

Hon'ble Supreme Court in **Tsering Dolkar vs. Administrator, Union Territory of Delhi and others**¹⁹, wherein, at paragraph 12, it was held as follows:

“12. The learned Additional Solicitor-General relied upon the feature that the petitioner-wife knew both English and Tibetan languages and an effective representation as a fact had been made. There can be no two opinions that the requirement of law within the provisions of Article 22(5) of the Constitution is that the detenu has to be informed about the grounds of detention in a language which he understands. The fact that the detenu's wife knew the language in which the grounds were framed does not satisfy the legal requirement. Reliance was placed by the learned Additional Solicitor-General on a decision of this Court in Prakash Chandra Mehta v. Commr. & Secy., Govt. of Kerala in support of his contention that unless the detenu was able to establish prejudice on account of the fact that the grounds of detention and the documents accompanying the grounds were not in a language known to the detenu the order would not be vitiated. There is no clear indication of the test of prejudice being applied in that case. On the facts relevant before the court, a conclusion was reached that the detenu was merely feigning ignorance of English and on the footing that he knew English, the matter was disposed of. We must make it clear that the law as laid down by this Court clearly indicates that in the matter of preventive detention, the test is not one of prejudice but one of strict compliance with the provisions of the Act and when there is a failure to comply with those requirements it becomes difficult to sustain the order.”

25. In addition to the submissions made above, learned Senior Counsel would place reliance on the judgment of the High Court of Delhi in **Marfing Tamang vs. State (NCT of Delhi)**²⁰, wherein, at paragraph 33, it was held as follows:

“33. Furthermore, a perusal of order dated 18-5-2024, whereby the learned Magistrate was pleased to grant a 2-day police custody remand of the petitioner, shows that the learned Magistrate proceeded on the basis that communication of the grounds of arrest by the IO in writing to the petitioner at 4.40 p.m. on 18-5-2024 (through the petitioner's legal counsel) within 24 hours of his arrest, though after the remand application had been filed, was sufficient compliance with

¹⁹ (1987) 2 SCC 69

²⁰ 2025 SCC OnLine Del 548

the requirements of Section 50 Cr.P.C. since the remand order was passed later at 5.30 p.m., which afforded to the petitioner adequate time and opportunity to know the grounds for his arrest, to be able to resist the remand order."

26. Learned Senior Counsel would submit that, after taking note of the judgments of the Hon'ble Supreme Court, the Delhi High Court held that *"this was clearly an erroneous interpretation and application of the law by the Magistrate, since furnishing the grounds of arrest in writing just about an hour before the remand hearing in the present case, cannot possibly be due or adequate compliance of the requirements of Section 50 of the Criminal Procedure Code, 1973, which mandates that grounds of arrest must be communicated to an arrestee forthwith that is to say simultaneously and immediately upon the arrest of such person"*. He would emphasize that, in the present case also, which can be fortified through the counter that the grounds of arrest were furnished in the Court while the matter was taken up after 04:20 p.m. cannot be construed as an adequate compliance of requirements of Section 50 of Cr.P.C. He would submit that, as per the law declared by the Hon'ble Supreme Court, the arrest of the petitioner should be construed as 09:35 a.m., soon after the petitioner/accused was taken into custody from the jail authorities. Even more surprisingly, the petitioner/accused was taken to medical examination even before causing arrest.

27. Learned Senior Counsel has taken this Court to Section 53 of the BNSS, which reads as follows:

"53. Examination of arrested person by medical officer.

(1) When any person is arrested, he shall be examined by a medical officer in the service of the Central Government or a State Government, and in case the medical officer is not available, by a registered medical practitioner soon after the arrest is made:

Provided that if the medical officer or the registered medical practitioner is of the opinion that one more examination of such person is necessary, he may do so:

Provided further that where the arrested person is a female, the examination of the body shall be made only by or under the supervision of a female medical officer, and in case the female medical officer is not available, by a female registered medical practitioner.

(2) The medical officer or a registered medical practitioner so examining the arrested person shall prepare the record of such examination, mentioning therein any injuries or marks of violence upon the person arrested, and the approximate time when such injuries or marks may have been inflicted.

(3) Where an examination is made under sub-section (1), a copy of the report of such examination shall be furnished by the medical officer or registered medical practitioner, as the case may be, to the arrested person or the person nominated by such arrested person."

28. As could be seen from the very first clause in Section 53 of BNSS that when any person is arrested, he shall be examined by a medical officer in the service of the Central Government or a State Government, and, in case the medical officer is not available, by a registered medical practitioner soon after the arrest is made and not before or earlier.

29. In the present case, as argued by the learned Senior Counsel, Mr. Nikhil Goel, the examination was conducted before producing in the Court in pursuance of the execution of the P.T. warrant. This aspect was totally ignored by the learned Special Judge while ordering for judicial custody. The order of the learned Special Judge is silent on this aspect and it is no more *cavil of doubt* that the order passed by a judicial officer should be judicious and application of mind to the relevant facts and the statute also. In the counter filed by the police, it is categorically admitted that the medical examination was conducted before producing the petitioner/accused in the Court.

30. The other argument advanced by learned Senior Counsel, Mr. Nikhil Goel, is the power to require the attendance of a prisoner before a Court under Section 305 of the Bharatiya Nagarik Suraksha Sanhita, 2023

(corresponding to Section 270 of the Code of Criminal Procedure, 1973). He has drawn the attention of this Court to Section 305 of the BNSS, which deals with the production of prisoners before a Court while in custody. Section 305 of BNSS is extracted hereunder:

“305. Prisoner to be brought to Court in custody.— Subject to the provisions of section 304, the officer in charge of the prison shall, upon delivery of an order made under sub-section (1) of section 302 and duly countersigned, where necessary, under sub-section (2) thereof, cause the person named in the order to be taken to the Court in which his attendance is required, so as to be present there at the time mentioned in the order, and shall cause him to be kept in custody in or near the Court until he has been examined or until the Court authorises him to be taken back to the prison in which he was confined or detained.”

31. Here also, the officer-in-charge of prison shall, upon delivery of an order made under Section 302(1) of the BNSS and duly counter signed wherever it is necessary under Section 302(2), cause the person in the order to be taken to the Court in which his attendance is required so as to be present there at the time mentioned in the order and shall cause him to be kept in custody in or near the Court until he has been examined or until the Court authorize him to be taken to prison in which he was confined or detained. The ingredients of Section 305 of BNSS is explicitly clear that the officer-in-charge of the prison is the Superintendent, Central Prison, Chanchalguda, Hyderabad, in the present case.

32. Learned Senior Counsel has drawn the attention of this Court to the order, dated 14.07.2026, passed in Crl.M.P.No.1513 of 2026, wherein a common order was passed in respect of three accused, namely, Accused No.1, Donthireddy Vasudeva Reddy, Accused No.4, kessireddy Raja Shekhar Reddy and Accused No.8, Karumuri Sunil Kumar. In the said order, at paragraph 19, the learned Special Judge held as follows:

“In the result, these three petitions are allowed. The Superintendent, Central Jail, Chanchalguda, Hyderabad, is directed to

cause production of A1/Donthireddy Vasudeva Reddy, A4/Kessireddy Raja Shekhar Reddy and A8/Karumuri Sunil Kumar, who are in judicial custody in the said jail in Cr.No.ECIR/HYZO/17/2026, before this Court, in Cr.No.11/2026 registered for the offence punishable under Sections 409, 420, 468, 471 read with Section 120-B of the I.P.C., Sections 111, 212, 217, and 317 of the B.N.S., and Sections 7, 7A, 8, 9, 10, 12, 13(1)(B), and 13(2) of the Prevention of Corruption Act, 1988 of CID P.S., A.P., Vijayawada, between 10:30 a.m., to 3:00 p.m., on 20.07.2026.”

33. Placing reliance on the above order, learned Senior Counsel would submit that the learned Special Judge has made in clear terms that the Superintendent, Central Jail, Chanchalguda, Hyderabad, shall cause production of the accused before the Court.

34. Learned Senior Counsel, Mr.Nikhil Goel, would submit that the official memorandum dated 17.07.2026, which is now sought to be projected is appended to the counter affidavit, that Crl.M.P.No.1513 of 2026 is intimation to the accused, regarding handing over the accused No.4/petitioner to the escort party i.e., to Sri G.Shankar Naik, Inspector of Police, Sri K.Suresh, Sub-Inspector of Police, Sri T.Rama Krishna, Sub-Inspector of Police, Sri Ch.Frankline, PC 2728, Sri P.Venkatesh, PC 387, Sri K.V.V.N.Murthy, PC 4384. He would further submit that, even not considering the prejudice theory affecting the petitioner and the very order of the learned Special Judge directing the Superintendent, Central Prison, Chanchalguda, Hyderabad, to hand over the accused/petitioner to the escort party is contrary to Section 305 of the BNSS. The Superintendent authority cannot delegate his powers to any other authority and the Section does not give that right to the Superintendent or the officer-in-charge of the prison. In the absence of such discretion, the learned Special Judge has issued direction to hand over the petitioner to the escort party, by order, dated 17.07.2026, is itself without jurisdiction, any authority established under law, and particularly contrary to the very Section 305 of the BNSS. It is a settled principle of law that any action either judicial or

quasi-judicial should be done according to the Act/Statute and not otherwise and any action done contrary would render the very order/proceedings as invalid *ab initio*.

SUBMISSIONS ON BEHALF OF STATE:

35. In oppugnation to the said arguments advanced by the learned Senior Counsel for the petitioner, learned Senior Counsel, Mr.B.Adinarayana Rao, would contend that the official memorandum, dated 17.07.2026, was issued by the learned Special Court and the police/SIT officials in pursuant to the application to hand over the petitioner to the escort party and it is passed by the Court identifying the said persons and when the Court has passed such directions authorizing the SIT officials/investigation team to take the custody of the petitioner from the Superintendent, Central Prison, Chanchalguda, Hyderabad, it is the duty of the police to execute the warrant and accordingly, at 09:35 a.m., the accused was taken into custody/Superintendent has handed over the accused into custody. This cannot be considered as arrest. It is only taking the accused into custody so as to enable him to produce before the Court which passed the order in pursuance of the P.T. warrant. He would submit that the very arguments advanced by the learned Senior Counsel for the petitioner are illogical, fallacious and cannot withstand any legal scrutiny.

36. Retaliating to the arguments advanced regarding the medical examination conducted on the petitioner before producing in the Court, learned Senior Counsel, Mr.B.Adinarayana Rao, would submit that, this action has caused no prejudice to the petitioner/accused. He would contend that, a medical examination is required to be conducted in connection with the arrest and production of the accused and that, in the present case, the examination was carried out during the transit period in order to save time, which cannot be found faulted with. He would submit that the medical examination of the petitioner was conducted during the custodial transit under judicial authority

and this particular action of the police in causing medical examination on the accused cannot be termed as arrest by taking necessary implication of Section 53 of BNSS.

37. Learned Senior Counsel, Mr.B.Adinarayana Rao, has placed reliance upon the judgment of the Division Bench of the High Court of Andhra Pradesh in **Ahamed Riswan vs. State of Andhra Pradesh and others**²¹. He would submit that the Division Bench, relying upon the rulings of the Hon'ble Supreme Court in **Central Bureau of Investigation v. Anupam J.Kulkarni [AIR 1992 SC 1768]**, held that the arrest can be effected while the accused is in prison but cannot take him into custody without taking prior approval of the concerned Court as his detention has already been authorized by a concerned Magistrate in connection with some other case. It is not permissible for the police official to remove the person from that place by affecting his arrest, hence the Apex Court in the judgment referred to above used the word 'formal arrest'. When once such formal arrest is affected in prison, it would not be possible to the police official to produce him before the nearest Magistrate within 24 hours for the purpose of further remand, since he cannot be removed or moved out of the jail. In such situation, the only method by which he can seek production of the accused before the concerned Magistrate for the purpose of remand is to invoke the provision of Section 267 Cr.P.C. It is to be noted that here P.T. warrant can be issued by the Magistrate within whose jurisdiction, the crime is registered and which the production is sought, but not by any other Magistrate. It is also to be noted that "**production of the P.T. warrant is sought from the prison through the Superintendent of jail and not through any other mode**". In the aforesaid judgment, at paragraphs 12 to 15, it was held as follows:

²¹ W.P.No.45762 of 2018, dated 29.03.2019.

"12. The question which would then fall for consideration, is, whether by effecting such formal arrest, the accused would be in the custody of the police, who executed the formal arrest. Though the words 'arrest' and 'custody' looks synonymous, a Full Bench of Madras High Court in **Roshan Beevi v. Joint Secretary, Government of T.N**² held that custody' and 'arrest' are not synonymous terms. The Full Bench held that though custody may amount to arrest in certain circumstances, but not in all circumstances. The findings given in the said judgment came to be tested before the Apex Court in the case of **Directorate of Enforcement v. Deepak Mahajan and another**. While conF.I.R.ming the stand taken by the Full Bench in **Roshan Beevi's** case, the Apex Court held as under:

"Thus the Code gives power of arrest not only to a police officer and a Magistrate but also under certain circumstances or given situations to private persons. Further, when an accused person appears before a Magistrate or surrenders voluntarily, the Magistrate is empowered to take that accused person into custody and deal with him according to law. Needless to emphasize that the arrest of a person is a condition precedent for taking him into judicial custody thereof. To put it differently, the taking of the person into judicial custody is followed after the arrest of the person concerned by the Magistrate on appearance or surrender. It will be appropriate, at this stage, to note that in every arrest, there is custody but not vice versa and that both the words 'custody' and 'arrest' are not synonymous terms. Though 'custody' may amount to an arrest in certain circumstances but not under all circumstances. If these two terms are interpreted as synonymous, it is nothing but an ultra legalist interpretation which if under all circumstances accepted and adopted, would lead to a startling anomaly resulting in serious consequences, vide Roshan Beevi."

13. From a reading of the judgment of the Apex Court it is clear that in every arrest there is custody, but not vice versa.

14. The next question would be under what circumstances can a person be remanded to custody; Is it necessary that a remand of the accused can only be by the court after the arrest, or is there any other circumstance by which the Court can remand an accused under Section 167 Cr.P.C.

15. The issue came up for consideration before the Apex Court in **Niranjan Singh v. Prabhakar Rajaram Kharote**. Justice V.R.Krishna Iyer speaking for the Bench observed as under:

"He can be in custody not merely when the police arrests him, produces him before a Magistrate and gets a remand to judicial or other custody. He can be stated to be in judicial custody when he surrenders before the Court and submits to its directions.""

38. The judgment relied upon by the learned Senior Counsel does not apply to the present facts of the case and runs contrary to the arguments so advanced. At paragraph 16, it was observed as follows:

*“16. From the judgment of **Niranjan Singh's** case (supra) it is very clear that an accused can be in custody not only when the Police arrests him, but also when remanded on his surrender before the court and submitting to its jurisdiction. Therefore, as observed by the Apex Court in **Anupam, J. Kulkarni's** case (supra) arrest shall never be a pre-condition for remand, and that one need not be arrested and produced before the Court, for the purpose of remand and to the judicial custody of the Court. He can be stated to be in judicial custody when remanded on his surrender before the Court and submits to its jurisdiction. However, his physical control or at least physical presence, coupled with submission to the jurisdiction and orders of Court, is a sine qua non. Be it on the production by the investigating agency, or on his own before the court. If the Court is of the opinion that he has committed cognizable offence and that his remand is warranted, it can direct him to be remanded to judicial custody under Section 167 Cr.P.C., though not arrested by any investigating agency. That being the position, the argument of the learned counsel for the petitioner that arrest is a pre condition for remand may not be correct. But however, the power of remand pre-is to be exercised under Section 167 Cr.P.C. only and not under Section 267 Cr.P.C. As held by us earlier, remand of an accused under Section 267 Cr.P.C. itself may not be correct, but remanding an accused by an order of court is a pre-requisite for the purpose of making an application for seeking bail.”*

39. Learned Senior Counsel, Mr.B.Adinarayana Rao, further places reliance on the judgment of the Hon'ble Supreme Court in **Kasireddy Upender Reddy vs. State of Andhra Pradesh and others**²², at paragraph 20.1, delay in furnishing the grounds of arrest cannot by itself constitute a valid ground. The Hon'ble Supreme Court, at paragraphs 18, 19, 22, 28, held as follows:

“18. Thus, the following principles of law could be said to have been laid down, rather very well explained, in Vihaan Kumar (supra):

a) The requirement of informing the person arrested of the grounds of arrest is not a formality but a mandatory constitutional condition.

²² 2025 SCC OnLine SC 1228

b) 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.

c) The mode of conveying the information of the grounds of arrest must be meaningful so as to serve the true object underlying Article 22(1).

d) 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).

e) On the failure to comply with the requirement of informing the grounds of arrest as soon as may be after the arrest, the arrest would stand vitiated. Once the arrest is held to be vitiated, the person arrested cannot remain in custody even for a second.

f) 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.

g) When an arrestee pleads before a court that the grounds of arrest were not communicated, the burden to prove the compliance of Article 22(1) is on the police authorities.

h) The grounds of arrest should not only be provided to the arrestee but also to his family members and relatives so that necessary arrangements are made to secure the release of the person arrested at the earliest possible opportunity so as to make the mandate of Article 22(1) meaningful and effective, failing which, such arrest may be rendered illegal.

19. We must clarify one important aspect of *Vihaan Kumar* (supra). In *Vihaan Kumar* (supra) the case was that there was an absolute failure on the part of the police to provide the grounds of arrest. In *Vihaan Kumar* (supra) reliance was placed upon the entry in the case diary which recorded that the appellant therein was arrested after informing him of the grounds of arrest. In the case at hand, it is not in dispute that the grounds of arrest were supplied to the arrestee, however, the case put up is that those grounds are not meaningful and are bereft of necessary essential information.

22. In the case of *State of Bombay v. Atma Ram* reported in 1951 SCC 43 : AIR 1951 SC 157 (C), it was held by this Court that, the test is whether the communication of the grounds of arrest is

sufficient to enable the detained person to make a representation at the earliest opportunity.

28. For the purposes of Clause (1) of Article 22, it is not necessary for the authorities to furnish full details of the offence. However, the information should be sufficient to enable the arrested person to understand why he has been arrested. The grounds to be communicated to the arrested person should be somewhat similar to the charge framed by the Court for the trial of a case.”

40. Learned Senior Counsel further places reliance on the judgment of the Hon’ble Supreme Court in **State of Karnataka vs. Sri Darshan**²³, wherein at paragraph 20, it was held as follows:

“20. In the present case, the High Court, by the impugned order, enlarged the respondents on bail, primarily relying on a set of factual and legal findings. However, a closer examination of these findings reveals serious infirmities that warranting interference. We shall discuss the same in detail.

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 – 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.

²³ 2025 SCC OnLine SC 1702

20.1.4. In *Vihaan Kumar v. State of Haryana*, 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*, 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 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 (2024) 7 SCC 576 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, 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.

20.2. Courts are not expected to render findings on the merits of the case at the bail stage.

20.2.1. It is a settled principle that at the bail stage, courts are precluded from undertaking a detailed examination of evidence or rendering findings that touch upon the merits of the case. Only a prima facie assessment of the material is warranted. The court cannot conduct a mini-trial or record conclusions that could influence the outcome of the trial.

20.2.2. In *Niranjan Singh v. Prabhakar Rajaram Kharote*²⁵, this Court held as under:

“Detailed examination of the evidence and elaborate documentation of the merits should be avoided while passing orders on bail applications. To be satisfied about a prima facie case is needed but it is not the same as an exhaustive exploration of the merits in the order itself”.

20.2.3. In *Kalyan Chandra Sarkar v. Rajesh Ranjan @ Pappu Yadav*²⁶, the Court reiterated that while detailed evaluation is not required, some reasoning must support the grant of bail, especially when the offence is grave. However, even in such cases, the reasoning must be confined to prima facie satisfaction, not merit-based findings.

20.2.4. By the impugned order, the High Court proceeded to grant bail to the accused by delving into the merits of the case and recording findings that fall within the exclusive domain of the trial Court. For instances, in para 24, the High Court observed that the nature of weapons used did not suggest premeditation to assault and murder the deceased, and concluded that the intention to commit murder would have to be determined during trial. In the same paragraph, it further held that since the deceased had voluntarily accompanied certain accused to Bengaluru and had even stopped at a bar en route, the question whether he was abducted or kidnapped also required full-fledged trial consideration. In para 29, the High Court noted that there was no prima facie material revealing conspiracy as no witness statements supported the prosecution’s theory of a pre-planned murder. In para 32, the High Court discounted the evidentiary value of the recovery of weapons merely because they were seized from an open place. With regard to medical evidence, in para 31 the Court found that a further opinion of the doctor issued later (stating that 13 of 39 injuries were blood-oozing) was contrary to the post-mortem report, and held that this discrepancy ought to be evaluated at trial. These are indicative of a premature judicial evaluation of guilt or innocence, which is impermissible at the bail stage.

20.2.5. Further, such an approach of the High Court is contrary to the judicial precedents of this court, including *Satish Jaggi v. State of Chhattisgarh*, *Kanwar Singh Meena v. State of Rajasthan*, wherein, it was held that courts, while considering bail, should not assess the credibility of witnesses, as this function squarely lies within the domain

of the trial Court. Thus, the impugned order of the High Court violates this principle by commenting on the delay in the witness statements and imputing lack of credibility at this stage.

20.2.6. In *Brijmani Devi v. Pappu Kumar*, the Court cautioned that there cannot be elaborate details recorded to give an impression that the case is one that would result in a conviction or, by contrast, in an acquittal while passing an order on an application for grant of bail. The following paragraphs are pertinent:

“25. While we are conscious of the fact that liberty of an individual is an invaluable right, at the same time while considering an application for bail Courts cannot lose sight of the serious nature of the accusations against an accused and the facts that have a bearing in the case, particularly, when the accusations may not be false, frivolous or vexatious in nature but are supported by adequate material brought on record so as to enable a Court to arrive at a prima facie conclusion. While considering an application for grant of bail a prima facie conclusion must be supported by reasons and must be arrived at after having regard to the vital facts of the case brought on record. Due consideration must be given to facts suggestive of the nature of crime, the criminal antecedents of the accused, if any, and the nature of punishment that would follow a conviction vis-à-vis the offence/s alleged against an accused.

26. We have extracted the relevant portions of the impugned orders above. At the outset, we observe that the extracted portions are the only portions forming part of the “reasoning” of the High court while granting bail. As noted from the aforecited judgments, it is not necessary for a Court to give elaborate reasons while granting bail particularly when the case is at the initial stage and the allegations of the offences by the accused would not have been crystalised as such. **There cannot be elaborate details recorded to give an impression that the case is one that would result in a conviction or, by contrast, in an acquittal while passing an order on an application for grant of bail.** At the same time, a balance would have to be struck between the nature of the allegations made against the accused; severity of the punishment if the allegations are proved beyond reasonable doubt and would result in a conviction; reasonable apprehension of the witnesses being influenced by the accused; tampering of the evidence; the frivolity in the case of the prosecution; criminal antecedents of the accused; and a prima facie satisfaction of the Court in support of the charge against the accused.”

20.2.7. In the present case, the reading of the High Court’s order gives an unmistakable impression that it has pre-judged the outcome of the trial, thereby setting the stage for discharge or acquittal, which, according to this court, is contrary to law.

20.2.8. In *Dinesh M.N. (SP) v. State of Gujarat*³⁰, the court clarified:

“Even though the re-appreciation of the evidence as done by the court granting bail is to be avoided, the court dealing with an application for cancellation of bail under section 439(2) can consider whether irrelevant materials were taken into consideration. That is so because it is not known as to what extent the irrelevant materials weighed with the court for accepting the prayer for bail.”

20.2.9. Thus, this Court has made it clear that the findings of the High Court, while deciding bail, are to be treated as expressions of opinion only for that purpose and should not, in any manner, prejudice the trial or other proceedings. In the present case, however, the High Court has relied upon irrelevant and premature assessments, and entered into questions best left for the trial, thereby committing a grave jurisdictional error.

20.3. Appreciation of evidence at the bail stage is impermissible.

20.3.1. In *State of Orissa v. Mahimananda Mishra*³¹, this Court observed:

“11. It is common knowledge that generally direct evidence may not be available to prove conspiracy, inasmuch as the act of conspiracy takes place secretly. Only the conspirators would be knowing about the conspiracy. However, the Court, while evaluating the material, may rely upon other material which suggests conspiracy. Such material will be on record during the course of trial. However, at this stage, prima facie, the Court needs to take into consideration the overall material while considering the prayer for bail.

12. Though this Court may not ordinarily interfere with the orders of the High Court granting or rejecting bail to the accused, it is open for this Court to set aside the order of the High Court, where it is apparent that the High Court has not exercised its discretion judiciously and in accordance with the basic principles governing the grant of bail. It is by now well settled that at the time of considering an application for bail, the Court must take into account certain factors such as the existence of a prima facie case against the accused, the gravity of the allegations, position and status of the accused, the likelihood of the accused fleeing from justice and repeating the offence, the possibility of tampering with the witnesses and obstructing the Courts as well as the criminal antecedents of the accused. It is also well settled that the Court must not go into deep into merits of the matter while considering an application for bail. All that needs to be established from the record is the existence of a prima facie case against the accused.”

20.3.2. In *Naresh Kumar Mangla v. Anita Agarwal*, this court cancelled the anticipatory bail granted to the accused on perusal of the chargesheet and material evidence found *prima facie* adverse to the accused. The court also clarified that examination of evidence at the bail stage shall not influence the trial.

20.3.3. In *Ishwarji Nagaji Mali v. State of Gujarat and another*, the Court examined the chargesheet evidence to hold that *prima facie* there was sufficient material, which was ignored by the High Court while granting bail, and accordingly set aside the bail order. (This case is discussed below in dept for another proposition).

20.3.4. In *Imran v. Mohammed Bhava*, a three-Judge Bench held as follows:

“32. This court in *Neeru Yadav Vs. State of U.P. & Anr.*, has reiterated that it is the duty of the Court to take into consideration certain factors and they basically are, (i) the nature of accusation and the severity of punishment in cases of conviction and the nature of supporting evidence, (ii) reasonable apprehension of tampering with the witnesses for apprehension of threat to the complainant, and (iii) *Prima facie* satisfaction of the court in support of the charge.”

33. Applying the ratio of the decisions of this court referred to above to the facts of the case in hand, we have no hesitation in observing that the High Court erred in not considering the basic principles for grant of bail, well established by various judicial pronouncements. The High Court lost sight of the fact that there exists sufficient material against the accused Respondents herein, so as to establish a *prima facie* case against them.”

20.3.5. In *Prakash Kadam v. Ramprasad Vishwanath Gupta (supra)*, this Court held that even without misuse, bail can be cancelled for grave allegations if the lower court ignored material.

20.3.6. In the present case, the High Court also proceeded to analyse and discount the credibility of certain prosecution witnesses and forensic material. It observed contradictions in the eyewitness statements concerning the overt acts of the accused (para 26). It expressed doubts about the prosecution's explanation for the delay in recording the statements of CW. 76 and CW. 91 (para 27). It questioned the timing of the doctor's supplementary opinion and weighed its evidentiary worth (para 31). As already pointed out, the credibility or reliability of witnesses is a matter for the trial Court to determine after full-fledged cross examination. It is a trite law that statements recorded under section 161 Cr.P.C are not substantive, and their evidentiary value can only be determined after cross examination during trial. Any opinion rendered at the bail stage risks prejudging the outcome of the trial and must be avoided. Thus, the

court's assessment of these aspects amounts to a premature appreciation of the probative value of prosecution evidence.

20.4. Filing of charge sheet or lengthy list of witnesses does not justify grant of bail.

20.4.1. It is well settled that the mere filing of a charge-sheet does not confer an indefeasible right to bail. Likewise, the mere prospect of a prolonged trial cannot, by itself, outweigh the gravity of the offence, the incriminating material gathered during investigation, or the likelihood of tampering with witnesses.

20.4.2. In *Kalyan Chandra Sarkar vs. Rajesh Ranjan* (supra), this Court categorically held that:

"The High Court could not have allowed the bail application on the sole ground of delay in the conclusion of the trial without taking into consideration the allegation made by the prosecution in regard to the existence of prima facie case, gravity of offence, and the allegation of tampering with the witness by threat and inducement when on bail.... non-consideration of the same and grant of bail solely on the ground of long incarceration vitiated the order..."

20.4.3. In *Brijmani Devi v. Pappu Kumar* (supra), this Court held that the possibility of the accused absconding or threatening witnesses had a direct bearing on the fairness of the trial. In serious offences, such apprehensions – when reasonably supported by record – must weigh against the grant of bail.

20.4.4. Similarly, in *Ishwarji Nagaji Mali v. State of Gujarat* (supra), this Court reiterated that the fact that the prosecution case rests on circumstantial evidence is not a valid ground to release the accused on bail, especially where a complete chain of circumstances has been prima facie established during investigation. The Court cancelled the bail granted by the High Court in that case holding that:

"6. the High Court has not at all adverted to the material collected during the course of the investigation. The High Court has not at all considered the material/evidence collected during the course of the investigation even prima facie and has directed to release respondent no.2 in such a serious offence of hatching conspiracy to kill his wife, by simply observing that as it is a case of circumstantial evidence, which is a weak piece of evidence, it is not legal and proper to deny bail to respondent no.2. Merely because the prosecution case rests on circumstantial evidence cannot be a ground to release the accused on bail, if during the course of the investigation the evidence/material has been collected and prima facie the complete chain of events is established. As observed hereinabove, while releasing respondent no.2 on bail, the learned Single Judge of the High Court has not at all adverted to and/or considered any of the

material/evidence collected during the course of the investigation, which is a part of the charge-sheet.

7. One another reason given by the High Court to release respondent no.2 on bail is that the accused has deep root in the society and no apprehension as to flee away or escape trial or tampering with the evidence/witnesses is expressed. In a case of committing the offence under Section 302 read with 120B IPC and in a case of hatching conspiracy to kill his wife and looking to the seriousness of the offence, the aforesaid can hardly be a ground to release the accused on bail."

20.4.5. In *Rahul Gupta v. State of Rajasthan*, this Court further emphasized that once the accused has been charge-sheeted after investigation, the High Court must consider the material collected during investigation to determine whether a prima facie case exists and whether bail is justified. The Court quashed the bail order, directing the accused to surrender and remanding the matter to the High Court for fresh consideration, after examining the evidence on record.

20.4.6. In the present case, the High Court failed to engage with the incriminating material collected during investigation, despite the seriousness of the offence under Section 302 IPC and the allegation of conspiracy. The mere filing of the charge-sheet, the existence of a long list of witnesses, or the possibility of delay in trial, cannot, by themselves, constitute valid reasons to dilute the gravity of the offence or to disregard the case put forth by the prosecution. As repeatedly held by this Court, such factors are not standalone grounds for the grant of bail in heinous offences involving murder. The reasoning adopted by the High Court to justify the grant of bail is, therefore, contrary to settled legal principles.

20.5. Post-bail good conduct of the accused, while relevant to the question of continuation of bail, cannot retrospectively validate an otherwise unsustainable order.

20.5.1. The fact that the accused were in custody for more than 140 days, or exhibited good conduct post-release, does not ipso facto render the order of bail sustainable, if it suffers from non-consideration of material factors at the stage of grant.

20.5.2. In *State through CBI v. Amaramani Tripathi*, this Court reaffirmed that "...the mere fact that the accused has undergone certain period of incarceration... by itself would not entitle the accused to being enlarged on bail... when the gravity of the offence alleged is severe..."

20.5.3. In *Kalyan Chandra Sarkar v. Rajesh Ranjan (supra)*, this Court held:

“....the High Court has given the period of incarceration already undergone by the accused and **the unlikelihood of trial concluding in the near future as grounds sufficient to enlarge the accused on bail, in spite of the fact that the accused stands charged of offences punishable with life imprisonment or even death penalty.** In such cases, in our opinion, the mere fact that the accused has undergone certain period of incarceration (three years in this case) by itself would not entitle the accused to being enlarged on bail, nor the fact that the trial is not likely to be concluded in the near future either by itself or coupled with the period of incarceration would be sufficient for enlarging the appellant on bail when the gravity of the offence alleged is severe and there are allegations of tampering with the witnesses by the accused during the period he was on bail.”

It was further held that

“While a vague allegation that accused may tamper with the evidence or witnesses may not be a ground to refuse bail, if the accused is of such character that his mere presence at large would intimidate the witnesses or if there is material to show that he will use his liberty to subvert justice or tamper with the evidence, then bail will be refused.”

20.5.4. In *Ash Mohammad v. Shiv Raj Singh @ Lalla Bahu & Anr.*, the Court reiterated that the period of custody, while relevant, must be weighted against the totality of circumstances, including the nature of the crime and criminal antecedents. It was held that:

“31. Be it noted, a stage has come that in certain States abduction and kidnapping have been regarded as heroism. A particular crime changes its colour with efflux of time. The concept of crime in the contextual sense of kidnapping has really undergone a sea change and has really shattered the spine of the orderly society. It is almost nauseating to read almost every day about the criminal activities relating to kidnapping and particularly by people who call themselves experts in the said nature of crime.

32. We may usefully state that when the citizens are scared to lead a peaceful life and this kind of offences usher in an impediment in establishment of orderly society, the duty of the court becomes more pronounced and the burden is heavy. There should have been proper analysis of the criminal antecedents. Needless to say, imposition of conditions is subsequent to the order admitting an accused to bail. The question should be posed whether the accused deserves to be enlarged on bail or not and only thereafter issue of imposing conditions would arise. We do not deny for a moment that period of custody is a relevant factor but simultaneously the totality of circumstances and the criminal antecedents are also to be weighed. They are to be weighed in the scale of collective cry and desire. The societal concern has to be kept in view in juxtaposition of individual liberty. Regard being had to the said parameter we are inclined to think that the social

concern in the case at hand deserves to be given priority over lifting the restriction of liberty of the accused.

33. In the present context the period of custody of seven months, in our considered opinion, melts into insignificance. We repeat at the cost of repetition that granting of bail is a matter of discretion for the High Court and this Court is slow to interfere with such orders. But regard being had to the antecedents of the accused which is also a factor to be taken into consideration as per the pronouncements of this Court and the nature of the crime committed and the confinement of the victim for eight days, we are disposed to interfere with the order impugned.

34. We may note with profit that it is not an appeal for cancellation of bail as cancellation is not sought because of supervening circumstances. **The present one is basically an appeal challenging grant of bail where the High Court has failed to take into consideration the relevant material factors which make the order perverse.**

Accordingly, the bail order was set aside and the accused was directed to surrender.

20.5.5. More recently, in *Ajwar v. Waseem*, this Court set aside four bail orders granted by the Allahabad High Court in a murder case involving double homicide under Sections 147, 148, 149, 302, 307, 352, and 504 IPC, despite the fact that the accused had remained in custody for over two years and eight months. The Court found that the bail was granted without proper consideration of material facts. Accordingly, the accused were directed to surrender within two weeks. The following paragraph is relevant:

“33. Furthermore and most importantly, the High Court has overlooked the period of custody of the respondents-accused for such a grave offence alleged to have been committed by them. As per the submission made by learned counsel for the State of UP, before being released on bail, the accused-Waseem had undergone custody for a period of about two years four months, the accused- Nazim for a period of two years eight months, the accused-Aslam for a period of about two years nine months and the accused Abubakar, for a period of two years ten months. In other words, all the accused-respondents have remained in custody for less than three years for such a serious offence of a double murder for which they have been charged.”

20.5.6. In conclusion, while post-bail good conduct or the period of incarceration may be relevant considerations at the stage of continuing bail, they cannot cure the fundamental defects in an order granting bail which is otherwise perverse, legally untenable, or passed without due consideration of material factors such as the gravity of the offence, *prima facie* involvement, and the likelihood of influencing

witnesses or tampering with evidence. An unsustainable bail order does not become valid with the mere passage of time or the subsequent behaviour of the accused. Judicial scrutiny must focus on whether the discretion to grant bail was exercised judiciously, and in accordance with established principles, at the time of the grant, and not mechanically or on technicalities. Therefore, the order of the High Court granting bail to the respondents / accused, deserves to be set aside.”

41. Learned Senior Counsel further relied upon the judgment of this Court in **Pappula Chalama Reddy vs. State of Andhra Pradesh**²⁴, wherein, at paragraphs 61 and 62, it was held as follows:

“61. In view of the aforesaid authoritative pronouncement by the Hon’ble Supreme Court, it must be held that the judgment of the Hon’ble Supreme court in *Prabhir Purkayastha vs. State (NCT of Delhi)* is applicable to all cases of arrest, under any criminal proceeding. Consequently, any arrest of a person, without serving, the grounds of arrest, in writing, on the arrested person would render the arrest illegal. An order of remand, passed in a mechanical manner, without ascertaining whether the grounds of arrest, in writing, have been served on the detenue or not, would invalidate the order of remand also.

62. The learned Advocate General, while contending that the satisfaction of the Magistrate, recording that the grounds of arrest have been served on the detenue, cannot be looked into, has also contended that even otherwise, the grounds of arrest are available in the remand report and there is no dispute that the said remand report has been furnished to the detenue.”

42. Learned Senior Counsel further relied upon the judgment of this Court in **Bolla Kiran vs. State of Andhra Pradesh and others**²⁵, wherein, at paragraphs 17 and 28, it was held as follows:

“17. In *Mihir Rajesh Shah (supra)*, the Hon'ble Apex Court held in 'conclusions' in paragraph Nos.66 & 67 as under:

“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);

²⁴ 2024 SCC OnLine AP 5532

²⁵ 2026 SCC OnLine AP 1044

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.

67. After having come to the above conclusion, it is pertinent to note that the provision of law under Section 50CrPC (Section 47 of BNSS 2023) does not provide for a specific mode of or time-frame for communication of the grounds of arrest to the person arrested. This Court in *Prabir Purkayastha* [*Prabir Purkayastha v. State (NCT of Delhi)*, (2024) 8 SCC 254 : (2024) 3 SCC (Cri) 573], held that the grounds of arrest be conveyed to the arrestee in writing in all offences at the earliest, which means it need not be given at the time of arrest but within a reasonable time thereafter, for offences under all the statutes, which period would be as has been laid down above in this order."

28. We are therefore of the view that the service of the remand report to the arrestees, containing the grounds of arrest is communication of the grounds of arrest to the arrestees even if the notices under Sections 47 & 48 of BNSS did not contain the grounds of arrest."

43. The Hon'ble Supreme Court in ***D.K.Basu vs. State of West Bengal***²⁶, at paragraphs 34 to 36, held as follows:

"34. In addition to the statutory and constitutional requirements to which we have made a reference, we are of the view that it would be useful and effective to structure appropriate machinery for contemporaneous recording and notification of all cases of arrest and detention to bring in transparency and accountability. It is desirable that the officer arresting a person should prepare a memo of his arrest on witness who may be a member of the family of the arrestee or a respectable person of the locality from where the arrest is made. The date and time of arrest shall be recorded in The memo which must also be counter signed by the arrestee.

²⁶ (1997) 1 SCC 416

35. We therefore, consider it appropriate to issue the following requirements to be followed in all cases of arrest or detention till legal provisions are made in that behalf as preventive measures :

(1) The police personnel carrying out the arrest and handling the interrogation of the arrestee should bear accurate, visible and clear identification and name tags with their designations. The particulars of all such police personnel who handle interrogation of the arrestee must be recorded in a register.

(2) That the police officer carrying out the arrest of the arrestee shall prepare a memo of arrest at the time of arrest a such memo shall be attested by atleast one witness.

who may be either a member of the family of the arrestee or a respectable person of the locality from where the arrest is made. It shall also be counter signed by the arrestee and shall contain the time and date of arrest.

(3) A person who has been arrested or detained and is being held in custody in a police station or interrogation centre or other lock-up, shall be entitled to have one friend or relative or other person known to him or having interest in his welfare being informed, as soon as practicable, that he has been arrested and is being detained at the particular place, unless the attesting witness of the memo of arrest is himself such a friend or a relative of the arrestee. (4) The time, place of arrest and venue of custody of an arrestee must be notified by the police where the next friend or relative of the arrestee lives outside the district or town through the legal Aid Organisation in the District and the police station of the area concerned telegraphically within a period of 8 to 12 hours after the arrest.

(5) The person arrested must be made aware of this right to have someone informed of his arrest or detention as soon he is put under arrest or is detained.

(6) An entry must be made in the diary at the place of detention regarding the arrest of the person which shall also disclose the name of he next friend of the person who has been informed of the arrest an the names and particulars of the police officials in whose custody the arrestee is. (7) The arrestee should, where he so requests, be also examined at the time of his arrest and major and minor injuries, if any present on his/her body, must be recorded at that time. The "Inspection Memo" must be signed both by the arrestee and the police officer effecting the arrest and its copy provided to the arrestee.

(8) The arrestee should be subjected to medical examination by trained doctor every 48 hours during his detention in custody by a doctor on the panel of approved doctors appointed by Director, Health Services of the concerned State or Union Territory. Director, Health Services should prepare such a panel for all Tehsils and Districts as well. (9) Copies of all the documents including the memo of arrest, referred to above, should be sent to the illaga Magistrate for his record.

(10) *The arrestee may be permitted to meet his lawyer during interrogation, though not throughout the interrogation.*

(11) *A police control room should be provided at all district and state headquarters, where information regarding the arrest and the place of custody of the arrestee shall be communicated by the officer causing the arrest, within 12 hours of effecting the arrest and at the police control room it should be displayed on a conspicuous notice board.*

36. *Failure to comply with the requirements hereinabove mentioned shall apart from rendering the concerned official liable for departmental action, also render him liable to be punished for contempt of court and the proceedings for contempt of court may be instituted in any High Court of the country, having territorial jurisdiction over the matter."*

CONSIDERATIONS OF THE COURT:

44. After concatenating the entire arguments advanced by learned Senior Counsel appearing for the petitioner and the learned counsel appearing for the Respondent/State/SIT, this Court shall now expatiate upon the facts germane to the adjudication of the case. The issues that arise for consideration are:

1. *Whether taking custody from the jail authorities at 09:35 a.m. on 20.07.2026 by the escort party (SIT) amounts to arrest?*
2. *Whether the observation of the Special Judge for SPE & ACB Cases that on enquiry the accused No.4 stated that he received the copies of case record and he was informed about the grounds of arrest be construed as fulfilling compliance as mandated under Article 22(1) of the Constitution of India and the extent of prejudice?*
3. *Whether the said act of conducting medical examination is strictly in consonance to the Section 53 of the Constitution of India and whether the said action amounts to a violation of Article 20(3) of the Constitution of India?*

All the issues are dealt with in common.

45. To expatiate, it is necessary to extract the provisions of Sections 35, 36, 40, 43(1), 47, 48, 51, 53, 302 and 305 of BNSS:-

“35. When police may arrest without 5 warrant.

(1) Any police officer may without an order from a Magistrate and without a warrant, arrest any person:-

(a) who commits, in the presence of a police officer, a cognizable offence; or

(b) against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists that he has committed a cognizable offence punishable with imprisonment for a term which may be less than seven years or which may extend to seven years whether with or without fine, if the following conditions are satisfied, namely:-

(i) the police officer has reason to believe on the basis of such complaint, information, or suspicion that such person has committed the said offence;

(ii) the police officer is satisfied that such arrest is necessary-

(a) to prevent such person from committing any further offence; or

(b) for proper investigation of the offence; or

(c) to prevent such person from causing the evidence of the offence to disappear or tampering with such evidence in any manner; or

(d) to prevent such person from making any 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 police officer; or

(e) as unless such person is arrested, his presence in the Court whenever required cannot be ensured,

and the police officer shall record while making such arrest, his reasons in writing:

Provided that a police officer shall, in all cases where the arrest of a person is not required under the provisions of this sub-section, record the reasons in writing for not making the arrest; or

(c) against whom credible information has been received that he has committed a cognizable offence punishable with imprisonment for a term which may extend to more than seven years whether with or without fine or with death sentence and the police officer has reason to believe on the basis of that information that such person has committed the said offence; or

(d) who has been proclaimed as an offender either under this Sanhita or by order of the State Government; or

(e) in whose possession anything is found which may reasonably be suspected to be stolen property and who may reasonably be suspected of having committed an offence with reference to such thing; or

(f) who obstructs a police officer while in the execution of his duty, or who has escaped, or attempts to escape, from lawful custody; or

(g) who is reasonably suspected of being a deserter from any of the Armed Forces of the Union; or

(h) who has been concerned in, or against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists, of his having been concerned in, any act committed at any place out of India which, if committed in India, would have been punishable as an offence, and for which he is, under any law relating to extradition, or otherwise, liable to be apprehended or detained in custody in India; or

(i) who, being a released convict, commits a breach of any rule made under sub-section (5) of section 394; or

(j) for whose arrest any requisition, whether written or oral, has been received from another police officer, provided that the requisition specifies the person to be arrested and the offence or other cause for which the arrest is to be made and it appears therefrom that the person might lawfully be arrested without a warrant by the officer who issued the requisition.

(2) Subject to the provisions of section 39, no person concerned in a non-cognizable offence or against whom a complaint has been made or credible information has been received or reasonable suspicion exists of his having so concerned, shall be arrested except under a warrant or order of a Magistrate.

(3) he police officer shall, in all cases where the arrest of a person is not required under sub-section (1) issue a notice directing the person against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists that he has committed a cognizable offence, to appear before him or at such other place as may be specified in the notice.

(4) Where such a notice is issued to any person, it shall be the duty of that person to comply with the terms of the notice.

(5) Where such person complies and continues to comply with the notice, he shall not be arrested in respect of the offence referred to in the notice unless, for reasons to be recorded, the police officer is of the opinion that he ought to be arrested.

(6) Where such person, at any time, fails to comply with the terms of the notice or is unwilling to identify himself, the police officer may, subject to such orders as may have been passed by a competent Court in this behalf, arrest him for the offence mentioned in the notice.

(7) No arrest shall be made without prior permission of an officer not below the rank of Deputy Superintendent of Police in case of an offence which is punishable for imprisonment of less than three years and such person is in F.I.R. or is above sixty years of age.

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-
 - (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.

40. Arrest by private person and procedure on such arrest.

(1) Any private person may arrest or cause to be arrested any person who in his presence commits a non-bailable and cognizable offence, or any proclaimed offender, and, without unnecessary delay, but within six hours from such arrest, shall make over or cause to be made over any person so arrested to a police officer, or, in the absence of a police officer, take such person or cause him to be taken in custody to the nearest police station.

(2) If there is reason to believe that such person comes under the provisions of sub-section (1) of section 35, a police officer shall take him in custody.

(3) If there is reason to believe that he has committed a non-cognizable offence, and he refuses on the demand of a police officer to give his name and residence, or gives a name or residence which such officer has reason to believe to be false, he shall be dealt with under the provisions of section 39; but if there is no sufficient reason to believe that he has committed any offence, he shall be at once released.

43. Arrest how made.

(1) In making an arrest the police officer or other person making the same shall actually touch or confine the body of the person to be arrested, unless there be a submission to the custody by word or action:

Provided that where a woman is to be arrested, unless the circumstances indicate to the contrary, her submission to custody on an oral intimation of arrest shall be presumed and, unless the circumstances otherwise require or unless the police officer is a female, the police officer shall not touch the person of the woman for making her arrest.

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.

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.

51. Examination of accused by medical practitioner at request of police officer.

(1) When a person is arrested on a charge of committing an offence of such a nature and alleged to have been committed under such circumstances that there are reasonable grounds for believing that an examination of his person will afford evidence as to the commission of an offence, it shall be lawful for a registered medical practitioner, acting at the request of any police officer, and for any person acting in good faith in his aid and under his direction, to make such an examination of the person arrested as is reasonably necessary in order to ascertain the facts which may afford such evidence, and to use such force as is reasonably necessary for that purpose.

(2) Whenever the person of a female is to be examined under this section, the examination shall be made only by, or under the supervision of, a female registered medical practitioner.

(3) The registered medical practitioner shall, without any delay, forward the examination report to the investigating officer.

Explanation. - In this section and sections 52 and 53,-

(a) "examination" shall include the examination of blood, blood stains, semen, swabs in case of sexual offences, sputum and sweat, hair samples and finger nail clippings by the use of modern and scientific techniques including DNA profiling and such other tests which the registered medical practitioner thinks necessary in a particular case;

(b) "registered medical practitioner" means a medical practitioner who possesses any medical qualification recognized under the National Medical Commission Act, 2019 (30 of 2019) and whose name has been entered in the National Medical Register or a State Medical Register under that Act.

53. Examination of arrested person by medical officer.

(1) When any person is arrested, he shall be examined by a medical officer in the service of the Central Government or a State Government, and in case the medical officer is not available, by a registered medical practitioner soon after the arrest is made:

Provided that if the medical officer or the registered medical practitioner is of the opinion that one more examination of such person is necessary, he may do so:

Provided further that where the arrested person is a female, the examination of the body shall be made only by or under the supervision of a female medical officer, and in case the female

medical officer is not available, by a female registered medical practitioner.

(2) The medical officer or a registered medical practitioner so examining the arrested person shall prepare the record of such examination, mentioning therein any injuries or marks of violence upon the person arrested, and the approximate time when such injuries or marks may have been inflicted.

(3) Where an examination is made under sub-section (1), a copy of the report of such examination shall be furnished by the medical officer or registered medical practitioner, as the case may be, to the arrested person or the person nominated by such arrested person.

302. Power to require attendance of prisoners.

(1) Whenever, in the course of an inquiry, trial or proceeding under this Sanhita, it appears to a Criminal Court, -

(a) that a person confined or detained in a prison should be brought before the Court for answering to a charge of an offence, or for the purpose of any proceedings against him; or

(b) that it is necessary for the ends of justice to examine such person as a witness, the Court may make an order requiring the officer in charge of the prison to produce such person before the Court answering to the charge or for the purpose of such proceeding or for giving evidence.

(2) Where an order under sub-section (1) is made by a Magistrate of the second class, it shall not be forwarded to, or acted upon by, the officer in charge of the prison unless it is countersigned by the Chief Judicial Magistrate, to whom such Magistrate is subordinate.

(3) Every order submitted for countersigning under sub-section (2) shall be accompanied by a statement of the facts which, in the opinion of the Magistrate, render the order necessary, and the Chief Judicial Magistrate to whom it is submitted may, after considering such statement, decline to countersign the order.

305. Prisoner to be brought to Court in custody.

Subject to the provisions of section 304, the officer in charge of the prison shall, upon delivery of an order made under sub-section (1) of section 302 and duly countersigned, where necessary, under sub-section (2) thereof, cause the person named in the order to be taken to the Court in which his attendance is required, so as to be present there at the time mentioned in the order, and shall cause him to be kept in custody in or near the Court until he has been examined or

until the Court authorises him to be taken back to the prison in which he was confined or detained”.

46. The facts, to some extent, regarding the arrest and taking custody of the petitioner/accused No.4 are not disputed and only refutation is regarding the manner of arrest in the Court and subjecting the petitioner to the medical examination prior to the arrest.

47. To a pointed question by this Court to the learned Senior Counsel, Mr.B.Adinarayana Rao, as to whether any other provision conferring the police to get the medical examination even prior to arrest, learned Senior Counsel has submitted that the counter is silent regarding that aspect, which sufficiently be construed that the very action is contrary to what Section 53 of BNSS postulates.

48. It is necessary to advert to the contentions in the counter filed by the respondent/SIT.

49. In paragraph 4 of the counter, it emanates that the learned Special Judge issued separate Official Memorandum, dated 17.07.2026, in Crl.MP.No.1513 of 2026 relating to accused No.4 and Crl.MP.No.1514 of 2026 relating to accused No.1. The Superintendent, Central Prison, Chanchalguda, was officially directed to hand over the respective remand prisoners to the named escort party comprising Sri G. Sankar Naik, Inspector of Police, SIT and the other police personnel identified therein, solely to enable their production before the learned Special Court in Crime No.11 of 2026.

50. Mr. B. Adinarayana Rao, learned Senior Counsel appearing for the State/SIT, emphasized that the Official Memorandum issued by the learned Special Judge on 17.07.2026 in Crl.MP.No.1513 of 2026 was not challenged and the same has become final and following the said Official

Memorandum, the Superintendent has handed over to the Escort Party, SIT Team, comprising of the persons mentioned therein. It is not disputed that the said persons are from the Special Investigation Team (SIT).

51. On the other hand, Mr. Nikhil Geol, learned Senior Counsel, would submit that this particular Official Memorandum, which is issued by the learned Special Judge, dated 17.07.2026 in Crl.MP.No.1513 of 2026 in relating to accused No.4, is contrary to the very Section 305 of the BNSS. The very opening words of Section 305 of BNSS are as follows:

“Subject to the provisions of Section 304, the officer in charge of the prison shall, upon delivery of an order made under sub-section (1) of Section 302 and duly countersigned, where necessary, under sub-section(2) thereof, cause the person named in the order to be taken to the Court in which his attendance is required”.

52. There cannot be any alternative interpretation to construe that the officer-in-charge of the prison who shall upon delivery of an order made under sub-section(1) of Section 302 of BNSS and after duly countersigned, wherever it is necessary, cause the person in the custody to be produced before the Court. The order of the learned Special Judge, dated 17.07.2026, in Crl.MP.No.1513 of 2026 relating to accused No.4, appears to be in total derogation of Section 305 of BNSS.

53. The learned Special Judge ought to have indicated reasons as to why the Court passed the orders relaxing the “officer-in-charge”, to cause the person named therein to be produced before the Court and handed over to the Escort party/SIT Investigating Officer.

54. The Order, dated 20.07.2026, passed by the learned Special Judge, is extracted hereunder:

“Accused No.4/Kessireddy Raja Shekhar Reddy @ Raj, S/o. Upendar Reddy, age 43 years, Ektha Villas, 1A, Journalist Colony, Jubilee Hills, Shaikpet, Hyderabad, through escort G.Sankar Naik, Inspector of Police, Sri K. Suresh, Sub-Inspector of Police, Sri

T.Rama Krishna, Sub-Inspector of Police, Sri Ch. Frankline, PC-2728, Sri P. Venkatesh, PC-387, Sri K.V.V.N.Murthy, PC-4384, of CID, SIT P.S., Vijayawada and Sri P.Rajendra Babu, RSI-5125, Sri K. Radha Krishna, HC-937, Sri M.Rama Swamy, HC-3266 and Sri G.Sekhar, PC-1174 of City Armed Reserve (CAR), Vijayawada on 20.07.2026 at 04:20 p.m., on execution of P.T. Warrant, who is in judicial custody in Cr.No.ECIR/HYZO/17/2026 (Enforcement Case Information Report (ECIR)) for the offence under Section 420, 409, 468, 471 r/w.120(b) of I.P.C along with Sections 111, 212, 217 and 317 of B.N.S.

2. The name and other descriptive particulars of Accused No.4 are tallied with the record. The Accused No.4 on enquiry stated that he received copies of case record and also stated that he was informed about the grounds of arrest. Accused No.4 when enquired stated that he got means to engage an advocate to defend him.

3. On perusal of the record, this Court is of the opinion that prima facie case is made out against the Accused No.4 for the offence under Section 409, 420, 468, 471 r/w.120(B) of IPC and Section 111, 212, 217 & 317 of BNS and Section 7, 7A, 8, 9, 10, 12, 13(1)(b), 13(2) prevention of Corruption Act, 1988 is prima facie well founded.

4. This Court is satisfied with the reasons recorded by the Investigating Officer for causing arrest of the Accused No.4 in this crime. The Accused No.4 is remanded to judicial custody in Cr.No.11/2026 of CID, SIT P.S., Vijayawada, for the offence under Sections 409, 420, 468, 471 r/w.120(B) of IPC and Section 111, 212, 217 & 317 of B.N.S and Sections 7A, 8, 9, 10, 12 of the Prevention of Corruption Act, 1988 U/s.167 of Cr.P.C., till 03.08.2026.

5. The counsel for Accused No.4 and accused No.4 represented that the family members of Accused No.4 are in Hyderabad and it is feasible for them to meet their family members at the desecration of the jail authorities at least, if they are send back to the Central Jail, Chenchalguda, Hyderabad.

6. The learned Special Public Prosecutor submitted that it will be difficult for them to continue the process of investigation if they are send back to the original jail and sought for sending them to the District Jail, Vijayawada. Even if the accused is send back to the Central Jail, Chenchalguda, Hyderabad, no prejudice or difficulty will be there to the prosecution as it is only judicial custody and no application for police custody is yet filed by the prosecution. If at all they need the accused for police custody that will be decided at an appropriate stage. For the present, there is no hurdle for the

prosecution to continue further investigation even if the accused is send back to the Central Jail, Chenchalguda, Hyderabad.

7. Hence, the Accused No.4 is ordered to be forwarded to the Central Jail, Chenchalguda, Hyderabad”.

55. In the entire order, there is no mention at what time the arrest was accorded on the petitioner/accused No.4 and the inference that can be drawn from the order is that at 04:20 P.M. on 20.07.2026 on execution of P.T. warrant, the accused was produced before the learned Special Judge and as seen from the paragraph 2 of the order, wherein it is stated that the descriptive particulars of accused No.4 are tallied with the record and on enquiry, the accused No.4 stated that he received copies of the case record and also stated that he was informed about the grounds of arrest and he got means to engage an advocate to defend him.

56. This Court legally construes at paragraph 4, the Court is satisfied with the reasons recorded by the Investigating Officer for causing arrest of the accused No.4 and the accused No.4 is remanded to judicial custody in Crime No.11 of 2026 of CID, SIT P.S., Vijayawada, for the offence under Sections 409, 420, 468, 471 read with 120(B) of IPC and Section 111, 212, 217 & 317 of B.N.S and Sections 7A, 8, 9, 10, 12 of the Prevention of Corruption Act, 1988 under Section 167 of Cr.P.C., till 03.08.2026, as patently illegal and not judicious.

57. From the above observations of the learned Special Judge, this Court construes that the arrest of the petitioner/accused No.4, was made only at 04:20 P.M. in the Court and the accused No.4 received the copies of the case record and was informed about the grounds of arrest, which cannot be understood as legitimate and in consonance with the law of the land.

58. Here, the mandate laid down by the Hon'ble Supreme Court regarding furnishing of the particulars before two hours of arrest is missing

and totally eclipsed by the Investigating Officer and the same was ignored by the Special Judge Court in the order. It is apt to invigorate the words expressed, which seldom ignored by the Police (man in uniform). The Hon'ble Supreme Court, in **Rakesh vs. State of U.P. and others** (supra 17), observed as follows:

“17. There has been considerable debate about the right guaranteed under Article 22(1) of the Constitution for reason that while the right under Article 22(1) of the Constitution is indeed a fundamental right of the foremost importance, as it safeguards the liberty of an individual from deprivation by State Authority, the Police and police like forces empowered to arrest persons in connection with crimes, they are suspected or accused to have committed, have traditionally paid scant regard to the requirements of Article 22(1). The man in uniform, by his training, duties and sometimes compulsion, thinks small of rights, including the fundamental rights. He looks sometimes with his scorn at judgments enforcing these rights and enumerating principles that seeks to realize the fundamental right to liberty. In the nature of things, the policeman, who sees every suspect and accused as guilty, is almost inclined to think that he understands the truth of the matter better than anyone, and, most certainly than a Judge sitting in a Court far away from the scene or the transaction of crime. The policemen never understands that there are always two sides to a fact, a thing or an allegation regarding an offence and he is per compulsion partisan looking at one side alone. The training, bereft of the knowledge of the law, deprives the policeman of the forensic eye to understand legal implications. The result is that the effort by Courts to crystallize the rights of an individual, who is suspect or accused of an offence, both under the statute and the Constitution, remain at the centre-stage of a tug of war between the holdings of the Court and dogged breaches by the Police. Since Courts, depending on facts, at times have to yield ground and carve a niche to make place for an

exception to the rule they have developed, the Police think that they were right and they must go ahead the way they have done for centuries in this country, irrespective of pronouncements of Superior Courts declaring the effect of fundamental rights and statutory safeguards regarding an individuals liberty.”

59. The Hon’ble Supreme Court, in **Ahmed Mansoor and Others v. State Rep. By, Assistant Commissioner of Police and Another** (supra 9), has expressly held, at paragraphs 4 to 9, as follows:

“4. The issue involved in the present appeal is no longer res integra. In our considered view, the High Court has misconstrued the earlier judgments passed by this Court. On facts, there is no dispute that the grounds of arrest were not furnished, either to the appellants or to the persons arrested with them. On the contrary, the only contention on behalf of the respondents is that the grounds of arrest was duly explained by the Court at the time of remand, followed by furnishing of a copy of the same containing the grounds of arrest to the counsel who appeared with them. In Pankaj Bansal v. Union of India & Ors.- (2024) 7 SCC 576, the aforesaid aspect of mandatory information, in writing, of grounds of arrest has been explained by this Court as follows:

“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 and the Bombay High Court in Chhagan Chandrakant Bhujbal, 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 fulfill 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 F.I.R.st 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.”

5. The aforesaid position has been reiterated in *Prabir Purkayastha v. State (NCT of Delhi)* - (2024) 8 SCC 254 as stated under:

“45. We are of the F.I.R.m opinion that once this Court has interpreted the provisions of the statute in context to the constitutional scheme and has laid down that the grounds of arrest have to be conveyed to the accused in writing expeditiously, the said ratio becomes the law of the land binding on all the courts in the country by virtue of Article 141 of the Constitution of India.

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 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 proforma 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 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.”

6. In *Vihaan Kumar v. State of Haryana & Anr.*, this Court, in the supplementing judgment, was pleased to observe as follows:

“3. The purpose of inserting Section 50A of the CrPC, making it obligatory on the person making arrest to inform about the arrest to the friends, relatives or persons nominated by the arrested person, is to ensure that they would be able to take immediate and prompt actions to secure the release of the arrested person as permissible under the law. The arrested person, because of his detention, may not have immediate and easy access to the legal process for securing his release, which would otherwise be available to the friends, relatives and such nominated persons by way of engaging lawyers, briefing them to secure release of the detained person on bail at the earliest. Therefore, the purpose of communicating the grounds of arrest to the detainee, and in addition to his relatives as mentioned above is not merely a formality but to enable the detained person to know the reasons for his arrest but also to provide the necessary opportunity to him through his relatives, friends or nominated persons to secure his release at the earliest possible opportunity for actualising the fundamental right to liberty and life as guaranteed under Article 21 of the Constitution. Hence, the requirement of communicating the grounds of arrest in writing is not only to the arrested person, but also to the friends, relatives or such other person as may be disclosed or nominated by the arrested person, so as to make the mandate of Article 22(1) of the Constitution meaningful and effective failing which, such arrest may be rendered illegal.”

7. Learned Senior counsel appearing for the respondent(s) has placed reliance on recent decisions of this Court in *Kasireddy Upender Reddy v. State of Andhra Pradesh and Ors.*- Criminal Appeal No.2808/2025 dated 23.05.2025 and *State of Karnataka v. Sri Darshan Etc.* - Criminal Appeal Nos. 3528- 3534/2025 dated 14.08.2025.

8. In *State of Karnataka v. Sri Darshan (supra)* the facts governing are quite different. It was a case dealing with the cancellation of bail where the charge sheet had been filed and the grounds of detention were served immediately. This Court has, in fact, given its approval to the decision in *Vihaan Kumar v. State of Haryana & Anr. (supra)*. Similarly, in *Kasireddy Upender Reddy v. State of Andhra Pradesh and Ors. (supra)*, this Court was pleased to hold in para 27 that the object underlying the provision that the grounds of arrest should be communicated has been explained by this Court in *Vihaan Kumar v. State of Haryana & Anr (supra)*. Therefore, the law as laid down in

Vihaan Kumar v. State of Haryana & Anr (supra) has been approved and reiterated in the above said decisions.

9. In such view of the matter, we are inclined to hold that the present appeal deserves to succeed only on the ground that the mandate of furnishing the grounds of arrest at the time of securing the appellants has not been complied with. Therefore, we are not inclined to go into the merits of the case. However, while setting aside the order passed by the High Court and consequently setting aside the order of arrest and remand, we would only say that liberty is granted to the respondents to take recourse to law, to arrest, if a case is made out”.

60. Again, the High Court of Bombay, in **Shankesh Prithviraj Saghvi v. State of Maharashtra**²⁷, after considering the verdicts of the Hon’ble Supreme Court, observed at paragraphs 24, 25 and 26 as follows:

“24. Ms Shinde, the learned APP and Mr Pasbola, the learned Senior Counsel have mainly banked upon the decision in case of Sri. Darshan (supra). Therein, it is held that “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.” They have submitted that, in the case in hand, the Petitioner has not shown that he was prejudiced because of non-communication of the grounds of his arrest. Therefore, his arrest and the remand Orders cannot be rated as illegal. But, I find it difficult to be in unison with this submission. In this regard, it is apt to refer the decision in Ahmed Mansoor (supra). Therein, the Appellants before the Supreme Court were not furnished with the grounds of arrest when they were apprehended. Therefore, the order of their arrest and remand was set aside, but, without touching the issue of demonstrable prejudice. While dealing with the question involved in that Appeal, the top Court also referred to the decision in Sri. Darshan (supra) cited by the Respondent therein. However, observed that the facts governing were quite different. It was a case dealing with the cancellation of bail where the charge sheet had been filed and the grounds of detention were served immediately. The Supreme Court has, in fact, given its approval to the decision in Vihaan Kumar (supra).

[25. After surveying the decisions in the field, in case of Mihir Rajesh Shah (supra) it is held that, the grounds of arrest 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. In the case in hand, before passing the 1st remand Order, a copy of the PCR Application was served upon the Petitioner. However, exactly when the

²⁷ 2026 SCC Online Bom 4488

copy was provided or whether such a copy was provided two hours prior to production of the Petitioner, is not out from the record by the Respondent. That apart, in case of Ahmed Mansoor (supra), as noted in para 4, the contention on behalf of the Respondents was that the grounds of arrest was duly explained by the Court at the time of remand, followed by furnishing of a copy of the same containing the grounds of arrest to the counsel who appeared with them. However, having regard to the law laid down in cases of Pankaj Bansal (supra) 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, as well as the observations in paras 45 to 48 in Prabir Purkayastha (supra) and the observations in para 3 in Vihaan Kumar (supra), the Supreme Court in Ahmed Mansoor (supra), in para 10, held that the Explanation by the Court before whom the arrestees are produced can never be an adequate compliance of furnishing the grounds of arrest at the time of securing an accused.

26. A Constitution Bench in State of West Bengal v. Anwar Ali Sarkar, (1952) 1 SCC 1, held that procedural law confers very valuable rights on a person, and their protection must be as much the object of a Court's solicitude as those conferred under the substantive law. This principle, in the case in hand, appears to be ignored by the police and also by the learned Magistrate.

61. In view of the above precedents, which are constitutional guardrails, it can be held, without any hesitation that the order of the Special Judge that the detailed remand report/case record, the order of arrest, and the grounds of arrest contained in the remand order were read over to the petitioner does not amount to sufficient compliance and it totally violates Article 22(1) of the Constitution of India, which attains high constitutional and legal significance.

62. The other arguments advanced by the counsels is that taking the accused into custody from the jail authorities and subjecting the accused No.4 for medical examination also amounts to violation of Article 20(3) of the Constitution of India and that the latin maxim *falsus in uno, falsus in omnibus* squarely attracts.

63. It is apposite that the prohibition against the accused being a witness against himself cannot be limited to mere giving evidence, the bar is a

very comprehensive one, taking within its sweep even medical examination.

64. In ***M.P. Sharma and Others v. Satish Chandra***,²⁸ the Hon'ble Supreme Court has observed at paragraph 869, observed that *“To be a witness” is nothing more than “to furnish evidence”, and such evidence can be furnished through the lips or by production of a thing or of a document or in other modes*. The Hon'ble Supreme Court further observed that *“there is no reason to confine the content of the constitutional guarantee to barely literal import. Stating that the protection against self incrimination continues more or less the same as in English common law so far as the accused and the production of documents are concerned”* and it was observed at paragraph 870, which reads as follows:

“Considering in this light, the guarantee under Art. 20(3) would be available to persons against whom a F.I.R.st information report has been recorded as accused therein. It would extend to any compulsory process for production of evidentiary documents which are reasonably likely to support to prosecution against them”.

65. The Hon'ble Supreme Court, in the aforesaid judgment, held that the contention that Section 139 of the Evidence Act has no bearing on the connotation of the word 'witness' is not entirely well founded in law. The majority opinion further held that during thumb impressions or impressions of the foot or palm or fingers or specimen writings, or showing parts of the body by way of identification and not included in the expression 'to be a witness'. It is further held that *“To be a witness” means imparting knowledge in respect of relevant facts by an oral statement or statement in writing, made or given in Court or otherwise*. The bar against testimonial compulsion is against imparting knowledge in respect of relevant facts by an oral statement or a statement in writing, made or given in Court or otherwise. Giving specimen signatures or handwriting or thumb impressions of fingers or palm or foot or

²⁸ 1954 cri LJ 865 (SC)

showing parts of the body by way of identification are not included in the expression 'to be a witness'.

66. Evidently, bearing in mind all these aspects in mind, the Parliament included a new provision in the Criminal Procedure Code, 1973, under Section 53. Its marginal note is "*Examination of accused by medical practitioner at the request of police officer*".

67. The Hon'ble Supreme Court in ***D.K.Basu vs. State of West Bengal*** (supra 26), while dealing with Article 21 of the Constitution of India, the expressions used are "right, fair and just". The action of the State should confine to these words "right, fair and just" and follow the requirements in all cases of arrest or detention till legal provisions are made in that behalf as preventive measures. The Hon'ble Supreme Court has laid down the requirements of conducting medical examination on the arrestee, which was now incorporated as Section 53 of BNSS. It is trite to reproduce the requirements as laid down by the Hon'ble Supreme Court in ***D.K.Basu's case*** (supra 26), wherein, at paragraphs 35 to 38, it was held as follows:

"35. We therefore, consider it appropriate to issue the following requirements to be followed in all cases of arrest or detention till legal provisions are made in that behalf as preventive measures :

(1) The police personnel carrying out the arrest and handling the interrogation of the arrestee should bear accurate, visible and clear identification and name tags with their designations. The particulars of all such police personnel who handle interrogation of the arrestee must be recorded in a register.

(2) That the police officer carrying out the arrest of the arrestee shall prepare a memo of arrest at the time of arrest a such memo shall be attested by atleast one witness.

who may be either a member of the family of the arrestee or a respectable person of the locality from where the arrest is made. It shall also be counter signed by the arrestee and shall contain the time and date of arrest.

(3) A person who has been arrested or detained and is being held in custody in a police station or interrogation centre or other lock-

up, shall be entitled to have one friend or relative or other person known to him or having interest in his welfare being informed, as soon as practicable, that he has been arrested and is being detained at the particular place, unless the attesting witness of the memo of arrest is himself such a friend or a relative of the arrestee. (4) The time, place of arrest and venue of custody of an arrestee must be notified by the police where the next friend or relative of the arrestee lives outside the district or town through the legal Aid Organisation in the District and the police station of the area concerned telegraphically within a period of 8 to 12 hours after the arrest.

(5) The person arrested must be made aware of this right to have someone informed of his arrest or detention as soon as he is put under arrest or is detained.

(6) An entry must be made in the diary at the place of detention regarding the arrest of the person which shall also disclose the name of the next friend of the person who has been informed of the arrest and the names and particulars of the police officials in whose custody the arrestee is. (7) The arrestee should, where he so requests, be also examined at the time of his arrest and major and minor injuries, if any present on his/her body, must be recorded at that time. The "Inspection Memo" must be signed both by the arrestee and the police officer effecting the arrest and its copy provided to the arrestee.

(8) The arrestee should be subjected to medical examination by trained doctor every 48 hours during his detention in custody by a doctor on the panel of approved doctors appointed by Director, Health Services of the concerned State or Union Territory. Director, Health Services should prepare such a panel for all Tehsils and Districts as well. (9) Copies of all the documents including the memo of arrest, referred to above, should be sent to the illaga Magistrate for his record.

(10) The arrestee may be permitted to meet his lawyer during interrogation, though not throughout the interrogation.

(11) A police control room should be provided at all district and state headquarters, where information regarding the arrest and the place of custody of the arrestee shall be communicated by the officer causing the arrest, within 12 hours of effecting the arrest and at the police control room it should be displayed on a conspicuous notice board.

36. Failure to comply with the requirements hereinabove mentioned shall apart from rendering the concerned official liable for departmental action, also render him liable to be punished for contempt of court and the proceedings for contempt of court may be instituted in any High Court of the country, having territorial jurisdiction over the matter.

37. *The requirements, referred to above flow from Articles 21 and 22 (1) of the Constitution and need to be strictly followed. These would apply with equal force to the other governmental agencies also to which a reference has been made earlier.*

38. *These requirements are in addition to the constitutional and statutory safeguards and do not detract from various other directions given by the courts from time to time in connection with the safeguarding of the rights and dignity of the arrestee."*

68. Now, as regards the question whether it is necessary for the Investigating Officer/respondent to arrest the accused or seek his judicial custody, the foremost and fundamental consideration governing such arrest or the remand of the accused to judicial custody, whether initiated *suo motu* by the Investigating Officer or ordered by the Court, is whether there exists any reasonable apprehension that the accused may abscond, tamper with the evidence, or influence or intimidate the witnesses.

69. In the entire counter filed by the State, there is no averment regarding the aspect of absconding, tampering of records or influencing the witnesses. Further, as per the earlier orders of this Court in Criminal Petition No.3077 of 2026, this Court has twice permitted the petitioner to participate in the investigation, and as stipulated, the petitioner participated in the investigation in all the occasions even when there is no order of the Court. There was no necessity for the State/respondent to arrest or seek judicial custody of the accused No.4/petitioner for all the period and eventually, the urgency arose for the State/SIT to seek judicial custody only after this Court enlarged the petitioner/accused No.4 on bail on 07.04.2026 in Crl.M.P.No.2235 of 2026. Learned Senior Counsel appearing for the petitioner rightly relied upon the judgment of the Hon'ble Supreme Court in **Arvind Kejriwal vs. Central Bureau of Investigation** (supra 5), wherein, at paragraph 23, it was held as follows:

“23. Thus, it is evident that CBI did not feel the need and necessity to arrest the appellant from 17.08.2022 till 26.06.2024 i.e. for over 22 months. It was only after the learned Special Judge granted regular bail to the appellant in the ED case that the CBI activated its machinery and took the appellant into custody. Such action on the part of the CBI raises a serious question mark on the timing of the arrest; rather on the arrest itself. For 22 months, CBI does not arrest the appellant but after the learned Special Judge grants regular bail to the appellant in the ED case, CBI seeks his custody. In the circumstances, a view may be taken that such an arrest by the CBI was perhaps only to frustrate the bail granted to the appellant in the ED case.”

70. In view of the said observations of the Hon'ble Supreme Court, when the facts of the present case are juxtaposed, the same clearly attracts the ratio of the said judgment to the present case.

71. As stated supra, there is no complaint by the State against the petitioner/accused No.4 that the petitioner has shown any disinterest to participate in the investigation or that the accused is absconding. In the absence of such averment in the counter, this Court construes that there is no imminent requirement for the State/SIT to arrest and then seek judicial custody in a hectic manner, contravening the provisions of Cr.P.C. It is beyond *cavil of doubt* that the procedure has to be mandatorily followed and any deviation with the said procedure would tantamount to gross illegality, much less when dealing with the personal liberty of an individual under Article 21 of the Constitution of India.

72. It is again to reproduce the judgment of the Hon'ble Supreme Court in ***Mihir Rajesh Shah vs. State of Maharashtra and another*** (supra 1), particularly with regard to the necessity of maintaining a lower limit of two hours as the minimum interval before the production of the accused before the Court. Explaining the same, the Hon'ble Supreme Court at paragraphs 61 to 63 and 66 held as follows:

“61. Supplanting the above situation, there may be a case wherein the Investigating Officer has sent a notice for appearance of the accused to join the investigation under Section 41A of Cr.P.C. 1973 (now Section 35(3) to 35(6) of BNSS 2023) pursuant to which the accused has joined the investigation. The Investigating Officer, after perusal of material available before him and/or on interrogating the accused, makes up his mind that the arrest of the accused person is required for further investigation or has other reason(s) for arrest, in such cases, since the accused is under the supervision of the Investigating Agency and there exists no apprehension of him absconding, it becomes incumbent upon the Police Officer to supply the grounds of arrest in writing on arresting the accused person. This can also be followed, for instance, in cases involving offences which are primarily based on documentary evidence/records, economic offences such as under PMLA where the grounds of arrest in writing be furnished to the arrested person on arrest simultaneously.

62. We thus hold, that, in cases where the police are already in possession of documentary material furnishing a cogent basis for the arrest, the written grounds of arrest must be furnished to the arrestee on his arrest. However, in exceptional circumstances such as offences against body or property committed in flagrante delicto, where informing the grounds of arrest in writing on arrest is rendered impractical, it shall be sufficient for the police officer or other person making the arrest to orally convey the same to the person at the time of arrest. Later, 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. The remand papers shall contain the grounds of arrest and in case there is delay in supply thereof, a note indicating a cause for it be included for the information of the magistrate.

63. The above indicated lower limit of two hours minimum interval before the production is grounded in the functional necessity so that the right as provided to an arrestee under the Constitution and the statute is safeguarded effectively. This period would ensure that the counsel has adequate time to scrutinize the basis of arrest and gather relevant material to defend the arrestee proficiently and capably while opposing the remand. Any shorter interval may render such preparation illusory, thereby resulting in non-compliance of the constitutional and statutory mandate. The two-hour threshold before production for remand thus strikes a judicious balance between safeguarding the arrestee’s constitutional rights under Article 22(1) and preserving the operational continuity of criminal investigations.

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.”

73. The arguments advanced by the learned Senior Counsel, Mr.B.Adinarayana Rao, are found not appealing to this Court regarding whether, upon effecting a formal arrest, the accused would be in the custody of police, who executed the formal arrest or whether without arrest, the remand can be accorded. To substantiate his argument, he relied upon the judgment of this Court in **Ahamed Riswan vs. State of Andhra Pradesh and others** (supra 16), wherein at paragraphs 13 to 16, it was held as follows:

“13. From a reading of the judgment of the Apex Court it is clear that in every arrest there is custody, but not vice versa.

14. The next question would be under what circumstances can a person be remanded to custody; Is it necessary that a remand of the accused can only be by the court after the arrest, or is there any other circumstance by which the Court can remand an accused under Section 167 Cr.P.C.

15. The issue came up for consideration before the Apex Court in **Niranjan Singh v. Prabhakar Rajaram Kharote**. Justice V.R.Krishna Iyer speaking for the Bench observed as under:

“He can be in custody not merely when the police arrests him, produces him before a Magistrate and gets a remand to judicial or other custody. He can be stated to be in judicial custody when he surrenders before the Court and submits to its directions.”

16. From the judgment of **Niranjan Singh's** case (supra) it is very clear that an accused can be in custody not only when the Police arrests him, but also when remanded on his surrender before the court and submitting to its jurisdiction. Therefore, as observed by the Apex Court in **Anupam, J. Kulkarni's** case (supra) arrest shall never be a

pre-condition for remand, and that one need not be arrested and produced before the Court, for the purpose of remand and to the judicial custody of the Court. He can be stated to be in judicial custody when remanded on his surrender before the Court and submits to its jurisdiction. However, his physical control or at least physical presence, coupled with submission to the jurisdiction and orders of Court, is a sine qua non. Be it on the production by the investigating agency, or on his own before the court. If the Court is of the opinion that he has committed cognizable offence and that his remand is warranted, it can direct him to be remanded to judicial custody under Section 167 Cr.P.C., though not arrested by any investigating agency. That being the position, the argument of the learned counsel for the petitioner that arrest is a pre condition for remand may not be correct. But however, the power of remand pre-is to be exercised under Section 167 Cr.P.C. only and not under Section 267 Cr.P.C. As held by us earlier, remand of an accused under Section 267 Cr.P.C. itself may not be correct, but remanding an accused by an order of court is a pre-requisite for the purpose of making an application for seeking bail.”

The facts in that case can be distinguished and do not apply to the present facts of the case.

74. In the present case, the accused was taken to custody and then arrested in the Court and in which, the accused was subjected to medical examination even prior to arrest contrary to the very Section 53 of BNSS. This Court is afraid that the said ratio may not be applicable to the present case and there is no necessity to venture into whether arrest and custody resemble and that, in every arrest, there is custody, but not *vice versa*.

75. The judgments relied upon by the learned Senior Counsel for the SIT, Mr.B.Adinarayana Rao, were distinguished by the Hon'ble Supreme Court in **Ahmed Mansoor and others vs. State Rep. by Assistant Commissioner of Police and another** (supra 9), wherein, at paragraphs 3 to 9, it was held as follows:

“3. The only issue for consideration in this appeal is as to whether the appellants have been furnished with the grounds of arrest when they were apprehended and, if not, whether an explanation given by the jurisdictional Court at the time of remand, followed by the

remand order which indicates that the grounds of arrest were explained, would be in sufficient compliance of Section 43B of the UAPA.

4. The issue involved in the present appeal is no longer *res integra*. In our considered view, the High Court has misconstrued the earlier judgments passed by this Court. On facts, there is no dispute that the grounds of arrest were not furnished, either to the appellants or to the persons arrested with them. On the contrary, the only contention on behalf of the respondents is that the grounds of arrest was duly explained by the Court at the time of remand, followed by furnishing of a copy of the same containing the grounds of arrest to the counsel who appeared with them. In *Pankaj Bansal v. Union of India & Ors.* (2024) 7 SCC 576, the aforesaid aspect of mandatory information, in writing, of grounds of arrest has been explained by this Court as follows:

“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* and the Bombay High Court in *Chhagan Chandrakant Bhujbal*, 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 fulfill 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 F.I.R.st 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.”

5. The aforesaid position has been reiterated in *Prabir Purkayastha v. State (NCT of Delhi)* - (2024) 8 SCC 254 as stated under:

“45. We are of the F.I.R.m opinion that once this Court has interpreted the provisions of the statute in context to the constitutional scheme and has laid down that the grounds of arrest have to be conveyed to the accused in writing expeditiously, the said ratio becomes the law of the land binding on all the courts in the country by virtue of Article 141 of the Constitution of India.

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 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 proforma 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 from 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 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."

6. In *Vihaan Kumar v. State of Haryana & Anr.*, this Court, in the supplementing judgment, was pleased to observe as follows:

"3. The purpose of inserting Section 50A of the Cr.P.C., making it obligatory on the person making arrest to inform about the arrest to the friends, relatives or persons nominated by the arrested person, is to ensure that they would be able to take immediate and prompt actions to secure the release of the arrested person as permissible under the law. The arrested person, because of his detention, may not have immediate and easy access to the legal process for securing his release, which would otherwise be available to the friends, relatives and such nominated persons by way of engaging lawyers, briefing them to secure release of the detained person on bail at the earliest. Therefore, the purpose of communicating the grounds of arrest to the detainee, and in addition to his relatives as mentioned above is not merely a formality but to enable the detained person to know the reasons for his arrest but also to provide the necessary opportunity to him through his relatives, friends or nominated persons to secure his release at the earliest possible opportunity for actualising the fundamental right to liberty and life as guaranteed under Article 21 of the Constitution.

Hence, the requirement of communicating the grounds of arrest in writing is not only to the arrested person, but also to the friends, relatives or such other person as may be disclosed or nominated by the arrested person, so as to make the mandate of Article 22(1) of the Constitution meaningful and effective failing which, such arrest may be rendered illegal."

7. Learned Senior counsel appearing for the respondent(s) has placed reliance on recent decisions of this Court in *Kasireddy Upender Reddy v. State of Andhra Pradesh and Ors.*- Criminal Appeal No.2808/2025 dated 23.05.2025 and *State of Karnataka v. Sri Darshan Etc.* - Criminal Appeal Nos. 3528- 3534/2025 dated 14.08.2025.

8. In *State of Karnataka v. Sri Darshan Etc.(supra)* the facts governing are quite different. It was a case dealing with the cancellation of bail where the charge sheet had been filed and the grounds of detention were served immediately. This Court has, in fact, given its approval to the decision in *Vihaan Kumar v. State of Haryana & Anr.(supra)*. Similarly, in *Kasireddy Upender Reddy v. State of Andhra Pradesh and Ors. (supra)*, this Court was pleased to hold in para 27 that the object underlying the provision that the grounds of arrest should be communicated has been explained by this Court in *Vihaan Kumar v. State of Haryana & Anr (supra)*. Therefore, the law as laid down in *Vihaan Kumar v. State of Haryana & Anr (supra)* has been approved and reiterated in the abovesaid decisions.

9. In such view of the matter, we are inclined to hold that the present appeal deserves to succeed only on the ground that the mandate of furnishing the grounds of arrest at the time of securing the appellants has not been complied with. Therefore, we are not inclined to go into the merits of the case. However, while setting aside the order passed by the High Court and consequently setting aside the order of arrest and remand, we would only say that liberty is granted to the respondents to take recourse to law, to arrest, if a case is made out."

76. Regarding the prejudice, this Court has already extensively dealt with in the above paragraphs that the prejudice will succinctly arise where there is insufficiency in the grounds of arrest actually furnished to the accused. In the present case, the specific case of the petitioner is that the grounds of arrest furnished to him were inadequate and insufficient, which has certainly caused prejudice to him. This Court has already discussed the said aspect, placing reliance upon the judgment of the Hon'ble Supreme Court in **State of**

Meghalaya vs. Sonam Raghuvanshi (supra 13), wherein at paragraph 11, the Hon'ble Supreme Court held as follows:

“11. We find that the respondent is not entitled for bail, both on merits and on the grounds discussed by both the Courts. There is a fundamental difference between non-service of grounds of arrest and non-furnishing of adequate reasons thereunder. While the F.I.R.st category might vitiate the arrest, in the second category, one has to see the prejudice caused to the accused. In the facts of the instant case, it is not as if the respondent was not served with the grounds of arrest. Hence, the case of the respondent falls within the second category discussed above. The respondent has also not taken the said plea at the earliest point of time, having done so only in her 4th Bail Application before the trial court.”

77. This Court would like to underscore the importance of the rights conferred under the procedural laws, as noted by the Constitutional Bench of the Hon'ble Supreme Court in **R.S.Antulay vs. R.S.Nayak**²⁹, wherein it was observed that *“no man can be denied of his rights under the Constitution and the laws. He has a right to be dealt with in accordance with the law, and not must in derogation of it”*. The Hon'ble Supreme Court further held that *“denial of equal protection of laws, by being singled out for a special procedure not provided under the law, caused denial of rights under Article 14 of the Constitution of India”*. This Court deems it appropriate to reproduce the observations of the Hon'ble Supreme Court in **Dhanraj Aswani vs. Amar S.Mulchandani and another** (supra 10), wherein, at paragraphs 66 to 68, it was held as follows:

“66. Before we part with the matter, we would like to underscore the importance of the rights conferred under the procedural laws as noted by a Constitution Bench of this Court in A.R. Antulay v. R. S. Nayak reported in (1988) 2 SCC 602. It was observed therein that no man can be denied of his rights under the Constitution and the laws. He has a right to be dealt with in accordance with the law, and not in derogation of it. This Court held that a denial of equal protection of laws, by being singled out for a special procedure not provided under

²⁹ (1988) 2 SCC 602

the law, caused denial of rights under Article 14 of the Constitution of India.

67. A few relevant observations are extracted hereinbelow:

“41. In the aforesaid view of the matter and the principle reiterated, it is manifest that the appellant has not been ordered to be tried by a procedure mandated by law, but by a procedure which was violative of Article 21 of the Constitution. That is violative of Articles 14 and 19 of the Constitution also, as is evident from the observations of the Seven Judges Bench judgment in Anwar Ali Sarkar case [(1952) 1 SCC 1 : AIR 1952 SC 75 : 1952 SCR 284 : 1952 Cri LJ 510] where this Court found that even for a criminal who was alleged to have committed an offence, a special trial would be per se illegal because it will deprive the accused of his substantial and valuable privileges of defence which, others similarly charged, were able to claim.

81.... We proclaim and pronounce that no man is above the law, but at the same time reiterate and declare that no man can be denied his rights under the Constitution and the laws. He has a right to be dealt with in accordance with the law and not in derogation of it. This Court, in its anxiety to facilitate the parties to have a speedy trial gave directions on 16-2-1984 as mentioned hereinbefore without conscious awareness of the exclusive jurisdiction of the Special Courts under the 1952 Act and that being the only procedure established by law, there can be no deviation from the terms of Article 21 of the Constitution of India. That is the only procedure under which it should have been guided. By reason of giving the directions on 16-2-1984 this Court had also unintentionally caused the appellant the denial of rights under Article 14 of the Constitution by denying him the equal protection of law by being singled out for a special procedure not provided for by law.” (Emphasis supplied)

68. Similarly, a Constitution Bench of this Court in *State of West Bengal v. Anwar Ali Sarkar* reported in (1952) 1 SCC 1, held that procedural law confers very valuable rights on a person, and their protection must be as much the object of a Court's solicitude as those conferred under the substantive law. Few pertinent observations are extracted hereinbelow:

“27. The argument that changes in procedural law are not material and cannot be said to deny equality before the law or the equal protection of the laws so long as the substantive law remains unchanged or that only the fundamental rights referred to in Articles 20 to 22 should be safeguarded is, on the face of it, unsound. The right to equality postulated by Article 14 is as much

a fundamental right as any other fundamental right dealt with in Part III of the Constitution. Procedural law may and does confer very valuable rights on a person, and their protection must be as much the object of a court's solicitude as those conferred under substantive law.” (Emphasis supplied)”

78. For better appreciation, Articles 21 and 22 of the Constitution of India are extracted hereunder:

“21. Protection of life and personal liberty.

—No person shall be deprived of his life or personal liberty except according to procedure established by law.

[21A. Right to education.—The State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine.]

22. Protection against arrest and detention in certain cases.—

(1) 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.

(2) Every person who is arrested and detained in custody shall be produced before the nearest magistrate within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place of arrest to the court of the magistrate and no such person shall be detained in custody beyond the said period without the authority of a magistrate.

(3) Nothing in clauses (1) and (2) shall apply—

(a) to any person who for the time being is an enemy alien; or

(b) to any person who is arrested or detained under any law providing for preventive detention.

(4) No law providing for preventive detention shall authorise the detention of a person for a longer period than three months unless—

(a) an Advisory Board consisting of persons who are, or have been, or are qualified to be appointed as, Judges of a High Court has reported before the expiration of the said period of three months that there is in its opinion sufficient cause for such detention:

Provided that nothing in this sub-clause shall authorise the detention of any person beyond the maximum period prescribed by any law made by Parliament under sub-clause (b) of clause (7); or (b) such

person is detained in accordance with the provisions of any law made by Parliament under sub-clauses (a) and (b) of clause (7).

(5) When any person is detained in pursuance of an order made under any law providing for preventive detention, the authority making the order shall, as soon as may be, communicate to such person the grounds on which the order has been made and shall afford him the earliest opportunity of making a representation against the order.

(6) Nothing in clause (5) shall require the authority making any such order as is referred to in that clause to disclose facts which such authority considers to be against the public interest to disclose.

(7) Parliament may by law prescribe—

(a) the circumstances under which, and the class or classes of cases in which, a person may be detained for a period longer than three months under any law providing for preventive detention without obtaining the opinion of an Advisory Board in accordance with the provisions of sub-clause (a) of clause (4)];

(b) the maximum period for which any person may in any class or classes of cases be detained under any law providing for preventive detention; and

(c) the procedure to be followed by an Advisory Board in an inquiry under sub-clause (a) of clause (4)."

79. The salient structure and intrinsic right are dwelled from the

Preamble, which is extracted hereunder:

"THE CONSTITUTION OF INDIA, 1950

Preamble:- WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a '[SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC) and to secure to all its citizens:

JUSTICE, social, economic and political;

LIBERTY of thought, expression, belief, faith and worship;

EQUALITY of status and of opportunity;

and to promote among them all;

FRATERNITY assuring the dignity of the individual."

80. The personal right guaranteed under Article 21 of the Constitution of India is non-negotiable, as held by the Hon'ble Supreme Court in **Rudul**

Shah vs. State of Bihar and another³⁰ (3-Judge Bench). The Hon'ble Supreme Court made important observations concerning Article 21 of the Constitution of India, holding that *"the right to liberty guaranteed by Article 21 of the Constitution of India is fundamental and basic, that no compromise is possible with the right"*. It is non-negotiable and this Democratic principle was subsequently reiterated in **Sebastian M. Hongray vs. Union of India and others**³¹.

81. In a recent judgment of the Hon'ble Supreme Court in **Jagisha Arora vs. State of Uttar Pradesh and another**³², the Hon'ble Supreme Court has observed the fundamental rights guaranteed under the Constitution of India, in particular, Articles 19 and 21 of the Constitution are non-negotiable. At paragraphs 2 and 5, it was held as follows:

"2. The fundamental rights guaranteed under the Constitution of India and in particular Articles 19 and 21 of the Constitution of India are non-negotiable.

5. As a matter of self imposed discipline and considering the pressure of mounting cases on this Court, it has become the practice of this Court to ordinarily direct that the High Court F.I.R.st be approached even in cases of violation of fundamental rights. However, Article 32 which is itself a fundamental right cannot be rendered nugatory in a glaring case of deprivation of liberty as in the instant case, where the jurisdictional Magistrate has passed an order of remand till 22.06.2019 which means that the petitioner's husband- Prashant Kanojia would be in custody for about 13/14 days for putting up posts/tweets on the social media."

82. It is pertinent to observe that the criminal justice system is required to maintain a delicate equilibrium between the legitimate interests of effective investigation and the equally compelling constitutional imperative of preserving personal liberty. Neither objective can be permitted to overwhelm the other. Courts are duty-bound to ensure that investigative powers are

³⁰ (1983) 4 SCC 141

³¹ (1984) 1 SCC 339

³² (2019) 6 SCC 619

exercised to advance the cause of justice and not in a manner that results in avoidable or disproportionate deprivation of liberty.

83. Upon the cumulative reasons aforementioned and discussed, coupled with the judicial pronouncements of the Hon'ble Supreme Court, the Order, dated 20.07.2026, passed by the learned Special Judge for SPE & ACB Cases-cum-III Additional District Judge, Vijayawada, in Crime No.11 of 2026 on the file of the CID Police Station, Mangalagiri against the petitioner/accused No.4, is hereby quashed, *inter alia*, the respondent is directed to release the petitioner/accused No.4 and set him at liberty. It is made clear that this order does not preclude the respondent to continue with the investigation against the petitioner/accused No.4 and the petitioner shall cooperate with the investigation whenever called and shall adhere to the conditions imposed thereof.

84. Resultantly, the Criminal Petition No.6456 of 2026 is allowed.

85. It is also relevant to note that the case of Accused No.1 is also on the same footing and is governed by the very same facts and legal issues considered herein. Accordingly, the Order, dated 20.07.2026, passed by the learned Special Judge for SPE & ACB Cases-cum-III Additional District Judge, Vijayawada, in Crime No.11 of 2026 on the file of the CID Police Station, Mangalagiri, against the petitioner/accused No.1 is hereby quashed, *inter alia*, the respondent is directed to release the petitioner/accused No.1 and set him at liberty. It is made clear that this order does not preclude the respondent to continue with the investigation against the petitioner/accused No.1 and the petitioner shall cooperate with the investigation whenever called and shall adhere to the conditions imposed thereof.

86. Resultantly, the Criminal Petition No.6463 of 2026 is allowed.

87. In view of allowing the Criminal Petition Nos.6456 and 6463 of 2026, no further orders are necessary in Criminal Petition No.6467 of 2026.

88. Resultantly, the Criminal Petition No.6467 of 2026 is dismissed.

As a sequel, Interlocutory Applications pending, if any, shall stand closed.

TUHIN KUMAR GEDELA, J

Date : 13-08-2026
BMS/KNN/Tsy