THE HIGH COURT OF ORISSA: CUTTACK

No. XI-47/2025- 19362 (26) **/ Dated** 04/12/2025

From;

Dr. Bhagyalaxmi Rath,
Registrar General

To,

The District & Sessions Judge,..... (All)

Sub.: **Forwarding of the Judgment dated 6th November, 2025 passed in Criminal Appeal No. 2195 of 2025 (Mihir Rajesh Shah Vrs. State of Maharashtra and Another) by Hon'ble the Supreme Court of India regarding mandatory communication of grounds of arrest to the arrestee**

Sir/Madam,

While enclosing the copy of the Judgment dated 06.11.2025 passed in Criminal Appeal No. 2195 of 2025 (Mihir Rajesh Shah Vrs. State of Maharashtra and Another) by Hon'ble the Supreme Court of India on the mandatory communication of grounds of arrest to the arrestee, I am directed to request you to circulate its copy amongst all the Judicial Officers working in your judgeship for their information and necessary guidance.

Yours faithfully,

4.12.2025
REGISTRAR GENERAL

Encl.:- *As above.*

Memo No. 19363 **/ Dtd** 04/12/2025

Copy forwarded to the Additional Chief Secretary to Govt. of Odisha, Home Deptt., Bhubaneswar for information with a request to circulate the same amongst all concerned for their information and necessary action.

4.12.2025
REGISTRAR GENERAL

REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.2195 OF 2025

MIHIR RAJESH SHAH ... APPELLANT(S)

VERSUS

25153811

STATE OF MAHARASHTRA AND ANOTHER ...RESPONDENT(S)

WITH
CRIMINAL APPEAL NO.2189 OF 2025
CRIMINAL APPEAL NO.2190 OF 2025
AND
S.L.P. (CRL.) NO.8704 OF 2025

Certified to be true copy
Assistant Registrar (Judl.)
14/4/2025
Supreme Court of India

J U D G M E N T

AUGUSTINE GEORGE MASIH, J.

1. These Appeals being Criminal Appeal No.2195 of 2025, Criminal Appeal No.2189 of 2025 and Criminal Appeal No.2190 of 2025 were originally filed as Special Leave Petitions where leave was granted vide Order dated 22.04.2025. Since, in all these Appeals similar questions of law are involved, they are being decided by this common judgment. Special Leave

Petition (Criminal) No.8704 of 2025 was tagged with the above-mentioned matters vide Order dated 02.06.2025.

2. The main issue as raised by the Appellants in these Appeals is the violation of the Appellants' right under Article 22(1) of the Constitution of India and Section 50 of the Code of Criminal Procedure, 1973 ("CrPC 1973") now Section 47 of Bharatiya Nagarik Suraksha Sanhita, 2023 ("BNSS 2023") as the appellants assert that they were not informed of grounds of their arrest in writing.

3. For convenience, Criminal Appeal No. 2195 of 2025 is taken as the lead case. The facts in a nutshell are that on 07.07.2024, a white BMW car, driven at a high speed, collided violently with the complainant's scooter from behind. The force of the impact propelled both the complainant and his wife onto the car's bonnet, whereby the complainant was thrown to the side, and tragically, his wife became ensnared between the vehicle's front left wheel and bumper. Notwithstanding this grievous state, the driver, alleged to be Mihir Rajesh Shah, the Appellant herein, persisted in his reckless flight, dragging the victim, thereafter absconding without rendering

assistance or reporting the incident to authorities. The victim succumbed to the severe injuries sustained in this collision, as medically confirmed, while the complainant sustained minor injuries. FIR No. 378/2024 was registered at Worli Police Station under the relevant provisions of Bharatiya Nyaya Sanhita, 2023 ("BNS 2023"), and the Motor Vehicles Act, 1988. Initial investigative steps included the identification of the offending vehicle through CCTV footage, and the discovery near Kalanagar Junction Flyover of the damaged BMW alongside Rajrishi Rajendra Singh Bindawat and Rajesh Shah, father of Mihir Rajesh Shah (hereinafter, "Appellant"). Arrests soon followed, with co-accused Rajrishi Rajendra Singh Bindawat being taken into custody on the same day and Mihir Rajesh Shah being apprehended on 09.07.2024. The evidence collected firmly established the Appellant as the driver at the material time, including CCTV footage capturing his presence at the wheel, consumption of alcohol shortly before the incident, an attempt to alter his appearance, and use of a Fastag registered in his name, amongst other incriminating particulars.

4. The remand proceedings saw the Appellant being produced before the Judicial Magistrate First Class

with initial police custody extending subsequently into judicial custody; a course contested on the grounds that the grounds of arrest were not furnished in writing as mandated by Article 22(1) of the Constitution of India and Section 47 of BNSS 2023 equivalent to Section 50 of CrPC 1973.

5. The Appellant's challenge against the legality of arrest was ultimately considered by the High Court of Bombay in Criminal Writ Petition No. 3533 of 2024 wherein, vide Judgment dated 25.11.2024, the High Court of Bombay, notwithstanding the acknowledgment of this procedural lapse, upheld the validity of arrest due to the Appellant's conscious awareness of the gravity of the offence, supported by substantial evidence and the Appellant's evasion of arrest, thereby justifying custody despite the missing written grounds. The Appellant approached this Court challenging the Judgment of Bombay High Court contending that grounds of arrest as mandated under Section 47 of BNSS 2023 were not informed to him in writing.

6. This Court, while considering the Special Leave Petition recorded that the Court is not inclined to entertain the petition on its merits and issued notice

only to the extent of considering the question of law/legal position. In connected cases, being Criminal Appeal No. 2189 of 2025 and Criminal Appeal No. 2190 of 2025, this Court vide Order dated 22.04.2025, has granted *ad interim* relief and directed the Appellants to be released on bail during pendency of these Appeals. In Special Leave Petition (Criminal) No. 8704 of 2025 vide Order dated 02.06.2025, *ad interim* relief was also granted to the Petitioner therein directing his release on bail. On 13.12.2024, Mr. Shri Singh, learned counsel, who was present in the Court was appointed as *Amicus Curiae* to assist this Court in this matter.

7. Then, while granting leave on 22.04.2025, this Court formulated the following questions of law for consideration:

> (a) Whether in each and every case, even arising out of an offence under Indian 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
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> (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 50 of the CrPC 1973 (now Section 47 of BNSS 2023).

8. Learned Senior Counsel appearing for the Appellant submits that the action of the Respondent of arresting the Appellant without informing the grounds of arrest is in gross violation of the constitutional protection and mandate of Article 21 and Article 22(1) of the Constitution of India and Section 47 of BNSS 2023. He substantiates his contention relying upon the decision of this Court in ***Pankaj Bansal v. Union of India and Others***[1], contending that this Court has clearly held that to meet the requirement of Article 22(1) of the Constitution of India, the mode of conveying the grounds of arrest must necessarily be meaningful so as to serve the intended purpose and therefore it must be furnished to the arrestee in writing as a matter of course.

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[1] (2024) 7 SCC 576 : 2023 SCC OnLine SC 1244

9. Reliance is also placed upon the decision of this Court in ***Prabir Purkayastha v. State (NCT of Delhi)***[2], wherein while dealing with the issue of communication of grounds of arrest to the arrestee in the offences related to the Unlawful Activities (Prevention) Act, 1967 ("UAPA"), this Court relying upon ***Pankaj Bansal (supra)*** reiterated that the grounds of arrest shall be furnished to the person arrested under UAPA or any other offence in writing without any exception at the earliest.

10. He further relies upon the decision of this Court in ***Vihaan Kumar v. State of Haryana and Another***[3], wherein it was held that the requirement of informing a person arrested, of grounds of arrest is a mandatory requirement of Article 22(1) of the Constitution of India and it must be conveyed in such a mode and method so as to achieve the object of the constitutional safeguard. He contends that Article 22 of the Constitution of India does not differentiate between offences under BNS 2023 (earlier IPC 1860) or offences under any other special statute such as UAPA, thereby claiming violation of Article 22(1) of the Constitution of India and Section 47 of BNSS

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[2] (2024) 8 SCC 254
[3] (2025) 5 SCC 799 : 2025 SCC OnLine SC 269

2023 by the Respondent. He, therefore, prays for the arrest to be declared illegal and the Appellant to be set at liberty.

11. On the other hand, 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 the cases of ***Pankaj Bansal (supra)*** and ***Prabir Purkayastha (supra),*** 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.

12. Learned Amicus Curiae submits that the grounds of arrest must be communicated to the arrested person in all cases without any exception regardless of the

nature of offences i.e. offences under BNS 2023 (IPC 1860) or under any special statute such as UAPA etc. irrespective of the mode of conveying/ communication specified or not in the statute. Reliance is placed upon ***Pankaj Bansal (supra)*** and ***Prabir Purkayastha (supra)*** for submitting that even the special statutes do not provide for an exception from informing grounds of arrest.

13. Further, regarding the mode of informing the grounds of arrest, learned Amicus Curiae submits that Article 22(1) of the Constitution of India as well as the procedural law under BNSS 2023 (CrPC 1973) do not make it mandatory to provide such grounds in writing to the arrestee. He submits that as long as the remand court or any other court is convinced that the grounds of arrest have been duly communicated, the mandate under Article 22(1) and BNSS 2023 would stand satisfied. This Court in ***Pankaj Bansal (supra)*** observed that ideally grounds of arrest should be informed in writing, however, in ***Vihaan Kumar (supra)*** it was acknowledged that it might not be practical to provide grounds of arrest to an accused in each and every case in writing and thus clarified that there is no mandate to communicate the grounds of arrest in writing. Nevertheless, for

investigations under special statutes such as Prevention of Money Laundering Act, 2002 ("PMLA") or UAPA, this Court has specifically held that such grounds of arrest be communicated in writing. The decisions in cases of ***Pankaj Bansal (supra)*** and ***Prabir Purkayastha (supra)*** need to be read harmoniously with ***Vihaan Kumar (supra)*** which provides as a general rule that grounds of arrest are not mandated to be communicated in writing.

14. On the aspect of timeframe within which grounds of arrest must be supplied to the arrested person, he submits that there is no straightjacket formula regarding the timeframe within which grounds of arrest must be communicated/supplied to the arrested person. The law provides that the grounds of arrest ought to be communicated at the time of arrest or at the earliest possible instance. The grounds of arrest must be provided forthwith i.e. within a reasonable time so as to allow the arrested accused an effective opportunity to consult a legal practitioner and be sufficiently prepared to oppose remand. The reasonable time would depend on the facts of each case; however, the grounds must be provided prior to the remand hearing.

15. Learned Amicus Curiae rests his submissions by stating that there can be no doubt that non-communication of the grounds of arrest to the arrested person amounts to the violation of Article 22(1) of the Constitution of India, entitling the arrestee to be released from the custody. However, there can be no absolute rule that if an arrest is found to be contrary to law, all investigative procedures linked to the arrest must be deemed to have been vitiated. The effect of failure to communicate grounds of arrest would have to be seen in the context of proceedings when such an objection is raised and the nature of investigation conducted after the arrest of the accused.

16. Having heard the learned Counsels for the parties, learned Amicus Curiae and on perusal of the material on record, we find it apposite that prior to undertaking and answering the aforementioned issues, it is imperative to delve into the constitutional mandate and statutory provisions relatable to informing of grounds of arrest to the arrested person as well as the existing jurisprudence as developed by this Court while dealing with such provisions.

17. The genesis of informing the grounds of arrest to a person flows from the Constitutional safeguard provided in Article 21 of the Constitution of India, which reads "*No person shall be deprived of his life or personal liberty except according to procedure established by law*". The expression 'personal liberty' has been given a wide meaning through various judicial pronouncements. One of which is that personal liberty includes procedural safeguards from the abuse of power by the State agencies and scrutiny of the actions of the State.

18. Article 22 of the Constitution of India further strengthens the protection of personal liberty of a person by providing that a person arrested must be informed of the grounds of his arrest at the earliest and should not be detained without informing him of such grounds. Article 22 reads as follow:

> "***22. Protection against arrest and detention in certain cases.***—*(1) 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.*
>
> *(2) Every person who is arrested and detained in custody shall be produced before the nearest magistrate within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place of arrest to the court of the magistrate and no such person shall be detained in*

custody beyond the said period without the authority of a magistrate.

(3) Nothing in clauses (1) and (2) shall apply—

(a) to any person who for the time being is an enemy alien; or

(b) to any person who is arrested or detained under any law providing for preventive detention.

(4) No law providing for preventive detention shall authorise the detention of a person for a longer period than three months unless—

(a) an Advisory Board consisting of persons who are, or have been, or are qualified to be appointed as, Judges of a High Court has reported before the expiration of the said period of three months that there is in its opinion sufficient cause for such detention:

Provided that nothing in this sub-clause shall authorise the detention of any person beyond the maximum period prescribed by any law made by Parliament under sub-clause (b) of clause (7); or

(b) such person is detained in accordance with the provisions of any law made by Parliament under sub-clauses (a) and (b) of clause (7).

(5) When any person is detained in pursuance of an order made under any law providing for preventive detention, the authority making the order shall, as soon as may be, communicate to such person the grounds on which the order has been made and shall afford him the earliest opportunity of making a representation against the order.

(6) Nothing in clause (5) shall require the authority making any such order as is referred to in that clause to disclose facts which such authority considers to be against the public interest to disclose.

(7) Parliament may by law prescribe—

(a) the circumstances under which, and the class or classes of cases in which, a person may be detained for a period longer than three months under any law providing for preventive detention

without obtaining the opinion of an Advisory Board in accordance with the provisions of sub-clause (a) of clause (4);
(b) the maximum period for which any person may in any class or classes of cases be detained under any law providing for preventive detention; and
(c) the procedure to be followed by an Advisory Board in an inquiry under sub-clause (a) of clause (4)."

19. The Constitutional safeguard provided under Article 22 of the Constitution of India has been effectuated by the legislature by incorporating Section 50 of CrPC 1973 (now Section 47 of BNSS 2023) which puts into force the procedural mandate providing for the protection of the personal liberty of the person so arrested. Section 47 of BNSS 2023 casts a duty on the police officer or other person arresting any person without a warrant shall communicate him the grounds of arrest, which is reproduced herein below:

> *"**47. Person arrested to be informed of grounds of arrest and of right to bail.**—(1) 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.*
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> *(2) Where a police officer arrests without warrant any person other than a person accused of a non-bailable offence, he shall inform the person arrested that he is entitled to be released on bail and that he may arrange for sureties on his behalf."*

20. Section 50A of the CrPC 1973 now Section 48 of BNSS 2023 was further added to extend the scope of such protection by casting a duty upon the person arresting to inform such grounds of arrest to his friend, relative or any other person nominated by arrested person. Section 48 of BNSS 2023 reads as follows:

> *"**48. Obligation of person making arrest to inform about arrest, etc., to relative or friend.**– – (1) Every police officer or other person making any arrest under this Sanhita shall forthwith give the information regarding such arrest and place where the arrested person is being held to any of his relatives, friends or such other persons as may be disclosed or nominated by the arrested person for the purpose of giving such information and also to the designated police officer in the district.*
>
> *(2) The police officer shall inform the arrested person of his rights under sub-section (1) as soon as he is brought to the police station.*
>
> *(3) An entry of the fact as to who has been informed of the arrest of such person shall be made in a book to be kept in the police station in such form as the State Government may, by rules, provide.*
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> *(4) It shall be the duty of the Magistrate before whom such arrested person is produced, to satisfy himself that the requirements of sub-section (2) and sub-section (3) have been complied with in respect of such arrested person."*

21. After having discussed the constitutional mandate and statutory provisions giving effect to the constitutional mandate in Article 22 of the

Constitution of India, let us now consider the jurisprudence developed by this Court with respect to furnishing of grounds of arrest through its decisions.

22. In ***Pankaj Bansal (supra)***, this Court while dealing with the issue of furnishing grounds of arrest under Section 19(1) of PMLA has underscored that Article 22(1) of the Constitution mandates that no arrested person shall be detained without being informed of the grounds of such arrest at the earliest opportunity. The manner in which such grounds are to be communicated must be efficacious and substantive which must fulfil the essential objective and mandate of the constitutional provisions. It was further held that there exists no plausible justification as to why a written copy of the grounds of arrest ought not be provided to the arrestee as a standard procedural requirement without any exception.

23. This Court has reached the above conclusion based on the proposition that mere oral communication of such grounds, in the absence of any written document, renders the compliance susceptible to factual disputes which often result into conflicting

claims between the arrested person and the investigating agency. This conflict results in jeopardizing the integrity of the arrest process and thereby giving an opportunity to the accused person to claim an immediate release. This situation may be obviated by furnishing the grounds of arrest in writing. Apart from the practical difficulties, furnishing grounds of arrest in writing also results into effective compliance of the mandate provided under Article 22 of the Constitution of India. The relevant portion of the decision in ***Pankaj Bansal (supra)*** is reproduced herein:

> *"**38.** In this regard, we may note that Article 22(1) of the Constitution provides, inter alia, 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. This being the fundamental right guaranteed to the arrested person, the mode of conveying information of the grounds of arrest must necessarily be meaningful so as to serve the intended purpose. It may be noted that Section 45 PMLA enables the person arrested under Section 19 thereof to seek release on bail but it postulates that unless the twin conditions prescribed thereunder are satisfied, such a person would not be entitled to grant of bail. The twin conditions set out in the provision are that, firstly, the court must be satisfied, after giving an opportunity to the Public Prosecutor to oppose the application for release, that there are reasonable grounds to believe that the arrested person is not guilty of the offence and, secondly, that he is not likely to commit any offence while on bail. To meet this requirement, it would be essential for the arrested person to be aware of the grounds on which the authorised officer arrested*

him/her under Section 19 and the basis for the officer's "reason to believe" that he/she is guilty of an offence punishable under the 2002 Act. It is only if the arrested person has knowledge of these facts that he/she would be in a position to plead and prove before the Special Court that there are grounds to believe that he/she is not guilty of such offence, so as to avail the relief of bail. Therefore, communication of the grounds of arrest, as mandated by Article 22(1) of the Constitution and Section 19 PMLA, is meant to serve this higher purpose and must be given due importance.

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42. *That being so, there is no valid reason as to why a copy of such written grounds of arrest should not be furnished to the arrested person as a matter of course and without exception. There are two primary reasons as to why this would be the advisable course of action to be followed as a matter of principle. Firstly, in the event such grounds of arrest are orally read out to the arrested person or read by such person with nothing further and this fact is disputed in a given case, it may boil down to the word of the arrested person against the word of the authorised officer as to whether or not there is due and proper compliance in this regard. In the case on hand, that is the situation insofar as Basant Bansal is concerned. Though ED claims that witnesses were present and certified that the grounds of arrest were read out and explained to him in Hindi, that is neither here nor there as he did not sign the document. Non-compliance in this regard would entail release of the arrested person straightaway, as held in V. Senthil Balaji v. State [(2024) 3 SCC 51 : (2024) 2 SCC (Cri) 1]. Such a precarious situation is easily avoided and the consequence thereof can be obviated very simply by furnishing the written grounds of arrest, as recorded by the authorised officer in terms of Section 19(1) PMLA, to the arrested person under due acknowledgment, instead of leaving it to the debatable ipse dixit of the authorised officer.*

43. *The second reason as to why this would be the proper course to adopt is the constitutional objective underlying such information being given to the arrested person. Conveyance of this information is not only to apprise the arrested person of why he/she is being arrested but also to enable such person to seek legal counsel and, thereafter, present a case before the court under Section 45 to seek release on bail, if he/she so chooses. In this regard, the grounds of arrest in V. Senthil Balaji v. State [(2024) 3 SCC 51 : (2024) 2 SCC (Cri) 1], are placed on record and we find that the same run into as many as six pages. The grounds of arrest recorded in the case on hand in relation to Pankaj Bansal and Basant Bansal have not been produced before this Court, but it was contended that they were produced at the time of remand. However, as already noted earlier, this did not serve the intended purpose. Further, in the event their grounds of arrest were equally voluminous, it would be well-nigh impossible for either Pankaj Bansal or Basant Bansal to record and remember all that they had read or heard being read out for future recall so as to avail legal remedies. More so, as a person who has just been arrested would not be in a calm and collected frame of mind and may be utterly incapable of remembering the contents of the grounds of arrest read by or read out to him/her. The very purpose of this constitutional and statutory protection would be rendered nugatory by permitting the authorities concerned to merely read out or permit reading of the grounds of arrest, irrespective of their length and detail, and claim due compliance with the constitutional requirement under Article 22(1) and the statutory mandate under Section 19(1) PMLA.*

44. *We may also note that the grounds of arrest recorded by the authorised officer, in terms of Section 19(1) PMLA, would be personal to the person who is arrested and there should, ordinarily, be no risk of sensitive material being divulged therefrom, compromising the sanctity and integrity of the investigation. In the event any such sensitive material finds mention in such grounds of arrest*

recorded by the authorised officer, it would always be open to him to redact such sensitive portions in the document and furnish the edited copy of the grounds of arrest to the arrested person, so as to safeguard the sanctity of the investigation.

45. *On the above analysis, to give true meaning and purpose to the constitutional and the statutory mandate of Section 19(1) PMLA of informing the arrested person of the grounds of arrest, we hold 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. The decisions of the Delhi High Court in Moin Akhtar Qureshi v. Union of India [2017 SCC OnLine Del 12108] and the Bombay High Court in Chhagan Chandrakant Bhujbal v. Union of India [2016 SCC OnLine Bom 9938 : (2017) 1 AIR Bom R (Cri) 929], which hold to the contrary, do not lay down the correct law. In the case on hand, the admitted position is that ED's investigating officer merely read out or permitted reading of the grounds of arrest of the appellants and left it at that, which is also disputed by the appellants. As this form of communication is not found to be adequate to fulfil compliance with the mandate of Article 22(1) of the Constitution and Section 19(1) PMLA, we have no hesitation in holding that their arrest was not in keeping with the provisions of Section 19(1) PMLA. Further, as already noted supra, the clandestine conduct of ED in proceeding against the appellants, by recording the second ECIR immediately after they secured interim protection in relation to the first ECIR, does not commend acceptance as it reeks of arbitrary exercise of power. In effect, the arrest of the appellants and, in consequence, their remand to the custody of ED and, thereafter, to judicial custody, cannot be sustained."*

24. In ***Prabir Purkayastha (supra)***, of which, one of us was a member (B.R. Gavai, J., as he then was), this Court reiterated the principle laid down in the above

judgment, while dealing with offences under UAPA and held that any individual arrested for alleged commission of offences under the UAPA or any other offence for that matter, has both a fundamental and a statutory right to be informed in writing such grounds of arrest. The Court further held that a copy of such written grounds must be furnished to the arrested person at the earliest without any exception observing that the communication provided under Article 22 and Section 50 of CrPC 1973 (now Section 47 of BNSS 2023) is not a mere procedural formality but a vital safeguard with the ultimate objective to enable the arrested person to effectively consult legal aid and be prepared to raise objections in remand hearing and apply for his/her bail. The right to life and personal liberty, safeguarded under Articles 20, 21 and 22 of the Constitution, stands as the paramount fundamental right. Accordingly, infringement of these constitutional protections commands rigorous judicial scrutiny and strict enforcement.

25. It was said that any breach of the constitutional safeguards provided under Article 22 would vitiate the lawfulness of arrest and subsequent remand and entitle the arrested person to be set at liberty. The

relevant portion in ***Prabir Purkayastha (supra)*** is reproduced herein:

> *"**19.** Resultantly, there is no doubt in the mind of the court that any person arrested for allegation of commission of offences under the provisions of UAPA or for that matter any other offence(s) has a fundamental and a statutory right to be informed about the grounds of arrest in writing and a copy of such written grounds of arrest have to be furnished to the arrested person as a matter of course and without exception at the earliest. The purpose of informing to the arrested person the grounds of arrest is salutary and sacrosanct inasmuch as this information would be the only effective means for the arrested person to consult his advocate; oppose the police custody remand and to seek bail. Any other interpretation would tantamount to diluting the sanctity of the fundamental right guaranteed under Article 22(1) of the Constitution of India.*
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> ***20.** The right to life and personal liberty is the most sacrosanct fundamental right guaranteed under Articles 20, 21 and 22 of the Constitution of India. Any attempt to encroach upon this fundamental right has been frowned upon by this Court in a catena of decisions. In this regard, we may refer to the following observations made by this Court in Roy V.D. v. State of Kerala [(2000) 8 SCC 590 : 2001 SCC (Cri) 42] : (SCC p. 593, para 7)*
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> > *'7. The life and liberty of an individual is so sacrosanct that it cannot be allowed to be interfered with except under the authority of law. It is a principle which has been recognised and applied in all civilised countries. In our Constitution Article 21 guarantees protection of life and personal liberty not only to citizens of India but also to aliens.'*
>
> *Thus, any attempt to violate such fundamental right, guaranteed by Articles 20, 21 and 22 of the Constitution of India, would have to be dealt with strictly.*

> ***21.*** *The right to be informed about the grounds of arrest flows from Article 22(1) of the Constitution of India and any infringement of this fundamental right would vitiate the process of arrest and remand. Mere fact that a charge-sheet has been filed in the matter, would not validate the illegality and the unconstitutionality committed at the time of arresting the accused and the grant of initial police custody remand to the accused.*
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> *xxx xxx xxx*
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> ***28.*** *The language used in Article 22(1) and Article 22(5) of the Constitution of India regarding the communication of the grounds is exactly the identical. Neither of the constitutional provisions require that the "grounds" of "arrest" or "detention", as the case may be, must be communicated in writing. Thus, interpretation to this important facet of the fundamental right as made by the Constitution Bench while examining the scope of Article 22(5) of the Constitution of India would ipso facto apply to Article 22(1) of the Constitution of India insofar as the requirement to communicate the grounds of arrest is concerned.*
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> ***29.*** *Hence, we have no hesitation in reiterating that the requirement to communicate the grounds of arrest or the grounds of detention in writing to a person arrested in connection with an offence or a person placed under preventive detention as provided under Articles 22(1) and 22(5) of the Constitution of India is sacrosanct and cannot be breached under any situation. Non-compliance of this constitutional requirement and statutory mandate would lead to the custody or the detention being rendered illegal, as the case may be."*

26. Subsequently, in ***Vihaan Kumar (supra)***, this Court underscored that a failure to comply with the requirement of informing the grounds of arrest soon after the arrest would render the arrest illegal. The

Court referred to the above-mentioned decisions of this Court and observed that although the ideal mode of communication of grounds of arrest is to provide such grounds in writing, there is no such statutory requirement to provide such grounds in writing. The Court noted that it may not be practical to communicate grounds of arrest in writing in every situation, but if such a course is followed, the controversy about non-compliance will not arise at all.

27. It was further observed that to ensure the effective implementation of the constitutional mandate in Article 22, the law further requires such grounds to be effectively communicated not only to the detainee/arrestee but also to their friends, relatives or any other nominated person as envisaged in Section 50A of CrPC 1973 (now Section 48 of BNSS 2023). The legislative intent behind the incorporation of Section 50A of CrPC 1973 is to ensure that those in a position to act, i.e. secure legal representation, initiate the process for bail, are empowered to do so without any delay, thereby safeguarding the fundamental rights of the arrested person as enshrined in Article 21 of the Constitution of India.

The relevant portion of ***Vihaan Kumar (supra)*** is reproduced herein:

> *"**11.** The view taken in Pankaj Bansal v. Union of India [(2024) 7 SCC 576 : (2024) 3 SCC (Cri) 450] was reiterated by this Court in Prabir Purkayastha v. State (NCT of Delhi) [(2024) 8 SCC 254 : (2024) 3 SCC (Cri) 573]. In paras 28 and 29, this Court held thus: (Prabir Purkayastha case, SCC p. 278)*
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> *'28. The language used in Article 22(1) and Article 22(5) of the Constitution of India regarding the communication of the grounds is exactly the identical. Neither of the constitutional provisions require that the 'grounds' of 'arrest' or 'detention', as the case may be, must be communicated in writing. Thus, interpretation to this important facet of the fundamental right as made by the Constitution Bench while examining the scope of Article 22(5) of the Constitution of India would ipso facto apply to Article 22(1) of the Constitution of India insofar as the requirement to communicate the grounds of arrest is concerned.*
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> *29. Hence, we have no hesitation in reiterating that the requirement to communicate the grounds of arrest or the grounds of detention in writing to a person arrested in connection with an offence or a person placed under preventive detention as provided under Articles 22(1) and 22(5) of the Constitution of India is sacrosanct and cannot be breached under any situation. Non-compliance of this constitutional requirement and statutory mandate would lead to the custody or the detention being rendered illegal, as the case may be.'*
>
> *(emphasis supplied)*
>
> *xxx xxx xxx*
>
> ***16.** An attempt was made by the learned Senior Counsel appearing for the first respondent to argue that after his arrest, the appellant was repeatedly remanded to custody, and now a charge-sheet has*

been filed. His submission is that now, the custody of the appellant is pursuant to the order taking cognizance passed on the charge-sheet. Accepting such arguments, with great respect to the learned Senior Counsel, will amount to completely nullifying Articles 21 and 22(1) of the Constitution. Once it is held that arrest is unconstitutional due to violation of Article 22(1), the arrest itself is vitiated. Therefore, continued custody of such a person based on orders of remand is also vitiated. Filing a charge-sheet and order of cognizance will not validate an arrest which is per se unconstitutional, being violative of Articles 21 and 22(1) of the Constitution of India. We cannot tinker with the most important safeguards provided under Article 22.

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N. Kotiswar Singh, J. *(supplementing)— I had the benefit of going through the draft opinion of my esteemed Brother Hon'ble Mr Justice Abhay S. Oka and I concur with the analysis and conclusions arrived at. However, I wish to add a few lines in supplement to the aforesaid opinion.*

2. *The issue on the requirement of communication of grounds of arrest to the person arrested, as mandated under Article 22(1) of the Constitution of India, which has also been incorporated in the Prevention of Money Laundering Act, 2002 under Section 19 thereof has been succinctly reiterated in this judgment. The constitutional mandate of informing the grounds of arrest to the person arrested in writing has been explained in Pankaj Bansal v. Union of India [(2024) 7 SCC 576 : (2024) 3 SCC (Cri) 450] so as to be meaningful to serve the intended purpose which has been reiterated in Prabir Purkayastha v. State (NCT of Delhi) [(2024) 8 SCC 254 : (2024) 3 SCC (Cri) 573]. The said constitutional mandate has been incorporated in the statute under Section 50CrPC (Section 47 of the BNSS). It may also be noted that the aforesaid provision of requirement for communicating the grounds of arrest, to be purposeful, is also required*

to be communicated to the friends, relatives or such other persons of the accused as may be disclosed or nominated by the arrested person for the purpose of giving such information as provided under Section 50-ACrPC. As may be noted, this is in the addition of the requirement as provided under Section 50(1)CrPC.

3. *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 detenue, 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."*

28. Before we delve into analysing the provisions of law and jurisprudential developments by this Court, we

find it quintessential to discuss the impact of arrest on an individual. The arrest of an individual invariably impacts not only the person arrested himself, but also the persons associated with him, i.e. family, friends, relatives, etc., affecting their psychological balance and overall social well-being. This Court has on several occasions underscored that there is a stigma attached to arrest which impairs the reputation and the standing of an individual in society. The stigma attached to arrest undermines a person's social dignity and results into consequences that reverberate beyond the individual but also extend to their social circle.

29. The impacts of arrest are multidimensional and are not only limited to societal impact but also extend to the physical and mental health of the person. Mental health issues like depression due to custodial confinement can be aggravated by inadequate and overcrowded conditions prevalent in prisons. Such conditions severely impinge upon the fundamental rights of the arrested person and curtail his dignity and personal liberty.

30. This Court in ***Arnesh Kumar v. State of Bihar and Another***[4], observed that arrest results in embarrassment, restricts freedom, and leaves permanent scars. Lawmakers and the police are aware of this. The police and lawmakers are at odds, and it appears that the police have not learned the lesson that is implied in and reflected in the CrPC 1973 (now BNSS 2023). Despite long years of independence, it still maintains its colonial image and is primarily viewed as an instrument of oppression and harassment, and it is undoubtedly not regarded as a friend of the public.

31. In ***Joginder Kumar v. State of U.P. and Others***[5], this Court while framing guidelines regarding the rights of an arrested person has observed that the existence of a power to arrest and the justification to use such power are two different aspects. The person making arrest must be able to justify the arrest with reasons apart from his power to do so. Arrest of a person can cause irreversible damage to his reputation in the society as well as his self-esteem, therefore, arrest cannot be made in a routine manner. The Police Officer making an arrest must be

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[4] (2014) 8 SCC 273 : AIR 2014 SC 2756
[5] (1994) 4 SCC 260

cautious while arresting a person and ought to satisfy himself after a reasonable investigation to justify the person's complicity and also the effect as well as the need of arrest. This Court has further observed that except in heinous offences, arrest must be avoided.

32. Having perused the jurisprudential developments and impact of arrest on a person, let us now consider the issues at hand.

33. The mandate contained in Article 22(1) of the Constitution of India is unambiguous and clear in nature, it provides that the arrested person must be informed of the grounds of arrest as soon as they can be. It further provides that the arrested person has the right to defend himself by consulting a legal practitioner of his choice. This constitutional mandate has been effectuated by the legislature in Section 50 of CrPC 1973 (now Section 47 of BNSS 2023) which provides that an arrested person shall be forthwith communicated with the grounds of his arrest.

34. The objective enshrined in Article 22(1) of the Constitution of India for furnishing grounds of arrest stems from the fundamental principle of providing opportunity to a person to allow him to defend

himself from the accusations that are levelled against him leading to his arrest. The salutary purpose of informing the grounds of arrest is to enable the person to understand the basis of his arrest and engage legal counsel to challenge his arrest, remand or seek bail and/or avail of any other remedy as may be available to him/her under law.

35. It is pertinent to note that the arrested person must be given early access to legal assistance to enable him to defend himself and oppose the remand. The early access to legal counsel becomes a quintessential object to ensure that the personal liberty of the arrested person is protected. This Court in ***Suhas Chakma v. Union of India and Others***[6] while emphasizing on the need of pre-litigation assistance has directed that the "*Guidelines on Early Access to Justice at Pre-arrest, Arrest and Remand Stage Framework*" as framed by the National Legal Services Authority, are to be diligently pursued. The guidelines provide for legal assistance to the arrested person at the stage before remand. The remand advocate shall interact with the arrestee with the objective to inform him about the allegations against

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[6] 2024 SCC OnLine SC 3031

him and the grounds being put by the prosecution for seeking remand. The guidelines also provide for making available the translated copy of documents to the arrested person in the language he/she understands. The purpose of securing legal assistance before remand is not merely symbolic, but it is to ensure that the accused is afforded an effective opportunity to oppose the prayer for police custody and to place before the magistrate any circumstances that may warrant refusal or limitation of such custody. If the accused is not represented through a Counsel, he/she should be made aware that he/she is entitled for legal aid. As far as possible, it shall be ensured that every accused person is represented by an advocate, if he is not able to avail such assistance, he should be given free legal aid. A three-judge Bench of this Court in ***Ashok v. State of Uttar Pradesh***[7] held that an accused who is not represented by an advocate is entitled for free legal aid at all material stages starting from remand.

36. This statutory safeguard of legal assistance stands also reinforced by Section 38 of the BNSS 2023, which confers upon an arrested person the right to

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[7] (2025) 2 SCC 381 : 2024 SCC OnLine SC 3580

meet an advocate of his choice during interrogation, albeit not throughout its course. The object of this provision is to ensure meaningful access to legal assistance at the earliest stage, so that the advocate, once informed, may effectively exercise the rights available in law, including representation during remand proceedings and invocation of the right to seek bail.

37. Section 167 of CrPC 1973 (now Section 187 of BNSS 2023) while dealing with remand provides for a positive mandate on the police officer to forward the accused to the magistrate before expiry of such period as fixed under Section 57 CrPC 1973 (now Section 58 of BNSS 2023) when investigation cannot be completed in twenty-four hours. It further mandates that the magistrate to not authorize the detention of accused unless he is physically produced before him. The purpose of this provision mandating the production of accused before magistrate for exercise of the power of remanding him to custody under this section is with the dual purpose. First, ensuring physical presence of the accused and second to afford him an opportunity to be heard. The intent of this provision is not merely to be heard at the stage of remand but to be represented by the

counsel of his choice. Thereafter, the duty is cast upon the magistrate to apply his judicial mind to the material produced before him, hear the accused or the counsel representing him to determine whether the accused should be remanded to police custody or should be detained at all within the parameters prescribed in Section 167 of CrPC 1973 (Section 187 of BNSS 2023). The magistrate is not acting as a post office simply putting a stamp of approval to the remand papers as presented before him. In ***Manubhai Ratilal Patel v. State of Gujarat and Others***[8] this Court held that it is obligatory on the part of the magistrate to satisfy himself whether the materials placed before him justify such a remand.

38. These above discussed principles embody the manifestation of the constitutional safeguard sought to be achieved in Article 22 of the Constitution of India which is that the arrested person must be well equipped with the information not only about his arrest but the reasons and grounds thereof prior to his production before the magistrate so as to enable him to effectively defend himself and oppose the police and judicial custody and even press for bail.

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[8] (2013) 1 SCC 314

The obligation to inform the grounds of arrest to the arrestee is thus, not just a mere procedural formality, instead it flows from the fundamental right of personal liberty which sets the further course for protection from the oppressive restrictions imposed upon the free movement in the society of an arrestee during remand.

39. A plain reading of Article 22(1) of the Constitution of India shows that the intent of the constitution makers while incorporating the provisions was not to create any exceptional circumstances, instead it reads as "*No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest....*", it casts a mandatory unexceptional duty on the State to provide the arrested person with the grounds of such arrest with the objective to enable that person to be able to defend himself by consulting a legal practitioner of his choice. This mandate of Article 22 (1) is notwithstanding any exception. This Court has made it explicit that the constitutional obligation under Article 22 is not statute-specific and it is grounded in fundamental right of life and personal liberty under Article 21 of the Constitution of India,

therefore making it applicable to all offences including those under the IPC 1860 (now BNS 2023).

40. The requirement of informing the arrested person the grounds of arrest, in the light of and under Article 22(1) of the Constitution of India, is not a mere formality but a mandatory binding constitutional safeguard which has been included in part III of the Constitution under the head of Fundamental Rights. Thus, if a person is not informed of the grounds of his arrest as soon as maybe, it would amount to the violation of his fundamental rights thereby curtailing his right to life and personal liberty under Article 21 of the Constitution of India, rendering the arrest illegal.

41. Another aspect, which flows from the above discussion and merits consideration is the mode of informing grounds of arrest to the arrested person to effectively serve the intended purpose of Article 22(1) of the Constitution of India. This Court, as observed above, had held that it would not be ideal to read out the grounds of arrest to a person who is arrested, as he may not be in the frame of mind to remember the contents of grounds that are read out to him. The Court underscored that if the authorities are

permitted to read out the grounds and claim compliance with the constitutional and statutory mandate, the very purpose of the constitutional protection would be nugatory.

42. 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 Article 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 (supra)*** wherein while dealing with the 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. The relevant portion thereof reads thus:

*"**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 detenue, 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 the case of 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 detenue 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 detenue 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 detenue 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 detenue 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 detenue would not amount to communicating the grounds. Communication, in this context, must mean bringing home to the detenue 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 detenue 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."*

43. Further, the above judgment has been reiterated and followed by this Court in ***Lallubhai Jogibhai Patel v. Union of India and Others***[9] where it has been reaffirmed that grounds of detention must be communicated to the detenu in writing in a language which he understands.

44. 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 Article 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.

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[9] (1981) 2 SCC 427

45. 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. 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). 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.

46. 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.

47. 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 50A read in relation to Section 50 of the CrPC 1973 (now Section 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.

48. 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 50 of CrPC 1973 (now Section 47 of BNSS 2023) irrespective of certain exigencies where furnishing such grounds would not be possible forthwith.

49. 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.

50. 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. 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-a-vis the effective discharge of lawful statutory law enforcement duties and responsibilities cast upon the State agencies must be struck.

51. 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 41A of CrPC 1973 (now Section 35(3) to 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.

52. 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.

53. 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.

54. 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 50 of the CrPC 1973 (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.

55. 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.

56. In conclusion, it is held that:

i) 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);

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

iii) 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.

iv) 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.

57. After having come to the above conclusion, it is pertinent to note that the provision of law under Section 50 of CrPC 1973 (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 (supra)***, 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.

58. 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.

59. In Criminal Appeal No. 2195 of 2025, while issuing notice, this Court had clarified that the Court is not inclined to entertain the petition on its merits, and notice was issued only to settle the issues to bring about clarity thereon, with that having been reached the same stands disposed of.

60. As far as the Criminal Appeal No. 2189 of 2025 and Criminal Appeal No. 2190 of 2025 are concerned, this Court while granting leave on 22.04.2025 had by way

of *ad interim* relief directed the Appellants to be released on bail during pendency of these Appeals, the same shall continue. However, the prosecution may move an application for remand or custody, if required, along with the reasons and necessity for the same, after the supply of the grounds of arrest in writing to the accused, before the magistrate if the case has not been committed for trial and in case the trial having commenced before the Trial Court as the case may be.

61. The Appeals are disposed of in the above terms.

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

63. Special Leave Petition (Criminal) No. 8704 of 2025 was tagged with these Appeals and the Petitioner was granted an *ad interim* relief directing his release on bail vide Order dated 02.06.2025. Since there being no update with regard to effecting of service upon the Respondent nor any reply has been filed, the ad interim relief shall continue, and the petition be listed before an appropriate bench after obtaining the orders on the administrative side from the Hon'ble the Chief Justice of India.

64. We acknowledge and appreciate the constructive assistance rendered by the learned Amicus Curiae and the learned Counsels for the parties to this Court.

65. We direct the Registry to send one copy of this judgment to all the Registrar Generals of the High Courts and the Chief Secretaries of all the States and Union Territories.

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[B.R. GAVAI]

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[AUGUSTINE GEORGE MASIH]

NEW DELHI;
NOVEMBER 06, 2025.

SEALED IN MY PRESENCE