



**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW
CRIMINAL MISC. BAIL APPLICATION No. - 928 of 2026**

Sunil Kumar Shukla

.....Applicant(s)

Versus

State of U.P. Thru. Prin. Secy. Home Lko.

.....Opposite Party(s)

Counsel for Applicant(s) : Hariom Divedi,
Counsel for Opposite Party(s) : G.A.,

Court No. - 13

HON'BLE SAURABH LAVANIA, J.

1. Supplementary affidavit filed by the learned counsel for the applicant and short counter affidavit filed by the State in the Court today are taken on record.
2. Heard Sri Prashant Tiwari, Advocate holding brief of Sri Hariom Divedi, the learned counsel for the applicant and Dr. V.K. Singh, learned Government Advocate, who appeared alongwith Sri Badrul Hasan, the learned AGA, Sri S.P. Tiwari, the learned AGA & Sri Amitabh Chaturvedi, the learned AGA, as well as perused the record.
3. The present application has been filed on behalf of the applicant seeking bail in Case Crime/FIR No. 607 of 2022, under Sections- 302, 323, 34, 504 IPC, Police Station- Ramkote, District- Sitapur.
4. The instant application has been filed by the applicant on the sole ground to the effect that the reasons of arrest were not communicated in writing to the applicant, as required under Article 22(1) of the Constitution of India and also statutory provision i.e. Section 50 of Cr.P.C.
5. This Court considered the facts of the case, as brought to the notice of this Court by the parties' counsel, which includes the following:-

(i) The FIR in issue i.e. FIR No. 0607 of 2022 was lodged by the informant/Smt. Munish Kumari Shukla (wife of deceased/Manish Kumar Shukla and real sister-in-law (Bhabhi) of deceased/Munendra Shukla) on 25.11.2022 at about 16.25 hours in regard to incident alleged to have taken place on 25.11.2022 at about 12.00 hours making allegations against Sunil Kumar Shukla s/o Ramsanehi (real brother-in-law (Jeth) of informant) and Manmohan @ Mohan Shukla, Deepu Shukla & Gopal Shukla, all sons of Sunil Kumar Shukla, so as to attract the offences as indicated under Section 302 IPC.

(ii) It is to be noted that as per the case setup in the FIR, the accused namely Sunil Kumar Shukla s/o Ramsanehi (real brother-in-law (Jeth) of informant) and Manmohan @ Mohan Shukla, Deepu Shukla & Gopal Shukla, all sons of Sunil Kumar Shukla, caused fatal injuries with 'Farsha' and 'Kulhadi' to Manish Kumar Shukla (husband of informant) and Munendra Shukla (brother-in-law (Devar) of informant).

(iii) As per the FIR, the aforesaid incident was seen by Jay Prakash Shukla (son of informant), aged about 12 years at the time of alleged incident. As such, he is the eye-witness of the incident.

(iv) The statement of Jay Prakash Shukla was recorded on 25.11.2022 by the Investigating Officer (in short "I.O.").

(v) A perusal of the copy of statement of Jay Prakash Shukla, on record, as Annexure No. SA-1 to the supplementary affidavit dated 23.02.2026 indicates that fatal injuries with 'Farsha' to Manish Kumar Shukla (father of Jay Prakash Shukla) and Munendra Shukla (uncle of Jay Prakash Shukla) was caused by Sunil Kumar Shukla (applicant herein) and due to the injuries sustained both of them died on the spot.

(vi) A perusal of copies of statement(s) of independent witnesses namely Sonu s/o Ram Naresh, Rampal s/o Jagmohan, Ashok s/o Raghunath, Sudheer s/o Baburam, Umesh s/o Arjun, Manoj s/o Ramautar and Amrish s/o Loknath, on record, as Annexure No. 3 to the instant bail application would indicate that these witnesses have assigned specific role to the applicant of causing fatal injuries with 'Farsha' to deceased(s) namely Manish Kumar Shukla and Munendra Shukla.

(vii) The co-accused namely Manmohan Alias Mohan has already been released on bail by this Court vide order dated 07.10.2025 passed in Criminal Misc. Bail Application No. 6833 of 2024. Another co-accused namely Deepu Shukla has also been released on bail by this Court vide order dated 13.11.2025 passed in Criminal Misc. Bail Application No. 4805 of 2025.

6. Opposing the instant bail application preferred based upon the aforesaid main ground, the learned Government Advocate stated that the

grounds of arrest were communicated to the applicant on the date of arrest i.e. on 26.11.2022 and therefore the instant application seeking bail on the ground to the effect that grounds of arrest were not communicated to the applicant is liable to be rejected.

7. On the aforesaid aspect of the case, reference has been made by the learned Government Advocate to the copy of arrest memo prepared on 26.11.2022 at 16.15 hours (annexed as Annexure No. S.C.A.-2 to short counter affidavit filed in the Court today). The relevant portion of the arrest memo, referred, is extracted hereunder:-

".....यह विश्वास होने पर कि पकड़े गये उपरोक्त तीनो व्यक्ति ही मुकदमा उपरोक्त में नामित अभियुक्तगण हैं, को उनके विरुद्ध पंजीकृत मु०अ०सं० 607/22 धारा 302 भा०द०वि० से अवगत कराते हुए नियमानुसार समय करीब 15.30 बजे बिजौरा पुल के पास से हिरासत पुलिस में लिया गया। गिरफ्तारी मेमो मौके पर तैयार कर सर्व सम्बन्धित के हस्ताक्षर/अलामात बनवाये गये। आने जाने वाले जनता के व्यक्तियों से गवाही हेतु कहा गया तो कोर्ट कचहरी के चक्कर व भलाई बुराई के कारण सभी बिना नाम पता बताये हट बढ गये। दौराने गिरफ्तारी मा० सर्वोच्च न्यायालय व राष्ट्रीय मानवाधिकार आयोग के आदेशो निर्देशों का अक्षरशः पालन किया/कराया गया। अभियुक्तगण की जामा तलाशी से बरामद रुपयों को अभियुक्तवार अलग अलग कागज मे रखकर चिटबन्दी किया गया। अभियुक्तगण की गिरफ्तारी की सूचना अभियुक्त सुनील कुमार शुक्ला की पत्नी सुनीता देवी को देने हेतु हे०का० डीलचन्द को हिदायत मुनासिब कर ग्राम बीहटगौड़ रवाना किया गया। अभियुक्तगण का नियमानुसार मेडिकल परीक्षण कराने एवं न्यायालय समय से भेजने कार्यालय में मौजूद आरक्षी को हिदायत किया गया। विवरण विवेचना जरिए सी०डी० प्रेषित है चार्ज थाना बजुम्मे स्वयं ग्रहण किया।"

8. Reference has also been made by the learned Government Advocate to the copy of 'Giriftari Suchna Praptra (गिरफ्तारी सूचना प्रपत्र)' (form of information of arrest). The scanned copy of the same is as under:-

5

गिरफ्तारी सूचना प्रपत्र
शान्तलाल शर्मा जैन

1. नाम शान्तलाल शर्मा जैन
2. उम्र 50 वर्ष
3. पता 607/12, पारा 302, गे. 1/2

3. अतिरिक्त में लेने की तिथि 26/11/22

4. गिरफ्तार करने वाले अधिकारियों का नाम रंजीत कुमार शर्मा

6. गिरफ्तारी के बाद कहाँ रखा गया अनामिका

7. निवासस्थानों के नाम व पता
श्रीमती सुनील शर्मा
श्रीमती मन्दिता शर्मा

दिनांक 26/11/22

गिरफ्तारी का प्रपत्र

1. अभियुक्त का नाम, पिता का नाम व पता: श्रीमती सुनील शर्मा, पता 607/12, पारा 302, गे. 1/2
2. अग्रपथ संख्या व धारा सं. धारा 153(1) के अन्तर्गत 2022 में 2. संख्या 2022/1530

3. गिरफ्तारी का स्थान, दिनांक व समय: 26/11/22 रात 15:30

4. गिरफ्तारी करने वाले पुलिस कर्मियों का नाम: 50 रंजीत कुमार शर्मा, 51 अनामिका शर्मा

5. स्थायीय साक्षी जिसकी उपस्थिति में गिरफ्तारी की गयी

6. गिरफ्तारी के समय अभियुक्त से प्राप्त हस्ताक्षर व दस्तु आदि का विवरण
श्रीमती सुनील शर्मा - 26/11/22

साक्षीगण के हस्ताक्षर

श्रीमती सुनील शर्मा

8. अभियुक्त के हस्ताक्षर
9. पुलिस अधिकारी/कर्मचारी का हस्ताक्षर
26/11/22



शान्तलाल शर्मा
जैन

9. This Court also considered the following judgments referred by the parties' counsel.

(i) The judgment passed by the Hon'ble Apex Court in the case of **Ram Kishor Arora v. Enforcement Directorate; (2024) 7 SCC 599**, the relevant paragraphs of which, referred, are as under:-

"23. As discernible from the judgment in Pankaj Bansal case [Pankaj Bansal v. Union of India, (2024) 7 SCC 576] also noticing the inconsistent practice being followed by the officers arresting the persons under Section 19 PMLA, directed to furnish the grounds of arrest in writing as a matter of course, "henceforth", meaning thereby from the date of the pronouncement of the judgment. The very use of the word "henceforth" implied that the said requirement of furnishing grounds of arrest in writing to the arrested person as soon as after his arrest was not mandatory or obligatory till the date of the said judgment. The submission of the learned Senior Counsel Mr Singhvi for the appellant that the said judgment was required to be given effect retrospectively cannot be accepted when the judgment itself states that it would be necessary "henceforth" that a copy of such written grounds of arrest is furnished to the arrested person as a matter of course and without exception. Hence, non-furnishing of grounds of arrest in writing till the date of pronouncement of judgment in Pankaj Bansal case [Pankaj Bansal v. Union of India, (2024) 7 SCC 576] could neither be held to be illegal nor the action of the officer concerned in not furnishing the same in writing could be faulted with. As such, the action of informing the person arrested about the grounds of his arrest is a sufficient compliance of Section 19 PMLA as also Article 22(1) of the Constitution of India, as held in Vijay Madanlal [Vijay Madanlal Choudhary v. Union of India, (2023) 12 SCC 1 : 2022 SCC OnLine SC 929] .

24. Insofar as the facts of the present case are concerned, it is not disputed that the appellant was handed over the document containing grounds of arrest when he was arrested, and he also put his signature below the said grounds of arrest, after making an endorsement that "I have been informed and have also read the abovementioned grounds of arrest." The appellant in the rejoinder filed by him has neither disputed the said endorsement nor his signature below the said endorsement. The only contention raised by the learned Senior Counsel Mr Singhvi is that he was not furnished a copy of the document containing the grounds of arrest at the time of arrest. Since the appellant was indisputably informed about the grounds of arrest and he having also put his signature and the endorsement on the said document of having been informed, we hold that there was due compliance of the provisions contained in Section 19 PMLA and his arrest could neither be said to be violative of the said provision nor of Article 22(1) of the Constitution of India."

(ii) The judgment passed by the Hon'ble Apex Court in the case of ***Vihaan Kumar v. State of Haryana and another; (2025) 5 SCC 799***, relevant paragraphs of which, referred, are as under:-

"Conclusions

26. Therefore, we conclude:

26.1. The requirement of informing a person arrested of grounds of arrest is a mandatory requirement of Article 22(1);

26.2. The information of the grounds of arrest must be provided to the arrested person in such a manner that sufficient knowledge of the basic facts constituting the grounds is imparted and communicated to the arrested person effectively in the language which he understands. The mode and method of communication must be such that the object of the constitutional safeguard is achieved;

26.3. When arrested accused alleges non-compliance with the requirements of Article 22(1), the burden will always be on the investigating officer/agency to prove compliance with the requirements of Article 22(1);

26.4. Non-compliance with Article 22(1) will be a violation of the fundamental rights of the accused guaranteed by the said Article. Moreover, it will amount to a violation of the right to personal liberty guaranteed by Article 21 of the Constitution. Therefore, non-compliance with the requirements of Article 22(1) vitiates the arrest of the accused. Hence, further orders passed by a criminal court of remand are also vitiated. Needless to add that it will not vitiate the investigation, charge-sheet and trial. But, at the same time, filing of charge-sheet will not validate a breach of constitutional mandate under Article 22(1);

26.5. When an arrested person is produced before a Judicial Magistrate for remand, it is the duty of the Magistrate to ascertain whether compliance with Article 22(1) and other mandatory safeguards has been made; and

26.6. When a violation of Article 22(1) is established, it is the duty of the court to forthwith order the release of the accused. That will be a ground to grant bail even if statutory restrictions on the grant of bail exist. The statutory restrictions do not affect the power of the court to grant bail when the violation of Articles 21 and 22 of the Constitution is established.

42. The purpose of inserting Section 50-ACrPC, making it obligatory on the person making arrest to inform about the arrest to the friends, relatives or persons nominated by the arrested person, is to ensure that they would be able to take immediate and prompt actions to secure the release of the arrested person as permissible under the law. The arrested person, because of his detention, may not have immediate and easy access to the legal process

for securing his release, which would otherwise be available to the friends, relatives and such nominated persons by way of engaging lawyers, briefing them to secure release of the detained person on bail at the earliest. Therefore, the purpose of communicating the grounds of arrest to the detenu, and in addition to his relatives as mentioned above is not merely a formality but to enable the detained person to know the reasons for his arrest but also to provide the necessary opportunity to him through his relatives, friends or nominated persons to secure his release at the earliest possible opportunity for actualising the fundamental right to liberty and life as guaranteed under Article 21 of the Constitution. Hence, the requirement of communicating the grounds of arrest in writing is not only to the arrested person, but also to the friends, relatives or such other person as may be disclosed or nominated by the arrested person, so as to make the mandate of Article 22(1) of the Constitution meaningful and effective failing which, such arrest may be rendered illegal.

(iii) The judgment passed by the Hon'ble Apex Court in the case of ***State of Karnataka vs. Sri Darshan Etc.; 2025 SCC OnLine SC 1702***, the relevant paragraphs of which, referred, are as under:-

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

20.1. Delay in furnishing the grounds of arrest cannot, by itself, constitute a valid ground for grant of bail.

20.1.1. The learned counsel for the respondents - accused contended that the arrest was illegal as the grounds of arrest were not furnished immediately in writing, thereby violating Article 22 (1) of the Constitution and Section 50 Cr. P.C. (now Section 47 of the Bharatiya Nagarik Suraksha Sanhita). This submission, however, is devoid of merit.

20.1.2. Article 22(1) of the Constitution mandates that "no person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest, nor shall he be denied the right to consult, and to be defended by, a legal practitioner of his choice". Similarly, Section 50 (1) Cr. P.C. requires that "every police officer or other person arresting any person without warrant shall forthwith communicate to him full particulars of the offence for which he is arrested or other grounds for such arrest.

20.1.3. The constitutional and statutory framework thus mandates that the arrested person must be informed of the grounds of arrest - but neither provision prescribes a specific form or insists upon written communication in every case.

Judicial precedents have clarified that substantial compliance with these requirements is sufficient, unless demonstrable prejudice is shown.

20.1.4. In *Vihaan Kumar v. State of Haryana*²², 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*²³, it was observed that when arrest is made pursuant a warrant, reading out the warrant amounts to sufficient compliance. Both these post- Pankaj Bansal decisions clarify that written, individualised grounds are not an inflexible requirement in all circumstances.

20.1.5. While Section 50 Cr. P.C. is mandatory, the consistent judicial approach has been to adopt a prejudice-oriented test when examining alleged procedural lapses. The mere absence of written grounds does not ipso facto render the arrest illegal, unless it results in demonstrable prejudice or denial of a fair opportunity to defend.

20.1.6. The High Court, however, relied heavily on the alleged procedural lapse as a determinative factor while overlooking the gravity of the offence under Section 302 IPC and the existence of a prima facie case. It noted, inter alia, that there was no mention in the remand orders about service of memo of grounds of arrest (para 45); the arrest memos were allegedly template-based and not personalised (para 50); and eyewitnesses had not stated that they were present at the time of arrest or had signed the memos (para 48). Relying on *Pankaj Bansal v. Union of India*²⁴ and *Prabir Purkayastha v. State (NCT of Delhi)* (supra), it concluded (paras 43, 49 - 50) that from 03.10.2023 onwards, failure to serve detailed, written, and individualised grounds of arrest immediately after arrest was a violation entitling the accused to bail.

20.1.7. In the present case, the arrest memos and remand records clearly reflect that the respondents were aware of the reasons for their arrest. They were legally represented from the outset and applied for bail shortly after arrest, evidencing an immediate and informed understanding of the accusations. No material has been placed on record to establish that any prejudice was caused due to the alleged procedural lapse. In the absence of demonstrable prejudice, such as irregularity is, at best, a curable defect and cannot, by itself, warrant release on bail. As reiterated above, the High Court treated it as a determinative factor while overlooking the gravity of the charge under Section 302 IPC and the existence of a prima facie case. Its reliance on *Pankaj Bansal* and *Prabir Purkayastha* is misplaced, as those decisions turned on materially different facts and statutory contexts. The approach adopted here is inconsistent with the settled principle that procedural lapses in furnishing grounds of arrest, absent prejudice, do not ipso facto render custody illegal or entitle the accused to bail.

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

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

20.2.2. In Niranjan Singh v. Prabhakar Rajaram Kharote²⁵, this Court held as under:

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

20.2.3. In Kalyan Chandra Sarkar v. Rajesh Ranjan @ Pappu Yadav²⁶, the Court reiterated that while detailed evaluation is not required, some reasoning must support the grant of bail, especially when the offence is grave. However, even in such cases, the reasoning must be confined to prima facie satisfaction, not merit-based findings.

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

20.2.5. Further, such an approach of the High Court is contrary to the judicial precedents of this court, including Satish Jaggi v. State of Chhattisgarh²⁷, Kanwar Singh Meena v. State of Rajasthan²⁸, wherein, it was held that courts, while considering bail, should not assess the credibility of witnesses, as this function squarely lies within

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

20.2.6. In Brijmani Devi v. Pappu Kumar²⁹, the Court cautioned that there cannot be elaborate details recorded to give an impression that the case is one that would result in a conviction or, by contrast, in an acquittal while passing an order on an application for grant of bail. The following paragraphs are pertinent:

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

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

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

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

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

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

(iv) The judgment passed by the High Court of Delhi in the case of **SAAD v. State (NCT of Delhi); 2025 SCC OnLine Del 8751**, the relevant paragraphs of which, referred, read as under:-

"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 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 : (2024) 3 SCC (Cri) 450, 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 vitiate 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 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)

(v) The judgment passed by the Hon'ble Apex Court in the case of ***Mihir Rajesh Shah v. State of Maharashtra; (2026) 1 SCC 500***. It is to be noted that in this case, the judgment passed in the case of ***State of Karnataka vs. Sri Darshan Etc.; 2025 SCC OnLine SC 1702*** was not taken note of. Relevant paragraphs of the report, referred, are as under:-

8. Then, while granting leave on 22-4-2025 [Mihir Rajesh Shah v. State of Maharashtra, 2025 SCC OnLine SC 2531] , this Court formulated the following questions of law for consideration:

8.1. (a) Whether in each and every case, even arising out of an offence under the Penal Code, 1860 (“IPC, 1860”) now Bharatiya Nyaya Sanhita, 2023 (BNS 2023) would it be necessary to furnish grounds of arrest to an accused either before arrest or forthwith after arrest, and

8.2. (b) Whether, even in exceptional cases, where on account of certain exigencies it will not be possible to furnish the grounds of arrest either before arrest or immediately after arrest, the arrest would be vitiated on the ground of non-compliance with the provisions of Section 50CrPC (now Section 47 of BNSS 2023).

12. On the other hand, the learned counsel for the respondent State submits that the mode of communication of grounds of arrest is not specified in the provision of Section 47 of BNSS 2023. The reliance on the decisions in Pankaj Bansal [Pankaj Bansal v. Union of India, (2024) 7 SCC 576 : (2024) 3 SCC (Cri) 450] and Prabir Purkayastha [Prabir Purkayastha v. State (NCT of Delhi), (2024) 8 SCC 254 : (2024) 3 SCC (Cri) 573] , is misplaced as both the cases pertain to special statutes and the facts therein are not similar to the present case. It is argued that the mandate of Article 22(1) is to inform the grounds of arrest to the arrestee and there is no specific statutory mandate to provide such grounds in writing. The respondent while supporting the judgment of the High Court of Bombay contends that while informing grounds of arrest to the arrestee is mandatory, the mode thereof is not specified, and hence, the appellant has been arrested in consonance with law and by following all procedural safeguards.

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

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

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

of Bombay v. Atma Ram Sridhar Vaidya, 1951 SCC 43 : 1951 SCR 167] clause (5) of Article 22 requires that the grounds of his detention should be made available to the detenu as soon as may be, and that the earliest opportunity of making a representation against the order should also be afforded to him. In order that the detenu should have that opportunity, it is not sufficient that he has been physically delivered the means of knowledge with which to make his representation. In order that the detenu should be in a position effectively to make his representation against the order, he should have knowledge of the grounds of detention, which are in the nature of the charge against him setting out the kinds of prejudicial acts which the authorities attribute to him. Communication, in this context, must, therefore, mean imparting to the detenu sufficient knowledge of all the grounds on which the order of detention is based. In this case the grounds are several, and are based on numerous speeches said to have been made by the appellant himself on different occasions and different dates. Naturally, therefore, any oral translation or explanation given by the police officer serving those on the detenu would not amount to communicating the grounds. Communication, in this context, must mean bringing home to the detenu effective knowledge of the facts and circumstances on which the order of detention is based.

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

50. Further, the above judgment has been reiterated and followed by this Court in Lallubhai Jogibhai Patel v. Union of India [Lallubhai Jogibhai Patel v. Union of India, (1981) 2 SCC 427 : 1981 SCC (Cri) 463 : (1982) 52 Comp Cas 543] wherein it has been reaffirmed that grounds of detention must be communicated to the detenu in writing in a language which he understands.

51. On perusal of the above two judgments, it turns out that mere communication of the grounds in a language not understood by the person arrested does not fulfil the constitutional mandate under Article 22 of the Constitution of India. The failure to supply such grounds in a language understood by the arrestee renders the constitutional safeguards illusory and infringes the personal liberty of the person as guaranteed under Articles 21 and 22 of the

Constitution of India. The objective of the constitutional mandate is to place the person in a position to comprehend the basis of the allegations levelled against him and it can only be realised when the grounds are furnished in a language understood by the person, thereby enabling him to exercise his rights effectively.

52. From the catena of decisions discussed above, the legal position which emerges is that the constitutional mandate provided in Article 22(1) of the Constitution of India is not a mere procedural formality but a constitutional safeguard in the form of fundamental rights. The intent and purpose of the constitutional mandate is to prepare the arrested person to defend himself. If the provisions of Article 22(1) are read in a restrictive manner, its intended purpose of securing personal liberty would not be achieved rather curtailed and put to disuse.

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

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

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

56. It would not be out of context now to refer to an obligation which has been imposed on a person making arrest, as provided under Section 50-A read in relation to Section 50CrPC (now Sections 48 and 47 of BNSS 2023 respectively), to inform the arrestee of his right to indicate his relative, friend or such other person for the purpose of giving information with regard to his arrest. Simultaneously, a duty

has also been cast on the person making arrest to forthwith thereafter inform of such arrest with reasons and the place where the arrested person is being held to the such indicated person. The police officer/person making any arrest shall make an entry of the fact as to who has been informed of such an arrest in a book to be kept in the police station. Further protection in this regard is reflected when a duty has been cast on the Magistrate to satisfy himself, when the arrestee is produced before him, that the above requirement stands complied with. This requirement is in addition to the rights of an arrestee to be made aware of the grounds of arrest.

57. The second issue which requires consideration is when grounds of arrest are not furnished either prior to arrest or immediately after the arrest, would it vitiate the arrest for non-compliance of the provisions of Section 50CrPC (now Section 47 of BNSS 2023) irrespective of certain exigencies where furnishing such grounds would not be possible forthwith.

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

59. It may so happen that in the presence of a police officer a cognizable offence is being committed and the factual matrix presents a tangible and imminent risk of the suspect absconding or committing further offence(s). For instance, in a case involving a murder being committed in front of a police officer, it may not be possible for the officer to provide the grounds of arrest in writing before the arrest or forthwith on the arrest to the accused. A rigid insistence upon informing of written ground(s) of arrest before or at the time of effecting the arrest or immediately thereafter may result into police officer not being able to discharge their duty and responsibility efficiently and effectively.

60. The constitutional safeguards, valuable as they are, cannot be interpreted in a manner so as to allow it to metamorphose into a procedural impediment that handicaps the law enforcing agencies in due lawful discharge of their duties. Therefore, a balance between compliance of the constitutional as also the statutorily mandated safeguards on the one hand vis-à-vis the effective discharge of lawful statutory law enforcement duties and responsibilities cast upon the State agencies must be struck.

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

62. *We thus hold, that, in cases where the police are already in possession of documentary material furnishing a cogent basis for the arrest, the written grounds of arrest must be furnished to the arrestee on his arrest. However, in exceptional circumstances such as offences against body or property committed in flagrante delicto, where informing the grounds of arrest in writing on arrest is rendered impractical, it shall be sufficient for the police officer or other person making the arrest to orally convey the same to the person at the time of arrest. Later, a written copy of grounds of arrest must be supplied to the arrested person within a reasonable time and in no event later than two hours prior to production of the arrestee before the Magistrate for remand proceedings. The remand papers shall contain the grounds of arrest and in case there is delay in supply thereof, a note indicating a cause for it be included for the information of the Magistrate.*

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

64. *In view of the above, we hold with regard to the second issue that non-supply of grounds of arrest in writing to the arrestee prior to or immediately after arrest would not vitiate such arrest on the grounds of non-compliance with the*

provisions of Section 50CrPC (now Section 47 of BNSS 2023) provided the said grounds are supplied in writing within a reasonable time and in any case two hours prior to the production of the arrestee before the Magistrate for remand proceedings.

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

66. In conclusion, it is held that:

66.1. The constitutional mandate of informing the arrestee the grounds of arrest is mandatory in all offences under all statutes including offences under IPC, 1860 (now BNS 2023);

66.2. The grounds of arrest must be communicated in writing to the arrestee in the language he/she understands;

66.3. In case(s) where, the arresting officer/person is unable to communicate the grounds of arrest in writing on or soon after arrest, it be so done orally. The said grounds be communicated in writing within a reasonable time and in any case at least two hours prior to production of the arrestee for remand proceedings before the Magistrate.

66.4. In case of non-compliance of the above, the arrest and subsequent remand would be rendered illegal and the person will be at liberty to be set free.

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

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."

(vi) The judgment passed by the Division Bench of this Court in the case of **Shivam Chaurasiya Thru. His Brother Mr. Manas Chaurasiya vs. State of U.P. Thru. Prin. Secy. Deptt. of Home Affairs Lko. and Others; 2026 SCC OnLine All 325**, the relevant paragraphs of which, referred, read as under:-

"16. Further, reliance has also been placed on the judgment of the Apex Court in the case of Kashi Reddy Upendra Reddy v. State of Andhra Pradesh, 2025 SCC OnLine SC 1228, contending that as the reasons and grounds of arrest were in fact supplied to the petitioner consequently, it cannot be said that the arrest is illegal and unjustified from any angle and thus, the writ petition deserves to be dismissed, there being no infirmity in the arrest of the petitioner.

*20. From a perusal of the judgment of the Apex Court in the case of Mihir Rajesh Shah (supra) it clearly emerges that the Apex Court has categorically held, after considering Article 22(1) of the Constitution of India, that no person who is arrested shall be detained in custody **without being informed of the grounds of such arrest** meaning thereby that it casts a mandatory and unexceptional duty on the State to provide the arrested person with the grounds of such arrest. Supply of grounds of arrest have also been held to be grounded in fundamental right of life and personal liberty under Article 21 of the Constitution of India and that requirement of informing the arrested person the grounds of arrest 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".*

*21. The Apex Court has further held that the grounds of arrest must be furnished in writing in order to attend the true intended purpose of Article 22(1) of the Constitution of India and have also held that supply of grounds of arrest is the Constitutional mandate. Thereafter, the Apex Court has held that if the grounds of arrest are not furnished to the arrestee in writing, the non compliance will result in breach of constitutional and statutory safeguards rendering the arrest and remand illegal and the person will be entitled to be set at liberty. The aforesaid procedure has been directed to govern all arrest **henceforth** i.e. with effect from the date of the judgment of the Apex Court which is dated 06.11.2025.*

22. Thus, considering the aforesaid judgment it is apparent that the grounds of arrest are mandatorily to be given to the arrestee.

25. The said separate grounds of arrest have been perused by the Court but no confidence or trust can be reposed on the said grounds of arrest which are alleged to have been

supplied separately to the petitioner. The reasons are not far to seek. Apart from the fact that the said reasons for arrest are separate provided on separate paper and do not form part of the arrest memo, the other aspect of the matter is that neither column 12 nor column 13 of the arrest memo dated 28.01.2026 nor anywhere in the arrest memo has it been indicated that the grounds of arrest are being given separately. Further the column no. 13 and sub columns pertaining to providing grounds of arrest have been left blank. As such, there can be no occasion to accept that grounds of arrest has been duly supplied to the arrestee. As per section 36 of the B.N.S.S, 2023, under which the arrest memo is to be issued, it is categorically provided that the memorandum of arrest would be attested by atleast one witness who is the member of a family of a person arrested or a respectable member of the locality where the arrest is made duly countersigned by the person arrested. Though the separate grounds/reasons of arrest are bearing the signature of the petitioner i.e. a countersigned by the person arrested-the petitioner, yet there is no witness to the said grounds of arrest. This leads to the only inescapable conclusion that had the said grounds/reasons of arrest been prepared simultaneously with the arrest memo dated 28.01.2026, the same would duly have been mentioned on the arrest memo itself and would also have been attested by the witness who has attested the arrest memo as annexed with the petition. Thus, it is clearly apparent that the said grounds/reasons of arrest have been prepared subsequently and though may be bearing the signature of the petitioner but do not conform to the mandatory provisions of Section 36 of the B.N.S.S, 2023 and the law laid down by the Apex Court in the case of Mihir Rajesh Shah (supra).

33. *Apart from the above, the Apex Court in the case of Mihir Rajesh Shah (supra) has categorically held that supply of grounds to the person being arrested is a constitutional mandate and is not a mere procedural formality and thus a writ alleging violation of fundamental rights would be maintainable and the Court may not have any discretion to refuse the same if the allegation of violation of fundamental rights is found to be correct, as in the instant case. From the discussion as aforesaid, it is clearly demonstrated that the arresting officer has not complied with the mandatory provisions provided in BNSS and the judgment of the Apex Court in the case of Mihir Rajesh Shah (supra) while arresting and producing the arrestee before the learned Magistrate/Court concerned for remand, therefore, the arrest of arrestee is bad in the eyes of law, hence, judicial remand granted by the Court for the petitioner upon an illegal arrest, cannot be termed as valid.*

35. *However, it would be open for the respondents to proceed in accordance with law."*

10. Upon due consideration of the aforesaid facts of the case and the specific role attributed to the applicant, according to which it was the applicant who caused fatal injuries to two persons died on the spot (day light double murder case) and also the observations made in the judgments, noted above, including the expression '*henceforth*' used by the Hon'ble Apex Court in the case of *Mihir Rajesh Shah (supra)* and explained in the law of *Ram Kishor Arora (supra)*, this Court is not inclined to enlarge the applicant on bail on the ground of violation of Article 22(1) of the Constitution of India for the reason(s) that (i) the materials on record taken note of in paragraphs 7 and 8 of this order indicate that the applicant was aware of the grounds of his arrest from the outset and (ii) no material has been placed on record to establish that any prejudice was caused due to the alleged procedural lapse.

11. The instant bail application is accordingly *rejected*.

12. The trial court concerned is however directed to conclude the trial most expeditiously.

(Saurabh Lavania,J.)

March 11, 2026

Arun/-