

CNR No: PHHC011519782026
2026:PHHC:180594



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

**CRM-M-50887 of 2026 (O&M)
Date of decision : 24.09.2026**

Vandana Dhiman

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM:- HON'BLE MS. JUSTICE NEERJA K. KALSON

Present: Mr. Gautam Dutt, Sr. Advocate
with Mr. Farhad Kohli, Advocate
for the petitioner.

Mr. Nitesh Sharma, AAG., Punjab.

Mr. Sarabjit Singh, Advocate
for the complainant.

NEERJA K. KALSON, J.

1. For the convenience of exposition, this judgment is divided into
the following parts:-

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"Personal liberty consists in the power of locomotion, of changing situation or moving one's person to whatsoever place one's own inclination may direct, without imprisonment or restraint unless by due process of law"

- Blackstone in "Commentaries on the Laws of England"

I. FACTUAL CONSPECTUS

1. The petitioner has approached this Court seeking, inter alia, issuance of appropriate directions for declaring her arrest in FIR No.138 dated 11.08.2026 (Annexure P-8), registered at Police Station Division-D, District Police Commissionerate, Amritsar, under Sections 316(2), 318(4) and 61(2) of the Bharatiya Nyaya Sanhita, 2023 (corresponding to Section 406, 420 and 120-B Indian Penal Code, 1860) as illegal, arbitrary and void, primarily on the ground that the mandatory constitutional and statutory safeguards governing arrest were not complied with.

2. Briefly stated, the prosecution case has its genesis in commercial dealings pertaining to the supply of 4,000 kilograms of almond kernels. The complainant alleges that the accused persons, including the petitioner, induced him to supply the goods and thereby causing him wrongful loss to the tune of ₹37,78,780/-. The petitioner is stated to be a Director of Vantara Agro Commodities Private Limited and an authorised signatory of the company.

2.1 The prosecution relies, inter alia, upon the statement of the complainant, invoice pertaining to the transaction, payment records and cheque No.323581 drawn on Axis Bank, Sector 62, Noida, allegedly bearing

the signatures of the petitioner, which is stated to have subsequently been dishonoured.

2.2 The petitioner disputes the criminal complexion sought to be attributed to the transaction and asserts that the dispute arose on account of the quality of goods supplied. Reliance is placed upon contemporaneous correspondence, payment history, e-mails, WhatsApp communications and other documentary/electronic material exchanged between the parties

2.3 It is further the petitioner's case that Civil Suit No.CS-668-2026 had already been instituted on 13.02.2026 before the learned Civil Judge (Senior Division), Amritsar, concerning the same commercial transaction, much prior to registration of the FIR.

2.4 The petitioner asserts that she had participated in the police inquiry even prior to registration of the FIR and had appeared before the Investigating Officer on 24.03.2026. Representations dated 02.03.2026 were also submitted by her (Annexure P-6).

2.5 Thereafter, FIR No.138 was registered on 11.08.2026 (Annexure P-8). The petitioner was arrested at her residence in Meerut, Uttar Pradesh on 04.09.2026. The legality, necessity and manner of the said arrest constitute the principal subject matter of challenge in the present proceedings.

2.6 Upon being brought to Amritsar, the petitioner was produced before the learned Judicial Magistrate First Class on 05.09.2026, whereupon police custody was granted till 06.09.2026. On her production the following day, further police custody for three days was authorised. The said orders dated 05.09.2026 and 06.09.2026 form part of Annexure P-9.

II. SUBMISSIONS ON BEHALF OF THE PETITIONER

3. Learned counsel appearing for the petitioner has assailed the arrest and consequential remand principally on the following grounds:-

3.1. The petitioner had throughout remained available to the investigating agency, had participated in the pre-FIR enquiry and was residing at a known address. There was no material suggesting that she was absconding or was likely to flee from justice, tamper with evidence, influence witnesses or otherwise obstruct the investigation.

3.2. The allegations arise substantially from a commercial transaction already documented through invoices, payment records, e-mails, WhatsApp communications and pending civil proceedings. The investigating agency was already possessed of the principal documentary material and, therefore, according to learned counsel, custodial arrest served no legitimate investigative purpose.

3.3. The principal constitutional challenge is founded upon Article 22(1) of the Constitution. Learned counsel for the petitioner submits that although a written document styled as the ground of arrest was furnished and bears signatures of the petitioner, the document was in Punjabi and the petitioner was not able to read or understand Punjabi. It is therefore contended that merely furnishing a document styled as “grounds of arrest” and obtaining her signatures thereon, it is urged, would not satisfy the constitutional mandate unless its contents were meaningfully communicated to her.

3.4 It is further contended by the counsel for the petitioner that no relative or other person nominated by the petitioner was informed of her

arrest. According to learned counsel, the requirement of intimation is an independent and mandatory safeguard intended to ensure that the factum of arrest and place of detention are duly conveyed to a person nominated by the arrestee. Non-compliance therewith, coupled with the alleged failure to meaningfully communicate the grounds of arrest, is stated to vitiate the arrest itself.

3.5. It is further contended that the petitioner was arrested outside the State of Punjab without being produced before the nearest Magistrate and obtaining the necessary transit remand.

3.6. On the cumulative strength of the aforesaid circumstances, learned counsel submits that the arrest of the petitioner stands vitiated at its inception and that subsequent orders authorising police custody cannot validate an arrest which was itself effected in breach of the mandatory constitutional and statutory safeguards governing deprivation of personal liberty.

III. SUBMISSIONS ON BEHALF OF THE RESPONDENT – STATE

4. *Per contra*, learned State counsel has opposed the petition, controverted the submissions advanced on behalf of the petitioner and submitted as under:-

4.1. The petitioner was not arrested mechanically upon registration of the FIR. The Investigating Officer, upon consideration of the material collected during investigation, recorded the reasons necessitating arrest in terms of Section 35 of the BNSS. Before effecting the arrest, the police party

associated the local police and G.D. No. 58 dated 04.09.2026 was recorded at the concerned Police Station.

4.2. It is further submitted that the contemporaneous record does not contain any protest, endorsement or request by the petitioner asserting that she was unable to read or understand Punjabi, either at the time of arrest or when she was produced before the learned Magistrate. The State counsel accordingly contends that the plea now raised does not find support from the contemporaneous record.

4.3. The plea regarding non intimation of arrest is also controverted. It is submitted that immediately after the arrest, the Investigating Officer informed the petitioner's father, namely, Jai Kishan, on his mobile phone and the relevant record of such intimation was subsequently signed by him upon reaching the Police Station.

4.4. It is further borne out from the record that when the petitioner was produced before the learned Judicial Magistrate First Class, Amritsar, on 05.09.2026, the plea regarding illegality of the arrest was raised and the learned Magistrate, upon examining the material available on the police file, recorded satisfaction regarding compliance with the constitutional and procedural safeguards governing arrest. Be that as it may, since the legality of arrest has specifically been questioned before this Court, the objections raised by the petitioner are examined independently on the basis of the material placed on record.

IV. ANALYSIS AND REASONS

5. Having heard learned counsel for the parties and upon perusal of the record, this Court is called upon to examine whether the arrest of the

petitioner and her consequential remand withstand the constitutional and statutory safeguards governing deprivation of personal liberty. The controversy essentially turns upon the necessity of arrest under Section 35 of the BNSS; communication of the grounds of arrest in terms of Article 22(1) of the Constitution of India read with Section 47 of the BNSS; the manner in which the arrest was effected and intimation thereof furnished; and whether the subsequent authorisation of police custody reflects due application of judicial mind.

6. Before testing the impugned arrest on the aforesaid parameters, it would be apposite to briefly notice the constitutional philosophy which governs the laws of arrest. The power to arrest is undoubtedly indispensable to the administration of criminal justice; yet, its exercise places the physical liberty of an individual under the control of the State at a stage when guilt is yet to be adjudicated. It is for this reason that the law has consistently insisted upon a distinction between the existence of the power to arrest and the justification for its exercise.

7. The significance accorded to personal liberty in our constitutional scheme has been consistently recognised in judicial pronouncements. The Hon'ble Supreme Court, while tracing the juristic conception of personal liberty in ***Siddharam Satlingappa Mhetre v. State of Maharashtra and others, (2011) 1 SCC 694***, referred to paragraph 55 to the formulations of Dicey. The underlying principle is that freedom from physical restraint constitutes an essential attribute of personal liberty and any restraint thereon must necessarily possess legal justification.

“55. According to Dicey, a distinguished English author of the Constitutional Law in his treatise on Constitutional Law observed that, "Personal liberty, as understood in England, means in substance a person's right not to be subjected to imprisonment, arrest, or other physical coercion in any manner that does not admit of legal justification." [Dicey on Constitutional Law, 9th Edn., pp.207-08]. According to him, it is the negative right of not being subjected to any form of physical restraint or coercion that constitutes the essence of personal liberty and not mere freedom to move to any part of the Indian territory. In ordinary language personal liberty means liberty relating to or concerning the person or body of the individual, and personal liberty in this sense is the antithesis of physical restraint or coercion.”

8. Article 21 protects against deprivation of personal liberty except according to procedure established by law, whereas Article 22 surrounds the exercise of the power of arrest with additional constitutional safeguards. These provisions do not impede legitimate investigation; rather, they prescribe the constitutional conditions within which coercive investigative power may operate.

NECESSITY OF ARREST

9. The first aspect concerns the necessity of taking the petitioner into custody. In ***Joginder Kumar v. State of U.P., (1994) 4 SCC 260***, the Hon’ble Supreme Court drew the seminal distinction between the existence of the power of arrest and justification for its exercise. Arrest, therefore, cannot follow as an automatic consequence merely because the police possess legal authority to effect it.

10. Section 35 of the BNSS proceeds upon the same statutory discipline. In cases falling within its parameters, the Investigating Officer is

required to address not merely whether material exists regarding commission of the offence but also whether arrest has become necessary for any of the purposes recognised by the statute.

11. In *Arnesh Kumar v. State of Bihar, (2014) 8 SCC 273*, the Hon'ble Supreme Court, while construing the corresponding provisions of Section 41 Cr.P.C., held that the police officer must be satisfied not merely regarding commission of the offence but additionally that arrest is necessary for a statutorily recognised purpose, with the facts and reasons leading to such satisfaction being recorded in writing.

12. Adverting to the facts of the present case, the petitioner had participated in the inquiry prior to registration of the FIR and had also appeared before the Investigating Officer on 24.03.2026. She was residing at a known address and there is nothing on record to suggest that she had attempted to evade the process of law. These circumstances were relevant for the Investigating Officer while forming an opinion as to the necessity of arrest. However, prior participation in the inquiry, by itself, does not preclude the investigating agency from effecting an arrest if, on the basis of the material subsequently collected, the requirements contemplated under Section 35 of the BNSS are found to be satisfied.

13. In the present case, the record reveals that before effecting the arrest, the Investigating Officer had prepared the requisite checklist and recorded the reasons necessitating the arrest of the petitioner under Section 35(1) of the BNSS. The said material was subsequently placed before the learned Magistrate at the time of first remand and was duly examined. Thus, it cannot be said that the arrest was effected without undertaking the

statutory exercise contemplated under Section 35 of the BNSS. The distinct question as to whether the grounds forming the basis of such arrest were duly communicated to the petitioner, however, stands on a different footing and requires independent examination.

COMMUNICATION OF THE GROUNDS OF ARREST

14. The Court now proceeds to examine the principal challenge regarding communication of the grounds of arrest. The requirement of effective communication was considered by the Hon'ble Supreme Court in ***Vihaan Kumar v. State of Haryana, 2025 INSC 162 : (2025) 5 SCC 799***. In paragraph 13 of ***Vihaan Kumar*** (supra), the Hon'ble Supreme Court referred to its earlier decision in ***Lallubhai Jogibhai Patel v. Union of India, (1981) 2 SCC 427***, and reproduced the observations contained in paragraph 20 thereof, wherein it was held:-

“20. It is an admitted position that the detenu does not know English. The grounds of detention, which were served on the detenu, have been drawn up in English. It is true that Shri C.L. Antali, Police Inspector, who served the grounds of detention on the detenu, has filed an affidavit stating that he had fully explained the grounds of detention in Gujarati to the detenu. But, that is not a sufficient compliance with the mandate of Article 22(5) of the Constitution, which requires that the grounds of detention must be “communicated” to the detenu. “Communicate” is a strong word. It means that sufficient knowledge of the basic facts constituting the “grounds” should be imparted effectively and fully to the detenu in writing in a language which he understands. The whole purpose of communicating the “ground” to the detenu is to enable him to make a purposeful and effective representation. If the “grounds” are only verbally explained to the detenu and

nothing in writing is left with him, in a language which he understands, then that purpose is not served, and the constitutional mandate in Article 22(5) is infringed. If any authority is needed on this point, which is so obvious from Article 22(5), reference may be made to the decisions of this Court in Harikisan v. State of Maharashtra [1962 Supp 2 SCR 918 : AIR 1962 SC 911 : (1962) 1 Cri LJ 797] and Hadibandhu Das v. District Magistrate [(1969) 1 SCR 227 : AIR 1969 SC 43 : 1969 Cri LJ 274] .”

(emphasis added)

15. It, therefore, follows that communication of the grounds of arrest cannot be confined to mere furnishing of a written document. The grounds must be conveyed in a manner and language understood by the person arrested so as to make him or her aware of the basis of the arrest.

16. In the present case, it is not disputed that a written document containing the grounds of arrest was furnished to the petitioner and bears her signatures. The controversy, however, centres upon whether such furnishing amounted to effective communication, the petitioner asserting that the document was in Punjabi, a language which she does not understand, whereas the State maintains that the grounds were duly communicated and no objection regarding the language was raised at the relevant time. The signatures of the petitioner establish receipt of the document; whether they also establish due communication of its contents must necessarily be examined in the light of the contemporaneous record.

17. At this stage, it is also necessary to distinguish the grounds of arrest from the reasons for arrest recorded by the Investigating Officer. In ***Prabir Purkayastha v. State (NCT of Delhi), (2024) 8 SCC 254***, the

Hon'ble Supreme Court, held that the two expressions are distinct and cannot be used interchangeably. The grounds of arrest must contain the basic facts on which the arrest of the person concerned is founded.

“49. 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 tempering 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.”

18. Thus, the recording of reasons necessitating arrest under Section 35 of the BNSS would not, by itself, satisfy the separate requirement of communicating the grounds of arrest. The statutory exercise noticed while examining the necessity of arrest and the constitutional obligation to communicate its ground operate in distinct fields and must, therefore, be independently satisfied.

19. It is in the aforesaid legal backdrop that the petitioner's challenge regarding the language of the grounds of arrest falls for consideration. The issue is not merely whether a written document was handed over to her, but whether the material on record establishes communication in a manner satisfying the mandate of Article 22(1) of the Constitution.

20. In *Mihir Rajesh Shah v. State of Maharashtra, 2025 INSC 1288*, the Hon'ble Supreme Court emphasised that the grounds of arrest are required to be communicated in a manner which enables the person arrested to understand the basis of his or her arrest and avail the remedies available in law. The requirement is, therefore, not satisfied by mere preparation or delivery of the grounds; what is material is that the grounds are communicated in a language understood by the person arrested.

21. The legal position has since been authoritatively reiterated by the Hon'ble Supreme Court in *Jaskaran Jeet Singh Deol v. State of Punjab, 2026 INSC 1022* which re-affirm the observations in *Mihir Rajesh Shah v. State of Maharashtra, (2026) 1 SCC 500*, wherein the Hon'ble Supreme Court observed the correct legal position and lays down the binding law summarising the principles governing Article 22(1) of the Constitution and it was held that the grounds of arrest must be furnished in writing and in a language understood by the accused and that compliance with the said requirement is a mandatory constitutional safeguard.

“23. Having discussed the judgments, it would be apposite to sum up the core principles qua Article 22(1). The grounds of arrest must be in writing and in a language which is understood by the accused. A copy of such written grounds of arrest has to

be furnished to the arrested person as a matter of course and without exception. An accused has a fundamental and statutory right to be informed about the grounds of his arrest in writing and a copy of such written grounds of arrest has to be furnished to the arrested person as a matter of course and without exception at the earliest. Any attempt to encroach upon the fundamental rights guaranteed under Article 22(1) of the Constitution has to be frowned upon by the courts and dealt with strictly. It would vitiate the process of arrest and remand. Such a fundamental right being sacrosanct, cannot be breached under any situation. Any breach or non-compliance would entail immediate release of the arrested person because such arrest is unconstitutional. We cannot tinker with the most important safeguards provided under Article 22. Subsequent filing of chargesheet and order of cognizance will not validate such an arrest. Article 22(1) applies across the spectrum including offences under the IPC or under special enactments. It is not statute specific. It is not a mere formality or a matter of procedure. It is a mandatory binding constitutional safeguard. When there is violation of the Constitution, question of prejudice or demonstrable prejudice does not arise. The safeguards adumbrated in Article 22(1) are not mere procedural safeguards; these are fundamental principles which are required to be followed in the event liberty of a person is sought to be curtailed. Therefore, it is not correct at all to say that procedural lapses in furnishing grounds of arrest do not ipso facto render custody illegal or entitles the accused to bail. When an accused is released for violation of his fundamental rights under Article 22 (1), he is not enlarged on bail. He is released from illegal and unconstitutional detention.”

22. Applying the aforesaid principles to the present case, the furnishing of written grounds bearing the petitioner's signatures is not disputed. Her challenge is confined to the efficacy of their communication

on the ground that she did not understand Punjabi. While her signatures alone may not establish that she understood the contents, the mere fact that the grounds were recorded in Punjabi would also not establish the contrary. The material record, therefore, assumes significance.

23. On examining such material, this Court finds no indication that, at the time of arrest, the petitioner expressed an inability to read or understand Punjabi or requested that the grounds be explained or furnished in another language. No objection or endorsement to that effect appears on the document containing the grounds of arrest. The remand proceedings also do not record such objections.

24. The law laid down in *Vihaan Kumar v. State of Haryana, 2025 INSC 162 : (2025) 5 SCC 799*, undoubtedly requires the State to establish compliance with Article 22(1). Such compliance must, however, be tested against the contemporaneous record. In the present case, the written grounds were furnished to the petitioner and acknowledged by her, while the record does not disclose any assertion stating that she was unable to understand the language in which they were communicated.

25. In these circumstances, the subsequent plea that the petitioner did not understand Punjabi is not sufficient, on the material presently available, to hold that the mandate of Article 22(1) of the Constitution read with Section 47 of the BNSS stood violated. The challenge on this count, therefore, does not merit acceptance.

INTIMATION OF ARREST TO RELATIVE

26. The next contention concerns non-intimation of the arrest to a relative of the petitioner. Section 48 of the BNSS requires the arresting officer to *forthwith* communicate the factum of arrest and the place where the arrested person is being held to any relative, friend or other person disclosed or nominated by the arrestee. The provision further requires an entry regarding such intimation to be maintained, and casts a duty upon the Magistrate to satisfy himself regarding compliance with the prescribed requirements.

27. In the present case, the petitioner has asserted that no relative or person nominated by her was informed about the arrest. The State has specifically controverted the said assertion and has placed reliance upon the record to contend that immediately after the arrest, the Investigating Officer informed the petitioner's father, Jai Kishan, on his mobile phone. It has further been submitted that the relevant record of intimation was subsequently signed by him upon reaching the Police Station.

28. The material placed on record thus supports the State's stand that intimation of the arrest was furnished to the petitioner's father. The contention that the arrest was effected without compliance with Section 48 of the BNSS, therefore, does not stand substantiated. Needless to observe, the requirement of such intimation is distinct from the obligation to communicate the grounds of arrest to the arrestee, and compliance with one cannot substitute the other.

LEGALITY OF THE REMAND ORDERS

29. The Court shall now examine the challenge to the consequential orders of remand dated 05.09.2026 and 06.09.2026 appended as Annexure-

9. In ***Vihaan Kumar v. State of Haryana, 2025 INSC 162 : (2025) 5 SCC 799***, the Hon'ble Supreme Court, in paragraph 20, observed:-

“20. 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.”

The obligation of the Magistrate is, therefore, not confined to authorising detention, but extends to satisfying himself that the arrest preceding such detention conforms to the mandatory constitutional safeguards.

30. A perusal of the order dated 05.09.2026 shows that the learned Magistrate examined the police record, including the checklist and reasons for arrest, the grounds of arrest and the arrest-cum-intimation memo. The objection regarding compliance with Article 22(1) was also considered. Though the investigating agency had sought police custody for seven days, the prayer was not accepted in its entirety and custody was authorised only till 06.09.2026.

31. The subsequent order dated 06.09.2026 records the further investigative steps for which continued police custody was sought, including recovery and seizure of electronic devices and documents and identification of the relevant premises and material. The learned Duty Magistrate also noticed that the objection regarding legality of the initial arrest had already been considered on the preceding day.

32. A conjoint reading of the aforesaid orders do not indicate that police custody was authorised mechanically or merely upon the request of the investigating agency. The learned Magistrate examined the material placed before them, noticed the objection touching upon the legality of arrest and considered the investigative requirements projected by the State before authorising custody. The plea of absence of judicial application of mind, therefore, is not borne out from the record.

33. It is settled that an order of remand undoubtedly cannot validate an arrest otherwise rendered unconstitutional by breach of Article 22(1). As held in *Vihaan Kumar* (supra), an illegal arrest cannot form the foundation of lawful remand. In the present case, however, no such foundational breach has been established for the reasons already recorded while dealing with the communication of the grounds of arrest.

CONCLUSION

34. On examination of the record, this Court finds that the exercise contemplated under Section 35 BNSS was undertaken before the petitioner was arrested. The pleas regarding non communication of the grounds of arrest and non-intimation to a relative are not supported by the contemporaneous material on record. The remand orders also disclose consideration of the relevant record by the learned Magistrates.

35. The constitutional and statutory safeguards attending arrest are substantive guarantees against arbitrary deprivation of personal liberty and cannot be reduced to procedural formalities. Equally, whether such safeguards have been breached must necessarily be determined on the material pertaining to the arrest in question. On such examination, this Court

does not find the alleged violations established so as to render the petitioner's arrest or consequential remand illegal.

36. Consequently, no violation of Article 22(1) of the Constitution of India or Sections 47 and 48 of the Bharatiya Nagarik Suraksha Sanhita, 2023, warranting interference with the arrest or consequential remand of the petitioner, is made out.

37. It is clarified that the observations made herein are confined to the legality of the petitioner's arrest and consequential remand. Nothing observed herein shall be construed as an expression on the merits of the allegations contained in the FIR or upon the evidentiary value of the material collected during investigation.

38. In view of the foregoing discussion, finding no ground to interfere, the present petition is dismissed.

39. Pending application(s), if any, shall also stand disposed of.

(NEERJA K. KALSON)
JUDGE

24.09.2026

s.khan

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No