



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 1813 OF 2026

Krushna Arun Shingare
Age 23 years, Occu: Labour
R/o Siddharth Nagar, Ward NO.1,
Shrirampur, Tq. Shrirampur
District Ahilyanager

... **Applicant**

VERSUS

The State of Maharashtra
Through Police Station Officer
Shrirampur City Police Station,
Tq. Shrirampur, District Ahilyanager

... **Respondent**

- Mr. Nitin V. Gaware Patil through V.C. a/w Mr. Sanjay N. Gaikwad, Advocates for the Applicant
- Mr. S. D. Ghayal, Additional Public Prosecutor. for the State
- Mr. S. B. Talekar, Advocate for the Informant, through V.C.
- Mr. N.B. Khandare, Senior Advocate i/by Mr Sagar P. Mahale, Intervenor/victim

CORAM : HITEN S. VENEGAOKAR, J.

Dated : 1st October, 2026

J U D G M E N T:-

1. The applicant has filed this application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ("BNSS"), seeking his release in connection with Crime No. 01 of 2026 registered at Shrirampur City Police Station, District Ahilyanagar, for offences punishable under Sections 103(1), 109(1) and 3(5) of the Bharatiya Nyaya Sanhita, 2023, and Section 3 read with Section 25 of the Arms Act, 1959. Although the application is styled as an application for

regular bail, Learned Advocate for the applicant has confined his submissions to the legality of the arrest and the custody founded upon it. His contention is that the factual grounds of arrest were not furnished to the applicant in accordance with Article 22(1) of the Constitution and Section 47 of the BNSS. The application, therefore, requires consideration of that objection and its consequence, without adjudicating the applicant's entitlement to bail on the merits of the accusation.

2. The prosecution case, in brief, is that on 31 December 2025, at about 2.50 p.m., Aslam Shabbir Shaikh, also known as Bunty Jahagirdar, was returning on a scooter with Amin Gulab Shaikh after a condolence visit. Near St. Luke Hospital in Ward No. 1, Shrirampur, two persons on a motorcycle fired at them. Aslam sustained firearm injuries, whereas a bullet is stated to have grazed Amin's back. Aslam was taken for treatment and was subsequently declared dead at a hospital in Ahilyanagar. Raees Abdulgani Shaikh, who received information about the occurrence shortly thereafter, lodged the first information report at about 3.49 a.m. on 1 January 2026. The assailants were described in the report as two unknown persons. Certain other persons were initially suspected on account of the background stated in the report, but the prosecution subsequently attributed the shooting to the applicant and another accused on the basis of the investigation. The informant was not an eyewitness to the shooting; that circumstance does not diminish his right to place the

prosecution material and the concerns of the deceased's family before the Court.

3. According to the investigation, the applicant and Ravi Gautam Nikalje fired at the deceased, while Sandesh Sanjay Rokade and Mayur Subhash Wavdhane watched his movements and communicated his location. The prosecution relies upon the recovery of a pistol, magazine and live cartridge from the applicant, a separate firearm recovery from Ravi, clothes attributed to the applicant, and a motorcycle recovered pursuant to Ravi's disclosure. Identification proceedings, medical material, CCTV recordings, mobile-phone material and witness statements are also relied upon. The informant's affidavit attributes one shot to the applicant and further shots to Ravi, and describes the occurrence as a planned attack intended to spread terror. Counsel states that the charge sheet was filed on 19 March 2026 and cites twenty-six witnesses. This material is recorded because it explains the gravity of the accusation and the opposition to release. Its correctness and evidentiary worth are matters for the trial and are not determined in the present order.

4. The arrest of the applicant is recorded at about 12.31 p.m. on 1 January 2026, and the applicant was produced with the other accused before the Judicial Magistrate First Class at about 5.30 p.m. that day through video conference. Police custody was granted until 6 January and thereafter extended until 9 January. On 9 January, the applicant and another accused submitted a written application

contending that their grounds of arrest had not been communicated and requesting refusal of further remand and release. The learned Magistrate rejected that application and remanded them to judicial custody. The applicant thereafter approached the Additional Sessions Judge, Shrirampur, by Criminal Bail Application No. 40 of 2026, which was rejected on 7 May 2026. The learned Sessions Judge treated the notice mentioning the crime number and statutory offences, the document of intimation to the applicant's brother about the arrest of the applicant, the observations made in the remand order by the Learned Magistrate and the availability of legal representation to the applicant before court from inception as sufficient compliance of grounds of arrest. The absence of an affidavit of the applicant himself concerning antecedents and previous proceedings was also considered. These proceedings and orders have been disclosed in the present application by the applicant.

5. Learned Advocate for the applicant at the outset submit that he is not pressing the present bail application on merits and allegations of the prosecution against the applicant. He submits that the application is preferred on the ground of arrest being illegal for non supply of grounds of arrest which violates the statutory safeguard of the applicant and also constitutional rights of the applicant . He thus submits that the notice relied upon as by the prosecution as compliance with Section 47 of the BNSS mentions the crime number, the penal provisions and the fact that the applicant is being arrested for

investigation of a cognizable and non-bailable offence. It does not state the occurrence in which he is alleged to have participated, the role attributed to him or any factual basis for connecting him with the offence. The Learned Counsel submits that the applicant's signature can acknowledge receipt of the document and its contents, but cannot establish communication of facts which do not appear in it. The printed entry in the arrest form that grounds were informed is said to suffer from the same deficiency. He further submits that the intimation to the brother under Section 48 serves a distinct statutory purpose and cannot be substituted for the communication required to be made to the person arrested.

6. Learned Advocate for applicant on Courts query categorically accepts that the objection was first raised on 9 January and not at the first production of the applicant for remand before the Learned Magistrate. He submits, however, that the absence of an earlier objection and the presence of an advocate do not discharge the State's obligation to establish that written grounds of arrest containing the factual basis of arrest were furnished at the required stage. According to him, neither the first remand order nor the subsequent reply of the Investigating Officer identifies such a communication. He questions the legal sufficiency of the Magistrate's Observations that the accused were informed of the grounds and understood them, and submits that subsequent remands and filing of the charge sheet cannot validate an arrest vitiated by the original breach. In support, he relies principally

upon **Vihaan Kumar v. State of Haryana**, (2025) 5 SSC 799; **Mihir Rajesh Shah v. State of Maharashtra**, (2026) 1 SCC 500; **Directorate of Enforcement v. Subhash Sharma**, 2025 SSC Online SC 240; and **Jaskaran Jeet Singh Deol v. State of Punjab**, 2026 SSC Online SC 1939, besides the decisions of this Court cited in the application.

7. Learned APP submits that the applicant signed the Section 47 notice, that his brother was informed of the arrest and that the arrest papers and station diary establish compliance. Particular reliance is placed on the first remand order, which records that the grounds and the right to legal representation were explained to the accused and were understood by them. Learned APP points out that the applicant was represented by an advocate from the first production and did not then complain about the grounds. He also relies upon the seriousness of the accusation and the material collected during investigation. When specifically asked to identify the written communication containing the factual grounds furnished to this applicant, apart from the notices and arrest papers relied upon, Learned APP did not identify any further furnished document setting out those grounds. His submission remained that the existing documents, read with the remand recital, constituted the necessary compliance.

8. Learned Advocate for the informant submits that the arrest form at pages 90 to 92, the Section 47 notice at pages 93 and 94 and the Section 48 documents at pages 95 and 96 of the application must be read together. The notice supplies the police station, crime number,

date of registration, statutory offences and the purpose of arrest. It was signed by the applicant, who had legal assistance throughout the proceedings. According to counsel, these circumstances establish actual knowledge of the accusation and enable an effective response to remand. He correctly submits that no particular format or separately titled sheet is prescribed and that the police cannot be required to disclose evidence which was yet to be collected. He further submits that the remand objection and the Sessions application were rejected by reasoned orders, neither of which has been separately challenged, and that the present application repeats the same ground without establishing prejudice or a change of circumstances. The applicant's silence at the earlier remands is relied upon as evidence of his awareness, rather than merely as a question of waiver.

9. In the affidavit opposing the application, the informant has also requested scrutiny of the original notices, acknowledgments, station diary entry and remand records, and has pointed out that a distinct breach of the two-hour requirement has not been pleaded with particulars of the time of service. He relies upon **State of Karnataka v. Sri Darshan, 2025 SSC Online SC 1702** and **State of Meghalaya v. Sonam Raghuvanshi, decided on 23 July 2026 in SLP (Criminal) No. 11944 of 2026: (2026 SCC Online SC 1392)** to distinguish complete non-communication of grounds of arrest and adequacy of information or grounds of arrest. He submits that this is not a case where there is complete non compliance. On the merits, he relies upon **Mahipal v.**

Rajesh Kumar, (2020) 2 SCC 118; Yash Mahesh Gaikwad v. State of Maharashtra, 2026 SCC Online SC 1696 and Bhagat Singh v. State of Uttar Pradesh, 2026 SCC Online SC 918. He submits that youth, absence of asserted antecedents, completion of investigation and the period of custody cannot by themselves justify release in a planned fatal shooting. The affidavit refers specifically to Amin and other witnesses residing in Shrirampur, apprehends intimidation before their examination and, alternatively, seeks restrictions on entry into the town, weekly attendance and prohibition upon contact with witnesses.

10. Learned Counsel appearing for the deceased's wife submits that she is independently entitled to be heard as a victim, having lost her husband in the occurrence. On the ground of illegal arrest objection of the applicant, Learned Senior counsel retreats the submissions concerning the signed notice, the Magistrate's satisfaction, legal representation and the absence of protest at the first production. Both counsel for the informant and counsel for the wife submit that the case law of **Jaskaran Jeet Singh Deol (Supra)** concerned a different factual situation and cannot be understood as permitting a Bench of equal strength to overrule judgment in case of **Sri Darshan and Sonam Raghuvanshi (Supra)** without a reference to a larger Bench. They urge that the gravity of the direct role attributed to the applicant, the collected material and the family's right to a fair trial must receive due weightage. Learned Advocate for the applicant, in reply, submits that the present arrest took place after **Mihir Rajesh Shah** and that the

objection was raised within eight days and that the later access to police papers after the charge sheet enabled fuller scrutiny of the documents, although the objection itself had already been taken.

11. Before examining the objection to arrest, the circumstances of the further hearing require mention. An order was dictated in open Court on 29 September 2026 after hearing the advocate for applicant and Learned APP extensively for state, but the order remained unsigned as it was in process of typing and correction of draft . On 30 September, at 10.30 am the informant mentioned the matter and sought a hearing, stating that he had learnt of the proceeding and the proposed release from the social media. His affidavit also states that the notice earlier directed through the Investigating Officer had not reached him. The matter was taken up that afternoon and, upon requests for accommodation by the Learned Counsel for the informant, adjourned to 1 October 2026. On 1st October 2026, Learned Counsel for the deceased's wife also appeared and then sought to be heard through in her own capacity as a victim. Both requests were allowed. The informant's affidavit and authorities were considered, the submissions of his counsel and the wife's counsel were heard, and the applicant's counsel was given an opportunity to reply. At the conclusion, the Court indicated that the application would be allowed, with reasons to follow so as to incorporate the submissions of the respective Learned Advocate for the Informant and deceased wife in original dictated order . This judgment contains the reasons upon

consideration of the original and further submissions.

12. The deceased's wife is a victim within Section 2(1)(y) of the BNSS. Her participation is independent of the State's appearance, as explained in **Jagjeet Singh v. Ashish Mishra, (2022) 9 SCC 321**. The opportunity must be effective; the hearing of the prosecution alone cannot be treated as an answer to a victim who seeks to place her concerns before the Court. Here, both the informant and the wife have had that opportunity before finalisation of the judgment. Since the earlier dictation had not been signed, taking up the matter for this purpose did not amount to reviewing a signed judgment contrary to Section 403 of the BNSS. **Kushalbhai Ratanbhai Rohit v. State of Gujarat, (2014) 9 SCC 124**, explains the distinction. The present adjudication therefore proceeds upon the complete hearing, rather than upon any supposed finality of the unsigned dictation.

13. The Core question before this Court is whether the documents and judicial record relied upon by the State establish communication of the grounds as required for this arrest under the constitution of India and statutory provisions. Article 22(1) of Constitution of India, enables the person arrested to understand why the authority has deprived him of liberty, instruct his advocate and oppose his custody. Mere Knowledge that a murder has occurred, or that a particular crime number has been registered, does not necessarily convey the factual basis for arresting him. Communication of grounds of arrest and access to counsel for legal assistance are complementary safeguards to the

arrestee . The presence of counsel is material but does not dispense with communication of the information upon which counsel must be instructed.

14. Section 47 of the BNSS gives statutory expression to the obligation to inform a person arrested without warrant of the full particulars of the offence or other grounds for the arrest. Section 48 requires information concerning the arrest and place of detention to be given to a relative, friend or other nominated person, and casts a duty upon the Magistrate to satisfy himself regarding compliance with that provision. The two duties must each be discharged. A document may fulfill more than one statutory purpose if its actual contents and communication may meet the respective requirements; nevertheless, information to a relative about the fact of arrest does not, without anything further more can prove that the factual grounds of arrest were furnished to the arrestee. The distinction is particularly material here, because the intimation to the brother has repeatedly been relied upon by the Learned APP as well as Learned Counsel for the Informant and wife as part of the answer to the applicant's plea of illegal arrest for non compliance of constitutional as well as statutory mandate to provide him a written grounds of arrest.

15. The Hon'ble Supreme Court in the case of **Pankaj Bansal v. Union of India**, (2024) 7 SCC 576, and **Prabir Purkayastha v. State (NCT of Delhi)**, (2024) 8 SCC 254, have explained the difference between general reasons for making an arrest and the factual grounds

personal to the person arrested. The communication must convey the basic facts upon which that person's arrest rests. It need not disclose the entire case diary, every witness statement, or evidence yet to be collected. No prescribed title or universal form is essential. An arrest memorandum, a combined notice or another document may suffice if it contains the requisite facts and is actually furnished in the manner and within the time required by law. The inquiry concerns what was conveyed and to whom and when; the heading or nomenclature of the document cannot decide the same.

16. In **Vihaan Kumar**, the Supreme Court held that meaningful communication must be in a language understood by the person arrested and that, when compliance is questioned, the burden rests upon the State to establish it. A recital that grounds were informed cannot take the place of proof of what was communicated. Information given to a relative is also not a substitute for communication to the arrestee. The decision further explains that an arrest in breach of Article 22(1) of Constitution of India and the order of remands consequent upon it cannot be validated merely by filing a charge sheet, although the breach does not thereby invalidate the prosecution or the trial. The Magistrate has an independent duty to examine the legality of arrest and the said duty does not arise only if a represented accused immediately makes an objection about the same .

17. The Hon'ble Supreme Court in case of **Mihir Rajesh Shah v. State of Maharashtra, (2026) 1 SCC 500**, decided on 6 November 2025,

settled the requirement of written grounds for arrests under ordinary penal law as well as special statutes. It further specified that the grounds must be furnished in a language understood by the arrestee. Where an exceptional situation makes immediate written communication impracticable, an oral explanation at arrest must be followed by written grounds within a reasonable time and, in every event, at least two hours before production for remand. The remand papers must contain the grounds and explain any delay in supplying them. These directions govern arrests prospectively. The arrest of 1 January 2026 falls within their operation. Accordingly, even an accepted oral explanation cannot conclude the inquiry and the State must establish furnishing of the written factual grounds of arrest to the accused .

18. The cases of **Sri Darshan** and **Sonam Raghuvanshi**. must be read in their respective factual and chronological context. The case of **Sri Darshan** was decided on 14 August 2025, before the judgment of **Mihir Rajesh Shah** and Judgment of **Sonam Raghuvanshi** which came to be decided on 23 July 2026. The present applicants arrest concerned an arrest of 9 June 2025 which is also before the prospective directions. In case of **Sonam Raghuvanshi**, written grounds had been supplied, the accused's understanding was recorded, and the complaint of accused in said case concerned, amongst other things, an erroneous statutory reference and the adequacy of the information in the grounds of arrest. Several earlier bail applications had been

pursued on merits. The distinction drawn there between non-communication and inadequacy therefore remains material. It requires the Court first to determine whether a substantive factual account was communicated. The existence of a paper bearing a crime number cannot, without examining its contents, place every case in the latter category.

19. The objection concerning Benches of equal strength is answered by the Supreme Court's own consideration of these decisions in **Jaskaran Jeet Singh Deol v. State of Punjab, 2026 SCC Online SC 1939**, decided on 21 September 2026. The Court explained the relevance of the chronology and affirmed **Mihir Rajesh Shah (Supra)** as stating the governing position. This Court neither declares an earlier Supreme Court judgment overruled nor resolves an assumed conflict by preferring the latest decision merely because it is later. It applies the explanation supplied by the Hon'ble Supreme Court itself. The decision in **Jaskaran Deol (supra)** the also makes clear that an established breach of the applicable constitutional requirement entails release from the custody so vitiated, without proof of a further prejudice as a condition of that relief. The fact that it arose from a prosecution under different penal provisions does not confine Article 22(1) to that class of offences. The argument of Learned Counsels of Respondents stating that case of **Jaskaran (Supra)** and facts therein cannot apply to the present application because the prosecution in that case was under different offences or statue is thus rejected.

20. Now, coming to the submissions of the Learned APP about the detailed reasoned order passed by the Learned Sessions court is concerned. Perusal of the Sessions order relies upon **Siddiqui alias Suleman Khan, in Criminal Writ Petition No. 683 of 2025 (F)**, decided by this Court on 27 November 2025. The proposition drawn from it below was that awareness of the accusation, representation by counsel and absence of demonstrated prejudice answered the objection. In my considered view, that proposition cannot be extended to dispense with the written factual communication required for an arrest which is governed by the Judgment of **Mihir Rajesh Shah (Supra)**, particularly in light of the subsequent explanation in case of **Jaskaran Jeet Singh Deol (Supra)**. The present conclusion follows the binding constitutional requirement and does not rest upon disagreement with a Division Bench. Even the case of **Kasireddy Upender Reddy v. State of Andhra Pradesh, 2025 SCC Online SC 1228**, likewise does not assist the State on these facts. There, a substantive account of the alleged involvement was communicated. It affords no basis to treat identification of a case and reproduction of penal sections as sufficient in every arrest.

21. Now, Turning to the appreciation of the documents annexed to the petition, the Marathi notice at pages 93 and 94 identifies the applicant, Srirampur City Police Station, Crime No. 01 of 2026 and the penal provisions. It states that the offence is cognizable and non-bailable and that the applicant is being arrested for investigation. It

refers to intimation to his brother and bears the applicant's acknowledgment. It contains no account of the shooting, no identification of the deceased, no allegation of the applicant's role and no factual basis connecting him with the offence. These are not prescribed entries which must appear identically in every case. Their collective absence matters here because the document conveys no intelligible factual accusation against this applicant at all. It identifies the proceeding in which arrest is made, but does not explain the grounds for arresting him in that proceeding.

22. Reading the other documents with the notice does not supply that omission. The arrest form at pages 90 to 92 records the arrest particulars and contains a general entry that grounds and rights were informed. The papers at pages 95 and 96 concern intimation to the brother. None identifies the factual grounds conveyed in writing to the applicant. For present purposes, the existence, service and acknowledgment of these documents are accepted. The finding is therefore not that no paper was delivered or that the applicant's signature is false. A signature acknowledges what the paper contains; it cannot supply a factual accusation which the paper omits. Equally, a general entry asserting compliance does not establish the contents of an unidentified communication.

23. The informant is correct that the police could communicate only the information available when arrest was made. The Court does not require later discoveries to have been anticipated. Yet the first

remand order records the prosecution's assertion that preliminary inquiry disclosed involvement of the accused and that firearms and ammunition had been seized from them. The police were thus relying upon factual material to seek custody. A brief account of the occurrence and the applicant's alleged participation, founded upon the information then relied upon, could have conveyed the accusation without disclosing the entire evidence. The defect here is not failure to elaborate an already communicated factual document. No such document with grounds of arrest has been shown to have been furnished in writing. That is why the objection falls within non-communication of grounds, despite acknowledged delivery of the notice.

24. The first remand order records that the accused were informed of the grounds of arrest and the right to representation and that they understood the same, and further that an advocate represented them. That judicial record deserves due weight. It need not be disbelieved to decide this application. The exchange of communication making routine enquiry with accused recorded by the Magistrate and the furnishing of written factual grounds of arrest before production for remand are distinct matters. The order does not identify such a writing or its delivery, while the documents relied upon as compliance contain no factual accusation. Even if an oral explanation was given and understood, the writing required for this post- **Mihir Rajesh Shah** Judgment and arrest remains unestablished.

The recorded understanding of the accused and presence of counsel cannot, by themselves, prove its delivery.

25. The request for original records has also been considered. If another contemporaneous communication is identified, or the accuracy of a relevant copy is disputed, the Court should examine the material necessary to resolve that issue. Here the contents and acknowledgment of the notices relied upon are accepted. Despite the specific inquiry from this Court addressed to Learned APP, no additional writing containing factual grounds of arrest and furnished to the applicant has been identified. Station Diary Entry No. 18 was relied upon below for intimation to the brother. The Court does not presume the contents of an unproduced entry, but proof of relative intimation, or a general assertion of compliance, cannot fill the absence of a factual communication to the applicant. The finding is confined to the State's failure to establish furnishing of the required written grounds. Further detention cannot be justified by the possibility that an unidentified document might exist.

26. Nor is the absence of a separately pleaded two-hour violation decisive. The applicant specifically challenged failure to furnish factual grounds of his arrest, and that issue was contested throughout. The present conclusion does not assume an unproved time of service. Whether the acknowledged notice was supplied at arrest or later, its contents remain the same. Since furnishing of a writing containing the requisite factual grounds of arrest has not been established at all, a

separate determination whether an otherwise compliant writing was served two hours before production is unnecessary. The timing rule explains the applicable obligation; it is not an independent factual ground of relief in this case.

27. The absence of protest at the productions on 1st and 6th January is relevant, but does not prove written communication of facts absent from the papers relied upon. The written objection was raised on 9 January, eight days after the recorded arrest. It was not first invented several months later. The Investigating Officer then had an opportunity to identify the grounds, their delivery and the supporting record. His reply asserted compliance generally without identifying that factual writing. Absence of a complaint of ill-treatment concerns another safeguard, and representation by counsel does not answer this documentary omission. Access to the charge-sheet papers may have enabled fuller scrutiny later; it cannot be said to explain the first discovery of an objection already taken in January. The finding therefore rests upon the documents and the State's answer, rather than upon that inaccurate explanation of chronology.

28. The applicant disclosed the Magistrate's refusal and the Sessions order before approaching this Court under Section 483. He has maintained the same constitutional objection through those proceedings. The present application follows a disclosed progression on the same ground. The case of **Sonam Raghuvanshi (Supra)** concerned several earlier applications on merits followed by a constitutional

objection before the same court. Nor must a separate revision against each remand order precede exercise of this Court's jurisdiction to examine the legality of the custody from which release is sought. The earlier reasons have been considered. Identification of the case, intimation to the brother, representation and absence of separately proved prejudice do not establish the written factual communication required for this arrest. Successive remands and the charge sheet cannot retrospectively supply it. The Judgment of Hon'ble Supreme court in **Jaskaran Deol (Supra)** explains the legal consequence; the underlying obligation already governed the present arrest under the law laid down by the Apex Court in **Mihir Rajesh Shah(Supra)**.

29. The absence of the applicant's own affidavit of Criminal Antecedents, mentioned in the Sessions order order, requires separate consideration. **Zeba Khan v. State of Uttar Pradesh, 2026 SSC Online SC 188**, requires full and candid disclosure of material particulars, including antecedents and coercive processes, supported by an affidavit. It does not prescribe in terms that only the applicant may swear every supporting affidavit. It observed that, Nevertheless, the brother's affidavit does not make the asserted absence of antecedents an established fact merely because it is asserted. That assertion is not the foundation of relief here. The Court is deciding an objection to the legality of the applicants arrest supported by the arrest documents, remand record and disclosed earlier proceedings. This Court is not considering the release of applicant on bail on the basis of merits.

30. Though The gravity of the accusation remains fully in consideration. The prosecution attributes a direct shooting role to the applicant in a planned attack in a public place and relies upon firearm recoveries, medical and identification material, electronic records and witness statements. Initial omission of his name from an FIR against unknown assailants does not, by itself, displace subsequent investigation. Completion of investigation does not remove the risk of interference with witnesses. The applicant's youth, period of custody and asserted clean antecedents are not being used to grant ordinary bail. Nor is there a finding that the accusation is unsupported, that the applicant is innocent or that the family's fears lack substance. Those questions must be distinguished from whether the established basis of present custody satisfies the constitutional requirement.

31. The reliance of Learned Counsel for Respondents on the case laws in **Mahipal v. Rajesh Kumar, (2020) 2 SCC 118**, requires reasons reflecting consideration of the accusation and relevant material. **Yash Mahesh Gaikwad v. State of Maharashtra**, cautions against superficial treatment of a planned group attack and mechanical parity. **Bhagat Singh v. State of Uttar Pradesh**, illustrates why an omission in an inquest cannot displace material implicating an accused in a shooting. These principles are respected by recording the alleged role and material, and by identifying precisely the ground upon which relief follows. They do not authorise continuance of custody founded upon an arrest in established breach of Article 22(1). The prosecution material

remains relevant to trial and any competent future application; its seriousness cannot retrospectively validate this arrest.

32. One more important issue that was raised by the Learned App was that the relief of illegal arrest and release from custody forthwith as argued and pleaded by the applicant and his Advocate cannot be granted in present application seeking bail but only can be considered in Writ Jurisdiction . In my considered view the form of the application does not prevent this Court from granting the relief which the established constitutional and statutory breach requires. **Directorate of Enforcement v. Subhash** , recognises that a court exercising bail jurisdiction must give effect to a constitutional infirmity in custody; Even in the case of **Jaskaran Jeet Singh Deol (Supra)** directly explains the consequence of breach of Article 22(1). Relief in this application is therefore release from custody vitiated by that breach, rather than a discretionary grant upon the merits of the accusation. In these circumstances, immediate release shall not depend upon furnishing a bail bond or sureties.

33. The concerns about safety and security of witnesses as argued by learned APP and Learned Counsel for Informant and wife call for an effective response. Amin is stated to be an injured eyewitness, and the affidavit identifies witnesses residing in Shrirampur who have yet to be examined. The Superintendent of Police, Ahilyanagar, shall promptly assess the stated apprehensions, provide necessary immediate protection where warranted, and facilitate consideration by the

competent witness-protection authority under the applicable law and scheme. Urgent measures shall not await disposal of that process. The applicant remains bound to obey lawful court process and shall not threaten, induce or contact any prosecution witness for the purpose of influencing testimony, or interfere with evidence. Actual misconduct may be addressed through the remedies available in law. Exclusion from Shrirampur, weekly police attendance and sureties are not imposed as prerequisites to ending this custody. The trial court shall endeavour to secure expeditious examination of material witnesses, consistently with a fair opportunity to both sides.

34. It is also made clear that ,Release of the applicant from custody does not quash the FIR against him, charge sheet or trial and does not confer immunity from a lawful subsequent request for custody. It equally does not permit immediate executive re-arrest merely upon issuance of a corrected notice. The directions issued by Apex Court in **Jaskaran Jeet Singh Deol (Supra)** require written grounds to be furnished after release and, if custody is still sought, an application explaining the earlier failure and the present necessity, endorsed by the immediate superior authority. The competent court must hear the applicant and independently examine both the bona fide explanation for the original failure and the need for re-arrest. The application is to be decided expeditiously, preferably within a week, in accordance with the Supreme Court's directions. Superior endorsement also attracts the prescribed transfer of investigation to another officer and departmental

inquiry. Any adverse service consequences against the Investigating Officer must follow the inquiry and its findings in accordance with law. They are not predetermined by this judgment.

35. In case, the Investigating Officer decides to rearrest the applicant then, the direction of rearrest given by Hon'ble Apex Court, in the case of **Jaskaran Jeet Sing Deol (Supra)**, and **Mihir Rajesh Shah (Supra)**, are strictly to be followed and any application for rearrest be filed only after its compliance. In case any such application is preferred before the competent court, the said court shall scrutinize the compliance and decide the application only after granting opportunity of being heard to the applicant.

36. One more important aspect is noted herein, that the Magistrates and Courts dealing with remand applications record simple communication by asking accused routine questions about his custody and ill-treatment or complaints against prosecution. Now that the directions of the Hon'ble Apex Court are in existence all the courts dealing with Remand applications shall be duty bound to physically verify the statutory compliance. The present remand record demonstrates the importance of examining substantive compliance at first production. The communication actually furnished, its language, the date and time of delivery, and the material evidencing delivery should be available for scrutiny. If an exceptional inability to furnish immediate writing is asserted, the explanation and subsequent compliance must be examined. The Magistrate must ascertain whether

the communication conveys grounds personal to the arrestee and permits an intelligible response to the request for custody. No preliminary trial or reproduction of the entire evidence is required. A concise finding upon the material examined will suffice, with specific reasons where an objection is raised. A signature or printed assurance is relevant, but cannot automatically replace examination of the contents. Necessary police records may be called for without creating a general entitlement to the case diary.

37. The police documentation should permit this scrutiny without avoidable uncertainty. The preserved copy must correspond to the factual grounds furnished, with a reliable record of the language, mode, date and time of communication. Exceptional inability to provide immediate writing, later delivery, and refusal or inability to acknowledge should be contemporaneously recorded. A standard form is useful only if it provides for the actual grounds personal to the arrestee. The Director General of Police, Maharashtra, shall circulate this judgment to the concerned police authorities, review the instructions and forms in use, and issue corrective instructions where necessary to secure the binding requirements in **Mihir Rajesh Shah (Supra)** and **Jaskaran Jeet Singh Deol (Supra)**. These directions concern implementation of those requirements; they prescribe neither a new universal form nor disclosure of the entire prosecution evidence.

38. Upon the acknowledged notice and arrest papers, the relative-intimation documents, the remand record, the objection of 9 January,

the earlier orders and the State's answer, I find that furnishing of written factual grounds to this applicant has not been established. The defect is an absence of substantive factual communication, not a typographical mistake or a demand for further detail in an intelligible account already furnished. The arrest and the consequential custody are therefore vitiated, and release must follow forthwith.

39. After the Court showed inclination to allow the application, order was The informant's request for a four-week stay would continue the very custody found unconstitutional merely to facilitate a proposed challenge. That request is rejected. Hence, the following order.

O R D E R

- (i) The application is allowed on the ground of violation of Article 22(1) of the Constitution and Section 47 of the BNSS. The applicant's arrest in Crime No. 01 of 2026 and the consequential custody founded upon it are held to be vitiated for failure to establish furnishing of the requisite written factual grounds of arrest.
- (ii) The applicant, Krushna Arun Shingare, shall be released forthwith from custody in the said crime, unless his detention is independently required in another case under a subsisting lawful order. No bail bond or surety is required for release under this order. The Registry shall promptly communicate the authenticated signed order to the concerned court and prison authority, which shall give effect to it without awaiting website uploading.

- (iii) No opinion is expressed upon the applicant's entitlement to bail on merits or upon the truth or evidentiary worth of the prosecution allegations. The FIR, charge sheet and trial shall proceed in accordance with law. The applicant shall attend pursuant to lawful court process and shall not intimidate or influence witnesses or interfere with evidence.
- (iv) Any subsequent request for custody shall be made and considered strictly in accordance with **Mihir Rajesh Shah v. State of Maharashtra, (Supra)**, and in judgment of **Jaskaran Jeet Singh Deol v. State of Punjab (Supra)**.
- (v) The Registrar (Judicial) shall forward the copy of this Judgment and order to the Director General of Police, Maharashtra, who shall take the steps directed herein , and to all the Principal District and Sessions Judges who shall then circulate the same to all the judges of the said respective districts for strict compliance of the Supreme court directions noted herein above.
- (vi) After the inclination was shown by this Court to allow the application and release the applicant forthwith, the learned Senior Advocate appearing for the wife and also the learned Advocate appearing for the informant prayed to keep the order of release of the applicant in abeyance for four weeks so as to allow the respective parties to approach the Hon'ble Supreme Court of India. The request stands rejected. This Court, after scrutinizing the entire documents on record and after perusing the directions and judgment of the Hon'ble Apex Court alongwith the constitutional and statutory provisions come to a conclusion that the arrest of the applicant in the present offence

stands vitiated for non compliance of the supplying grounds of arrest in writing. Once this court has held that the arrest is vitiated and the detention of the applicant in custody, is unlawful and illegal, then such custody of the applicant cannot be continued for any reason. Even the Hon'ble Apex Court in the judgment referred above have specifically mandated that if any accused's custody is unconstitutional, then he should be released forthwith. Thus, the prayer of the learned counsel for the informant and wife stands rejected.

(HITEN S. VENEGAVKAR, J.)

JPChavan