



2025:DHC:10816



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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*Judgment reserved on: 30.10.2025**Judgment pronounced on: 03.12.2025**Judgment uploaded on: 03.12.2025*+ **CRL.M.C. 7600/2025**

SAAD

.....Petitioner

Through: Mr. Chetan, Advocate

versus

STATE GOVT. OF NCT OF DELHI & ANR. ...Respondents

Through: Mr. Manoj Pant, APP for State
with SI Hemant Kumar, PS:
Jafrabad, Delhi**CORAM:****HON'BLE DR. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****DR. SWARANA KANTA SHARMA, J**

1. The petitioner by way of this petition lays challenge to his arrest in relation to FIR bearing no. 192/2024, registered at Police Station Jafrabad, Delhi, for the commission of offence punishable under Sections 302/201/120B/34 of the Indian Penal Code, 1860 (hereafter '*IPC*').

2. Brief facts of the case are that on 21.05.2024, a PCR call was received regarding a murder, upon which the police had reached the spot and found the dead body of one Shahbaz. It emerged during inquiry that the deceased, who had married Ayesha about 5–6 months



2025:DHC:10816



earlier, was facing domestic discord, and Ayesha had returned to her parental home around eight months prior. The prosecution alleges that Ayesha's brothers, Salman and Zeeshan, were unhappy with the marriage and, pursuant to a criminal conspiracy, they had murdered Shahbaz. Both the accused persons were arrested and during investigation, they disclosed that Zeeshan had stabbed the deceased multiple times with an iron knife while Salman had restrained him. The prosecution further alleges that the petitioner Saad was part of the conspiracy and had actively facilitated the commission of the offence. He is alleged to have provided the iron knife, used in committing the murder of the deceased, to the co-accused with knowledge of their intent to kill Shahbaz. It is further alleged that Saad had recorded the act of murder on his mobile phone; the said device was recovered from him and sent to FSL, Rohini for analysis.

3. The petitioner herein was arrested on 22.05.2024 at about 6:30 PM and produced before the concerned Duty Magistrate, Karkardooma Courts, Shahdara District, Delhi on 23.05.2024. By way of order dated 23.05.2024, all three accused were remanded to judicial custody.

4. The last bail application of the petitioner was dismissed by the learned Trial Court *vide* order dated 09.10.2025.

5. The learned counsel appearing for the petitioner has argued that the arrest of the petitioner is illegal, essentially on two grounds – *firstly*, that no written grounds of arrest were furnished to the petitioner at the time of his arrest, and *secondly*, that he had actually



2025:DHC:10816



been taken into custody by the police at 6:30 AM on 22.05.2024, but his time of arrest was clandestinely recorded as 6:30 PM on 22.05.2024, resulting in his production before the learned Magistrate after about 35 hours.

6. The learned APP appearing for the State, on the other hand, has contended that there is no illegality in the arrest of the petitioner, as he was arrested only at 6:30 PM on 22.05.2024 as recorded in the arrest memo, and there is nothing on record to show that the petitioner was not produced before the learned Magistrate within 24 hours. It has also been argued that the petitioner was informed of the grounds on which he was arrested in the present case. The learned APP has also pointed out that the bail rejection order dated 09.10.2025 deals with these contentions of the petitioner and rightly observes that no demonstrable prejudice has been shown to be caused to the petitioner.

7. The learned counsel for the petitioner has, however, reiterated that no written grounds of arrest were furnished to the petitioner at the time of his arrest or thereafter, and thus, there is a clear violation of Article 22 of the Constitution of India, in light of judicial precedents of the Hon'ble Supreme Court as well as this Court. He has also submitted that the concerned I.O. had stated before the learned Trial Court on 26.09.2025 that the police had gone to the house of accused Saad at 6:30 AM on 22.05.2024 and called him for questioning and establishing his identity, and had arrested him in the evening; however, there was no question of establishing the identity



2025:DHC:10816



of the petitioner, and it is thus clear that he was arrested in the morning of 22.05.2024 itself.

8. This Court has **heard** arguments addressed on behalf of the petitioner as well as the State, and has perused the material available on record.

9. In the present case, the petitioner is alleged to have conspired with co-accused Salman and Zeeshan to commit the murder of deceased Shahbaz, by providing them with the iron knife used in the commission of offence, and by recording the act of murder of the deceased/victim on his mobile phone. His *prima facie* involvement is also indicated by the Call Detail Records with the co-accused persons at the relevant time. Charges for commission of offence under Sections 302/120B of the IPC have already been framed against the petitioner by the learned Trial Court.

10. A perusal of the record reveals that the petitioner was produced before the learned Duty Magistrate on 23.05.2024, whereupon he was remanded to 14 days' judicial custody. The said order records that information regarding the arrest of the accused persons had been conveyed to their family members. It also notes that there existed sufficient grounds for the arrest of the accused persons, including the petitioner herein. Thus, considering the nature of allegations levelled against the accused persons and the reasons necessitating their remand, they were remanded to judicial custody, as recorded in the remand order dated 23.05.2024. It is also evident from the order that the accused persons, including the petitioner, were duly represented



2025:DHC:10816



by the legal aid counsel at the time of their production. The learned Magistrate after hearing the learned counsel for the accused as well as the learned APP for the State has recorded satisfaction that there existed sufficient grounds for arrest. The learned judge also mentioned in the remand order that, in view of the nature of allegations, judicial custody was warranted which was after hearing the counsel for the accused and the learned APP for the State and therefor, it becomes difficult for this Court to accept the petitioner's assertion that he had not been informed of the grounds of his arrest. For seeking remand in the presence of the accused and his counsel, the reasons of his arrest and thus, necessitating remand were argued before the learned Trial Court. *Even otherwise*, the ground on which the petitioner was arrested on 22.05.2024 was precise and clearly ascertainable — that co-accused Salman and Zeeshan had disclosed his involvement in the commission of the offence by stating that he had recorded the incident of commission of murder and he had provided them with the weapon of offence. The remaining aspects of investigation were to be undertaken subsequent to the petitioner's arrest, as the investigation had just begun, and the arrest of the petitioner and co-accused was necessitated considering the nature of allegations and seriousness of the offence of murder of the deceased/victim.

11. Moreover, no objection was raised by the petitioner at the time of remand regarding any alleged failure to inform him of the grounds of his arrest. The remand order has never been challenged. The petitioner had also preferred multiple bail applications, including one



2025:DHC:10816



before this Court (Bail Application No. 2537/2025), which was ultimately withdrawn by the learned counsel for the petitioner with the liberty to file a fresh application upon filing of the supplementary chargesheet along with the CDRs. Significantly, even in the said bail application, no contention regarding non-furnishing of written grounds of arrest was raised on behalf of the petitioner. It is also evident that the petitioner continued to file bail applications thereafter and remained duly represented by counsel throughout.

12. At this stage, reference may be made to the decision of the Hon'ble Supreme Court in *State of Karnataka v. Sri Darshan*: 2025 SCC OnLine SC 1702, wherein the Supreme Court, while dealing with a case concerning an offence under Section 302 of IPC – akin to the present case – clarified, after considering earlier decisions including *Vihaan Kumar v. State of Haryana*: 2025 SCC Online SC 456 and *Pankaj Bansal v. Union of India*: (2024) 7 SCC 576, that mere absence of written grounds of arrest does not, by itself, render the arrest illegal unless the accused demonstrates actual prejudice or denial of a fair opportunity to defend himself. The Hon'ble Supreme Court emphasised that the requirement under Article 22(1) of the Constitution stands satisfied where the accused is made aware of the grounds of arrest in substance, even if the same are not furnished in writing. The Hon'ble Supreme Court also held that where the arrest memos and remand proceedings reflect that the accused was aware of the reasons for arrest, and where the accused had access to legal representation and availed legal remedies such as bail, the absence of written grounds constitutes, at best, a curable defect and does not



vitiating the arrest or entitle the accused to bail. The relevant observations are set out below:

“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 to 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* 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 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.**

(emphasis added)

13. Applying the aforesaid legal position to the case at hand, it is clear that the petitioner has been unable to establish any demonstrable prejudice arising from the alleged non-furnishing of written grounds of arrest. The materials on record, as noted above, indicate that the petitioner was aware of the grounds of his arrest from the outset. The contention that the arrest is illegal on this ground is therefore liable to be rejected.

14. Another argument advanced on behalf of the petitioner concerns the time of his arrest. The arrest memo clearly records that the petitioner was arrested at 6:30 PM on 22.05.2024. The petitioner, however, asserts that he was in fact arrested at 6:30 AM on the same day. As recorded in the order dated 09.10.2025 passed by the learned Trial Court, the role of the petitioner in the commission of the offence was initially uncertain, and therefore he had been called to join the inquiry in the morning. It was only after the investigation



2025:DHC:10816



revealed sufficient material indicating his involvement that he was formally arrested at 6:30 PM on 22.05.2024. At this stage, there is nothing on record to substantiate the petitioner's allegation that his arrest took place at 6:30 AM and not at the time recorded in the arrest memo.

15. Furthermore, the learned counsel for the petitioner has attempted to argue that the arrest memo bears the notation 'AM' instead of 'PM', relying on Annexure P-2 appended to the present petition. However, simultaneously, it has also been argued that even if the memo records the time as 6:30 PM, the same is inconsequential since the petitioner was allegedly taken into custody at 6:30 AM. These arguments are inherently contradictory. Furthermore, any alleged discrepancy, overwriting, or ambiguity in the arrest memo is a matter that can only be examined on the basis of evidence during trial and cannot be adjudicated at this stage.

16. It is also significant that no such objection regarding the alleged incorrect reflection of the time of arrest was raised before the learned Duty Magistrate at the time of remand, despite the petitioner being duly represented by counsel. In these circumstances, and having *prima facie* considered the record, this Court finds no merit in the contention relating to the alleged incorrect time of arrest. The argument is accordingly rejected.

17. In view of the foregoing discussion, the present petition stands dismissed.



2025:DHC:10816



18. It is, however, clarified that nothing expressed herein above shall tantamount to an expression of opinion on merits of the case.

19. The judgment be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J
DECEMBER 03, 2025/A