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MCRC-32331-2026

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE AMIT LAHOTI

ON THE 18th OF SEPTEMBER, 2026MISC. CRIMINAL CASE No. 32331 of 2026*RAJU SONKER**Versus**THE STATE OF MADHYA PRADESH*

Appearance:

*Shri Mrigendra Singh - Senior Advocate with Shri Akbar Hussain Usmani and
Ms. Guncha Rasool - Advocates for the applicant.*

Shri Naveen Thakur - Government Advocate for respondent/State.

*Shri Hiimanshu Tiwari (through V.C.) and Shri Ankit Dubey - Advocates for the
complainant.*

ORDER

This is **first bail** application filed by the applicant under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), seeking grant of bail in connection with Crime No.47/2026 registered for offences punishable under Sections 296(b), 109(1), 103(1), 3(5) of the Bharatiya Nyaya Sanhita, 2023 (BNS) and Section 25 of the Arms Act. The applicant is in custody since 22.01.2026.

2. The prosecution story, in brief, is that on 20.01.2026 at about 09:00 am, the applicant alongwith the co-accused confronted the deceased in front of the deceased's house over a prior dispute. The applicant and co-accused verbally abused the deceased, and when he protested, the applicant caught the deceased from behind and the co-accused took out a knife from his pocket and stabbed the deceased in the right armpit with an intention to kill the deceased. When the complainant intervened, the co-accused attacked him as well, causing injuries to the fingers of his left hand. Upon the arrival of the deceased's mother and brothers, the accused persons fled the scene. The



deceased was initially rushed to Civil Hospital, Ranjhi, and subsequently transferred to Hyderabad Omega Hospital, Jabalpur, where he was declared dead, leading to the registration of the present offences against the applicant and the co-accused.

3. Learned senior counsel for the applicant submits that the specific allegation of inflicting the fatal knife blow is exclusively attributed to the co-accused. The applicant has been in custody since 22.01.2026 and conclusion of the trial will take considerable time.

3.1 It is contended that the evidence of eye-witness is already over and now there is no apprehension of tampering with the prosecution witnesses and; secondly, he submits that at the time of arrest of the applicant on 20.01.2026, grounds of arrest in writing were not communicated to him. Even thereafter, prior to seeking remand of the applicant, the grounds of arrest were not submitted. The arrest memo prepared at the time arrest is in template form which only contains reasons and not the grounds and; therefore, there is violation of Article 22(1) of the Constitution of India and; therefore, the arrest of the applicant itself is illegal.

3.2 In support of aforesaid contention, learned senior counsel for the applicant relied upon the judgments delivered by the Hon'ble Apex Court in the matters of *Prabir Purkaystha vs. NCT of Delhi*, (2024) 8 SCC 254, *Vihaan Kumar vs. State of Haryana*, (2025) 5 SCC 799 and *Mihir Rajesh Shah vs. State of Maharashtra*, (2026) 1 SCC 500. In *Mihir Rajesh Shah* (supra), the Hon'ble Supreme Court has held as under:

"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.



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.

68. We are cognizant that there existed no consistent or binding requirement mandating written communication of the grounds of arrest for all the offences. Holding as above, in our view, would ensure implementation of the constitutional rights provided to an arrestee as engrafted under Article 22 of the Constitution of India in an effective manner. Such clarity on obligation would avoid uncertainty in the administration of criminal justice. The ends of fairness and legal discipline therefore demand that this procedure as affirmed above shall govern arrests henceforth."

In the light of aforesaid judgments, it is argued that the grounds of arrest since not furnished in writing or explained to him as mandated under Section 47 of the BNSS and; thus, the arrest and consequent remand stood vitiated. On these grounds, learned senior counsel prays for grant of bail to the applicant.

4. *Per contra*, learned Government Advocate appearing for the State, submits that looking to the allegations levelled against the applicant, he has an active participation in the incident which resulted into injuries to the deceased which culminated into his death.

4.1 It is reported by learned Government Advocate that the applicant has a criminal record of 25 cases registered against him. In rebuttal whereof, learned senior counsel for the applicant submits that in some of the cases, the applicant has already been acquitted. Thus, learned Government Advocate prays for rejection of the bail application on the ground of seriousness of the offence and the manner in which it was committed.

4.2 Learned Government Advocate further submits that the judgment of *Mihir Rajesh*



Shah (supra) has been delivered on 06.11.2025, pursuant where to, guidelines were issued on 13.02.2026 by the Police Department to follow the aforesaid judgment. In the present case, on 22.01.2026, when the applicant was arrested the grounds of arrest were orally stated to him and he was explained reasons also for being arrested. Thereafter, information regarding the arrest was also given to the wife of the applicant and at the time of seeking judicial remand from the concerned Magistrate, Investigating Officer mentioned all the reasons and grounds as to why the remand of the present applicant is necessary. Even at that time also, the applicant has not made any objection regarding non-furnishing of grounds of arrest in writing. Even during the course of investigation or at the stage of framing of charge, no such objection was ever taken and this is not even the ground set up by the applicant in his bail application for bail filed before the trial Court.

4.3 It is further submitted by learned Government Advocate that in view of the judgment delivered on 14.08.2025 by the Hon'ble Supreme Court in the matter of *State of Karnataka vs. Sri Darshan Etc., 2025 SCC Online SC 1702*, the Hon'ble Supreme Court while considering that non-supply of written grounds of arrest would not automatically render the arrest illegal and entitled the accused to bail, held as under:

"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.

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; the arrest memos were allegedly template-based and not personalised and eyewitnesses had not stated that they were present at the time of arrest or had signed the memos. Relying on Pankaj Bansal v. Union of India and Prabir Purkayastha v. State (NCT of Delhi) (supra), it concluded 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 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."

The Hon'ble Apex Court relying upon the judgments of ***Vihaan Kumar (supra)***, ***Pankaj Bansal vs. Union of India, 2024(7) SCC 576*** and ***Prabir Purkaystha (supra)*** clarifying that Article 22(1) of the Constitution and Section 50 Cr.P.C. (now Section 47 of the BNSS) requires that the accused must be informed of the grounds of arrest but do not mandate that such grounds must invariably be furnished in writing in every case. What is essential and substantial in affected communication of the grounds. The Court emphasize that the correct approach is a "prejudice test". Mere procedural lapse such an absence of written grounds does not ipso facto vitiate the arrest, unless the accused demonstrate actual prejudice or denial of a fair opportunity to defend and if the accused was aware of the reasons for arrest and was able to seek remedies such as applying for bail, the requirement stands satisfied.

4.4 Learned Government Advocate has also relied upon the judgment of Hon'ble Supreme Court dated 23.07.2026 passed in SLP (Cr.) No.11944/2026 in the case of ***State of Meghalaya vs. Sonal Raghuvanshi @ Bitti @ Bittu*** wherein it has been held as under:

"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 first 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 earlier point of time, having done so only in her 4th Bail Application before the Trial Court."

5. Heard the learned counsel for the parties and perused the record.



6. So far as the merits of the matter are concerned, having regard to the allegations levelled against the present applicant and his active participation in the commission of the offence, which resulted in the murder of the deceased and is duly corroborated by the medical evidence, this Court is of the view that the applicant does not deserve to be enlarged on bail on merits.

7. So far as the question of non-supply of the written grounds of arrest is concerned, it is reflected from the record that the applicant was aware of the reasons for his arrest. He was legally represented from the outset and applied for bail shortly after his arrest, thereby evidencing an immediate and informed understanding of the accusations against him. No material has been placed on record to establish that any prejudice was caused to the applicant on account of the alleged procedural lapse. However, the material borne out from the record does reflect that the grounds of arrest were not supplied to the applicant in writing, which constitutes violation of Article 22(1) of the Constitution of India and the law laid down by the Hon'ble Supreme Court in **Mihir Rajesh Shah** (supra). Nevertheless, such defect, by itself, would not warrant the release of the applicant on bail in the facts and circumstances of the present case in particular. This Court cannot overlook the determinative factors, namely, the gravity of the charge under **Section 103 of the BNS**, the **active role attributed to the applicant** in the commission of the offence, and his **criminal antecedents**.

8. This Court while taking into consideration the judgment of **Mihir Rajesh Shah** (supra) which clearly states that the grounds of arrest have to be communicated in writing and if it could not be done, atleast two hours prior to producing the applicant before the concerned Magistrate seeking his remand. This Court is in respectful agreement with the aforesaid pronunciation of law laid down by the Hon'ble Supreme Court, coupled with the prejudice test laid down by Hon'ble Supreme Court in the matter of **State of Karnataka** (supra), is of the view in the peculiar facts and circumstances of the case that though personal liberty is the cherished constitutional



value but it is not absolute in the sense that liberty must yield where it poses a threat to the collective interest of the society and when the facts of the case is seen in the context of the allegations levelled against the applicant as well as his criminal antecedents and the fact that prior to the filing of present bail before this Court at any point of time, the applicant has never raised any objection regarding non-compliance of Section 47 of the BNSS nor it has been shown in any of the grounds of his bail application memo that any prejudice has been caused to him which has resulted in violation of his right to fair trial, coupled with the fact that now the trial at the stage of recording of evidence, this Court is not inclined to grant bail to the applicant.

9. Accordingly, the application is **dismissed**.

(AMIT LAHOTI)
JUDGE

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