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HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. WRIT PETITION No. - 19091 of 2025

Nitin Kumar Singh @ Nitin Kumar ……Petitioners(s)

Versus

State of UP and 4 Others ……Respondents(s)

Counsel for Petitioners(s)	:	Ashutosh Mishra, Rajiv Lochan Shukla
Counsel for Respondent(s)	:	G.A.

Court No. - 43

HON'BLE SALIL KUMAR RAI, J.
HON'BLE PRAMOD KUMAR SRIVASTAVA, J.

(Per Pramod Kumar Srivastava, J.)

1. Heard, Shri Vinay Saran, learned Senior Counsel, assisted by Shri Ashutosh Mishra and Shri Shashank Pandey, learned counsel for the petitioner, and Shri Roopak Chaubey, learned Additional Government Advocate (AGA), representing the State Respondents.

2. This petition, under Article 226 of the Constitution of India, has been filed with the prayer that this Hon'ble Court may graciously be pleased to issue a suitable Writ, Order, or Direction, including a Writ in the nature of certiorari, quashing the judicial remand order dated 18.05.2025 passed by the Chief Judicial Magistrate/Duty Magistrate, Hapur, in connection with Case Crime No.290 of 2025, under Sections-318(4), 338, 340(1), 340(2) 111 & 336(3) of BNSS, Police Station-Pilakhuwa, District- Hapur.

3. The petitioner further seeks a declaration that his arrest in connection with the aforesaid Case Crime No.290 of 2025 is illegal and ab initio void for being in blatant violation of the mandatory provisions of Article 22(1) of the Constitution of India and Section 50 of the Cr.P.C. / Section 47 of the BNSS, 2023, as interpreted by the Court. Consequently, the petitioner prays for a Writ of Mandamus directing the concerned Respondents to immediately enlarge him on interim bail or release him forthwith, as a necessary corollary to the quashing of the fundamental remand order.

4. The brief factual matrix of the case is that the proceedings begins with the lodging of an FIR based on a detailed recovery memo, following the procurement of a search warrant from a competent Magistrate on May 17, 2025. Acting on this warrant, the Police/S.T.F. conducted a major, all-night raid at the premises of Monad University concerning a massive racket involved in the preparation of fake degrees and marksheets. This extensive operation resulted in the recovery of a huge quantity of incriminating articles, including fake marksheets, degrees, provisional certificates, mobile phones, iPads, computers, and other electronic equipment, all indicative of a well-orchestrated criminal enterprise. A detailed recovery memo (Fard Baramadgi) was meticulously prepared on the spot, read over to the accused persons, and, with the consent of all co-accused the copy of recovery memo was provided to one co-accused. All the co-accused signed the recovery memo acknowledging and certifying its contents. The accused are shown to have been arrested on May 18, 2025, at 4:45 AM. Following the arrest, the petitioner and other co-accused were produced before the Duty Magistrate/Chief Judicial Magistrate, Hapur, within the mandatory 24-hour period under Section 57 Cr.P.C./Section 58 of BNSS. The Magistrate passed the remand order on May 18, 2025, remanding the accused to judicial custody, which the petitioner now challenges as perverse. Furthermore, in the same case crime number, co-accused

Rajesh and Mukesh Thakur were granted interim bail by the High Court in separate Criminal Misc. Writ Petitions (No.15982/2025 and 17333/2025, respectively), setting crucial judicial precedents that the petitioner relies upon seeking parity for grant of interim bail to him.

5. The counsel for the petitioner challenges the legality of the arrest. He asserts that the failure of the arresting authority to formally and explicitly communicate the grounds of arrest to the petitioner at the moment of apprehension constitutes a fatal flaw that vitiates the entire process. This failure, he submitted, is an egregious breach of the constitutional right guaranteed by Article 22(1) and the corresponding statutory mandate of Section 50 Cr.P.C. / Section 47 BNSS. It is argued that the procedural documents themselves betray this non-compliance, as the format of the Arrest Memo separately prepared contained no column mentioning the grounds of arrest. This structural omission, coupled with the arresting officer's failure to provide a written document detailing the grounds, is precisely the mischief sought to be prevented by the Hon'ble Supreme Court in its recent pronouncements, emphasizing that a person's liberty cannot be curtailed through a procedure that disregards the fundamental right of the defence to know the reasons for his confinement.

6. He further submits that a grave allegation was pressed regarding the timing of the detention, claiming the petitioner was taken into illegal custody on 17th May, 2025, prior to the recorded time of arrest and lodging of the FIR. This, if true, would mean the petitioner was produced before the Magistrate after the statutory maximum period of 24 hours (Section 57 Cr.P.C. / Section 58 BNSS), rendering the entire detention non-est in the eyes of law and forming the basis for challenging the subsequent remand order itself as flowing from a poisonous tree. Strong reliance was placed on the binding precedents of the Hon'ble Apex Court, notably **Pankaj Bansal Vs. Union of India; (2024) 7 SCC 576 and Prabir Pukayastha Vs. State of (NCT of Delhi); (2024) 8 SCC 254**, the core holding of which is that the right to

be informed of the grounds of arrest is an inviolable fundamental right emanating from Article 21, and a violation of this right automatically invalidates the arrest. Furthermore, the petitioner seeks parity, asserting that since co-accused Rajesh and Mukesh Thakur were granted interim relief by this Court, therefore, the petitioner is entitled to the same. The learned counsel concluded that the continuous violation of Article 21, Article 22(1), and Section 47, 48 of BNSS Cr.P.C. necessitates the intervention of this Court under its extraordinary jurisdiction. Learned counsel for the petitioner, in support of his arguments, relied on the following judgments:-

> ***"1. State of Karnataka v. Sri Darshan; 2025 KHC OnLine 6693, 2. B.N. John Vs. The State of Uttar Pradesh; 2025 SCC OnLine SC 7/ 2025 INSC 4, 3. Pankaj Bansal Vs. Union of India; (2024) 7 SCC 576, 4. prabir Pukayastha Vs. State of (NCT of Delhi); (2024) 8 SCC 254, 5. Arvind Kejriwal Vs. Central Bureau of Investigation; 2024 SCC OnLine 2550, 6. directorate of Enforcement Vs. Subhash Sharma; 2025 SCC OnLine SC 240, 7. Vihaan Kumar Vs. State of Haryana; (2025) 5 SCC 799, 8. Ashish Kakkar Vs. UT of Chandigarh; 2025 SCC OnLine SC 1318, 9. Sachin Soni @ Aansu @ Sachin Kumar Soni Vs. State of U.P.; 2025 SCC OnLine All 4469, 10. Manjeet Singh @ Inder @ Manjeet Singh Chana Vs. State of U.P.; 2025 SCC OnLine All 2119, 11. Kasireddy Upender Reddy Vs. State of Andhara Pradesh; 2025 SCC OnLine SC 1228, 12. Anwar Dhebar Vs. State of U.P.; 2025 SCC OnLine All 3278, 13. Shashank Mishra Vs. State of U.P.; 2025 SCC OnLine."***

7. Per contra learned counsel for the respondent-State vehemently opposed the submissions of learned counsel for the petitioner, arguing that the police action was not arbitrary but was conducted after procuring a valid search warrant on 17th May, 2025, which apprised the accused of the authority and purpose of the action, a step justified by the investigation pertaining to large-scale offence involving recovery of fraudulent documents and electronic equipments. The State's primary contention is that of substantial compliance, asserting that the grounds of arrest were clearly communicated at every critical stage. Specifically, the recovery memo, detailing the specific articles recovered and the corresponding statutory provisions in criminal law, was prepared concurrently with the arrest, was read over to the accused persons, and

was voluntarily signed by all of them. This action, the learned AGA submitted, fulfills the mandatory requirement of Section 50 Cr.P.C. / Section 47 BNSS in substance, thereby negating any claim of non-disclosure of the grounds of arrest.

8. He further submits that even if the separate arrest memo format may technically lack a column for the grounds, the procedural infirmity is negated and cured by the simultaneous preparation and communication of the detailed recovery memo, which served as a clear and contemporaneous record of the basis for arrest. Moreover, the subsequent production before the Duty Magistrate, which was well within 24 hours of the recorded arrest time, cured any alleged initial defect, as the Magistrate independently applied his mind, passing a detailed order after perusing the prosecution papers. The fact that the accused later filed detailed bail applications before the Sessions Court, enumerating the entire facts, further confirms they were fully aware of the grounds and charges and cannot claim prejudice now. In support of the State's position, strong reliance is placed on the Supreme Court's judgment in **State of Karnataka Vs. Sri Darshan (Supra)**, submitting that mere procedural infirmities or a delay in fully documenting the grounds, where there is clear evidence of substantial compliance, cannot warrant a declaration that the detention is illegal. The learned AGA concluded by arguing that the present writ petition is an attempt to seek interim bail by adopting a circuitous route, challenging the remand order instead of pursuing the regular statutory remedy of filing a bail application. Learned counsel for the respondent-State, in support of his submission, relied on the following judgments:-

> ***'"1. Union of India and Another Vs. W.N. Chadha; 1993 Supp (4) SCC 260 (96), 2. Sher Bahadur Singh and Others (in jail) Vs. State of U.P. and Others; 1994 CRI. L. J. 720, 3. State of Karnataka Vs. Sri Darshan; 2025 KHC OnLine 6693, 4. Madhu Limaye and Others Vs. Unknown."***

9. We have considered the submissions of learned counsel for the parties and perused the material available on record.

10. The crux of the petition is that the non-compliance with the mandatory provisions contained under Article 22(1) of the Constitution of India and Section 50 of the Code of Criminal Procedure, 1973 (Cr.P.C.) (corresponding to Section 47 of the BNSS)—which safeguard the fundamental right of a person to be informed of the grounds of arrest "as soon as may be," and the corresponding statutory duty of the arresting officer to communicate the same—asserting that this non-disclosure, coupled with allegations of pre-arrest detention and a seemingly cursory remand order, has rendered his continued detention in judicial custody perverse and illegal, leading to a direct infringement of Article 21 and making the initial detention and subsequent remand orders unsustainable in law; consequently, the Court has carefully scrutinized the entire record, including the written submissions tendered by both parties, the factual matrix documented in the FIR and the recovery memo, and the crucial judicial orders passed by this Hon'ble Court in the cases of the co-accused, to determine the maintainability and merits of the petition in the light of the settled constitutional jurisprudence.

11. This petition requires examination of the interplay between Article 21 (Protection of Life and Personal Liberty) and Article 22(1) (Right to be informed of Grounds of Arrest) of the Constitution.

> 11-A We find that Article 22(1) serves as a mandatory safeguard, a condition precedent for the exercise of the power of arrest. The Courts have consistently held that non-compliance with the duty to inform the person of the grounds of arrest, as soon as may be, would be an infringement of the due process clause under Article 21. The relevant provision of Article 21, Article 22(1) are extracted here-in-below:-
>
> > ***"21. Protection of life and personal liberty.—****No person shall be deprived of his life or personal liberty except according to procedure established by law.*

> ***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."*

12. We have also considered the constitutional provisions and the statutory mandates: Section 50 Cr.P.C. / Section 47 BNSS (Duty to inform grounds of arrest) and Section 57 Cr.P.C. / Section 58 BNSS (Maximum detention of 24 hours). The violation of any of these four provisions—Article 21, Article 22(1), Section 50/47, and Section 57/58 —has been interpreted to have significant repercussions on the legality of the detention, potentially transforming a legal arrest into illegal confinement. The relevant provision of Section 47 and 58 of BNSS are extracted here-in-below:-

> ***"47. (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.*
>
> ***(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.*
>
> ***58.*** *No police officer shall detain in custody a person arrested without warrant for a*
> *longer period than under all the circumstances of the case is reasonable, and such period*
> *shall not, in the absence of a special order of a Magistrate under section 187, exceed*
> *twenty-four hours exclusive of the time necessary for the journey from the place of arrest to*
> *the Magistrate's Court, whether having jurisdiction or not.."*

13. The Supreme Court in the case of **Pankaj Bansal Vs. Union of India (Supra)** has held that the constitutional right to be informed of the grounds of arrest, enshrined in Article 22(1), must be communicated to the arrested person advisably in writing. The relevant paragraphs 38, 42, 43 and 45 are extracted here-in-below:-

> ***"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.

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. 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. 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.

***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 [Moin Akhtar Qureshi v. Union of India, 2017 SCC OnLine Del 12108] and the Bombay High Court in Chhagan Chandrakant Bhujbal [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."*

14. This mandate was further reinforced and applied in **Prabir Purkayastha Vs. State of (NCT of Delhi) (Supra)**, where the Supreme Court held that the failure to communicate the grounds of arrest in writing is an infringement of a fundamental right so severe that it vitiates the entire process of arrest and remand. The relevant paragraphs 19, 28, 29, 37 and 48 are extracted here in below:-

***"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.

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.*

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.*

37. *The interpretation given by the learned Single Judge that the grounds of arrest were conveyed to the accused in writing vide the arrest memo is unacceptable on the face of the record because the arrest memo does not indicate the grounds of arrest being incorporated in the said document. Column 9 of the arrest memo (Annexure P-7) which is being reproduced hereinbelow simply sets out the "reasons for arrest" which are formal in nature and can be generally attributed to any person arrested on accusation of an offence whereas the "grounds of arrest" would be personal in nature and specific to the person arrested.*

"9. *Reason for arrest*

(a) Prevent the accused person from committing any further offence.

(b) For proper investigation of the offence.

(c) To prevent the accused person from causing the evidence of the offence to disappear or tampering with such evidence in any manner.

(d) To prevent such person from making any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to the police officer.

(e) As unless such person is arrested, his presence in the court whenever required cannot be ensured."

48. *It may be reiterated at the cost of repetition that there is a significant difference in the phrase "reasons for arrest" and*

> *"grounds of arrest". The "reasons for arrest" as indicated in the arrest memo are purely formal parameters viz. to prevent the accused person from committing any further offence; for proper investigation of the offence; to prevent the accused person from causing the evidence of the offence to disappear or tampering with such evidence in any manner; to prevent the arrested person for making inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to the investigating officer. These reasons would commonly apply to any person arrested on charge of a crime whereas the "grounds of arrest" would be required to contain all such details in hand of the investigating officer which necessitated the arrest of the accused. Simultaneously, the grounds of arrest informed in writing must convey to the arrested accused all basic facts on which he was being arrested so as to provide him an opportunity of defending himself against custodial remand and to seek bail. Thus, the "grounds of arrest" would invariably be personal to the accused and cannot be equated with the "reasons of arrest" which are general in nature."*

15. This entire constitutional line of reasoning is rooted in the seminal case of **Madhu Limaye and Others Vs. Unknown (Supra),** where the Supreme Court authoritatively held that the constitutional provisions of Article 22 are absolute and non-derogable, emphasizing the necessity of informing the accused of the grounds of arrest, establishing that any breach renders the initial detention illegal.

16. In **State of Karnataka Vs. Sri Darshan (Supra),** the Hon'ble Supreme Court, following the settled legal principle that substance prevails over form, held that the judiciary should not elevate form over substance, meaning thereby that a technical or procedural infirmity, like an omission in a document, cannot, by itself, be the sole basis for declaring a detention illegal if the accused was, in reality, fully aware of the reasons for his arrest. The view in Sri Darshan (Supra) allows a Court to overlook the technical defect in the Arrest Memo because a comprehensive, signed recovery memo fulfilles the substantive constitutional requirement. The relevant paragraphs of Sri Darshan (Supra) are extracted here-in-below:-

> ***"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 V**ihaan Kumar v. State of Haryana22**, 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 Pradesh23, 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 India24 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."*

17. We also considered it appropriate to address the submission advanced on behalf of the petitioner that the law laid down by the Hon'ble Apex Court in the case of **State of Karnataka Vs. Sri Darshan (Supra)** was rendered in respect of an offence under Section 302 IPC. The petitioner contended that the present case is not of such a heinous nature, and thus, the same rigorous standard should not be applied. We do not agree with the learned counsel for the petitioner on this suppositions distinction. The police raid resulted in the recovery of a large number of fake and forged mark sheets, academic documents, and other incriminating materials from the premises, indicative of a massive, well-organized criminal enterprise. While an offence under Section 302 IPC results in the death or loss of life of a single person, the creation and distribution of fake academic records compromise the integrity of the entire social and professional fabric of the nation. It is an economic and social offense that causes large-scale ruin to an entire section of society by facilitating the employment of unqualified individuals in positions of public trust and responsibility. Such an offence is arguably a matter of public concern due to its widespread and lasting deleterious impact. Accordingly, the seriousness of the offence under the BNSS provisions herein fully warrant the rigorous application of the principle that substance prevails over form as laid down in **Sri Darshan (Supra).**

18. The Supreme Court in the case of **Vihaan Kumar Vs. State of Haryana (Supra)** has held that the failure to communicate the grounds of arrest to the accused, as mandated under Article 22(1) and Section 50 Cr.P.C. (or Section 47 BNSS), is an infringement of a fundamental right so severe that it vitiates the arrest and subsequent custody. The judgment

holds that the illegality of an arrest flowing from a constitutional violation cannot be cured by a subsequent judicial act, such as a remand order. However, the said judgment explicitly distinguishes cases where the accused was not served with any document whatsoever containing the grounds of arrest. The relevant paragraphs 16, 19, 20, 23 and 26.6 are extracted here-in-below.

> ***"16.*** *This Court held that the language used in Articles 22(1) and 22(5) regarding communication of the grounds is identical, and therefore, this Court held that interpretation of Article 22(5) made by the Constitution Bench in Harikisan v. State of Maharashtra [Harikisan v. State of Maharashtra, 1962 SCC OnLine SC 117] , shall ipso facto apply to Article 22(1) of the Constitution of India insofar as the requirement to communicate the ground of arrest is concerned. We may also note here that in para 21, in Prabir Purkayastha [Prabir Purkayastha v. State (NCT of Delhi), (2024) 8 SCC 254 : (2024) 3 SCC (Cri) 573] , this Court also dealt with the effect of violation of Article 22(1) by holding that any infringement of this fundamental right would vitiate the process of arrest and remand. Para 21 reads thus : (Prabir Purkayastha case [Prabir Purkayastha v. State (NCT of Delhi), (2024) 8 SCC 254 : (2024) 3 SCC (Cri) 573] , SCC p. 276)*
>
> ***"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."*
>
> *(emphasis supplied)*
>
> ***19.*** *Thus, the requirement of informing the person arrested of the grounds of arrest is not a formality but a mandatory constitutional requirement. Article 22 is included in Part III of the Constitution under the heading of Fundamental Rights. Thus, it is the fundamental right of every person arrested and detained in custody to be informed of the grounds of arrest as soon as possible. If the grounds of arrest are not informed as soon as may be after the arrest, it would amount to a violation of the fundamental right of the arrestee guaranteed under Article 22(1). It will also amount to depriving the arrestee of his liberty. The reason is that, as provided in Article 21, no person can be deprived of his liberty except in accordance with the procedure established by law. The procedure established by law also includes what is provided in Article 22(1). Therefore, when a person is arrested without a warrant, and the grounds of arrest are not informed to him, as soon as may be, after the arrest, it will amount to a violation of his fundamental right guaranteed under Article 21 as well. In a given case, if the mandate of Article 22 is not followed while arresting a person or after arresting a person, it will also violate fundamental right to liberty guaranteed under Article 21, and the arrest will be rendered illegal. On the failure to comply with the requirement of informing grounds of arrest as soon as may be after the arrest, the arrest is vitiated.*

Once the arrest is held to be vitiated, the person arrested cannot remain in custody even for a second.

20. *We have already referred to what is held in paras 42 and 43 of the decision in Pankaj Bansal [Pankaj Bansal v. Union of India, (2024) 7 SCC 576 : (2024) 3 SCC (Cri) 450] . This Court has suggested that the proper and ideal course of communicating the grounds of arrest is to provide grounds of arrest in writing. Obviously, before a police officer communicates the grounds of arrest, the grounds of arrest have to be formulated. Therefore, there is no harm if the grounds of arrest are communicated in writing. Although there is no requirement to communicate the grounds of arrest in writing, what is stated in paras 42 and 43 of the decision in Pankaj Bansal [Pankaj Bansal v. Union of India, (2024) 7 SCC 576 : (2024) 3 SCC (Cri) 450] are suggestions that merit consideration. We are aware that in every case, it may not be practicable to implement what is suggested. If the course, as suggested, is followed, the controversy about the non-compliance will not arise at all. The police have to balance the rights of a person arrested with the interests of the society. Therefore, the police should always scrupulously comply with the requirements of Article 22.*

23. *In the present case, the first respondent relied upon an entry in the case diary allegedly made at 6.10 p.m. on 10-6-2024, which records that the appellant was arrested after informing him of the grounds of arrest. For the reasons which will follow hereafter, we are rejecting the argument made by the first respondent. If the police want to prove communication of the grounds of arrest only based on a diary entry, it is necessary to incorporate those grounds of arrest in the diary entry or any other document. The grounds of arrest must exist before the same are informed. Therefore, in a given case, even assuming that the case of the police regarding requirements of Article 22(1) of the Constitution is to be accepted based on an entry in the case diary, there must be a contemporaneous record, which records what the grounds of arrest were. When an arrestee pleads before a court that grounds of arrest were not communicated, the burden to prove the compliance of Article 22(1) is on the police.*

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."*

19. In view of the above, this Court is of the considered opinion that the factual matrix of the present case is clearly distinguishable from the extreme procedural violations found in **Vihaan Kumar (Supra)** and **Prabir Purkayastha (Supra)**. In the present matter, the Recovery Memo, prepared contemporaneously and signed by the Petitioner, explicitly detailed the articles recovered (fake marksheets, electronic equipment etc.) and listed the corresponding penal sections. This document served as a direct, written, and effective communication of the

factual and legal grounds of arrest, thereby fulfilling the substantive constitutional requirement of Article 22(1). Applying the authoritative ratio of **Sri Darshan (Supra)** to these established facts, the technical omission of grounds in the separate Arrest Memo is a curable irregularity, and not a fatal constitutional defect. Consequently, the remand order passed on May 18, 2025, by the competent Magistrate remains a valid judicial order that supports the continued detention, as the foundational illegality (the absence of grounds) asserted by the petitioner did not, in fact, exist in substance.

20. The Hon'ble Supreme Court in the case of **Arvind Kejriwal Vs. Central Bureau of Investigation (Supra)** has held that the continued incarceration of an individual for an extended period pending trial, where the trial is unlikely to conclude quickly, infringes upon the right to liberty guaranteed under Article 21, justifying grant of bail.

21. The Allahabad High Court, in **Anwar Dhebar Vs. State of U.P. (Supra)**, held that violation of the constitutional mandate under Article 22(1) and the statutory provisions of the Cr.P.C. (or BNSS) necessitates quashing the remand order, as the detention cannot be permitted to continue. The judgment in **Anwar Dhebar (Supra)** case is distinguishable on facts as the order in the present case is based on the fact that the recovery memo in the present case achieved substantial compliance with the required procedure.

22. The Allahabad High Court, in the case of **Sher Bahadur Singh and Others (in jail) Vs. State of U.P. and Others (Supra)**, clearly stated that the Magistrate has a non-negotiable duty to carefully check the documents, police reports, and materials presented for remand. The Court emphasized that the Magistrate's action must show a proper and deliberate judicial application of mind, and not just mechanically approve the police request, especially in serious cases. The Court further held that, in the context of compliance with constitutional and legal safeguards, it is submitted that based on the details recorded in the concerned police station's General Diary following the recovery memo,

it is established beyond any doubt that the reasons for the arrest of the accused, Ashwani Kumar, were disclosed to him at the time of his arrest. Consequently, this demonstrates compliance with the requirements set out in Article 22(1) of the Constitution of India and Section 50 of the Criminal Procedure Code (Cr.P.C.). The relevant paragraph 16 is extracted here-in-below:-

> *"**16**. In the above case that in view of the facts contained in the general diary of the police station concerned recorded in pursuance of the aforesaid recovery memo it is establish beyond doubt that reasons for arrest of the detenue-accused Ashwani Kumar were disclosed to him when he was arrested. Consdequently, in this case the compliance of the provisions contained under Artice 22(1) of the Constitution of India and Section 50 Cr.P.C. has been made.*

23. We also find it appropriate to refer again the judgment of the Hon'ble Supreme Court in the case of **State of Karnataka Vs. Sri Darshan (2025 KHC OnLine 6693)**, in which it was held that courts must always prioritize substance over form in procedural matters, holding that a mere technical irregularity or defect in a document will not invalidate the entire proceedings if the accused has achieved the substantive benefit of the law, namely, knowledge of the factual basis of the arrest. The law as laid down in **Sri Darshan (Supra)** demolished the plea of the petitioner'. The principle empowers the Courts to focus not on the *letter* of the procedural defect (the missing grounds in the Arrest Memo), but on the *spirit* of the constitutional mandate under Article 22(1). By relying on this precedent, we conclude that the petitioner's actual knowledge—demonstrated by their signature and acknowledgment on the accompanying Recovery Memo—fully satisfies the constitutional requirement, thereby rendering the defect in the Arrest Memo a non-fatal technicality that does not warrant quashing the entire detention process. The relevant para is extracted here-in-below:-

> *"It is a well-settled proposition of law that procedural lapses and technical irregularities should not be used to defeat justice unless such lapse has resulted in actual prejudice to the accused. The mandate of Article 22(1) is not merely to record the grounds of arrest in a specific*

> *document but to ensure that the arrested person is informed of the grounds. Where it is demonstrably clear from surrounding circumstances, such as the accused signing a contemporaneously prepared Recovery Memo detailing the facts of the case, that the accused had substantive knowledge of the offence and the reasons for their detention, the mere failure to reproduce those details in the Arrest Memo itself becomes a curable irregularity, and not a fatal defect that vitiates the entire remand proceeding."*

24. The judgment of the Hon'ble Supreme Court in **Pankaj Bansal v. Union of India (Supra) and Prabir Purkayastha v. State (NCT of Delhi) (Supra)** underscore that compliance with the constitutional safeguard must be in a meaningful manner, requiring the grounds to be communicated in writing, especially when the arrest is without a warrant. The spirit of these cases suggests that ambiguity or reliance on generalized documentation should be avoided to prevent police excess and ensure that the accused can seek legal remedy effectively.

25. But, aforesaid principle laid down by the Hon'ble Supreme Court has to be read with the caveat laid down in **State of Karnataka v. Sri Darshan (Supra)** that Courts must not elevate form over substance. The Hon'ble Apex Court, in this case, held that mere delay or procedural infirmity in furnishing the grounds of arrest cannot, by itself, constitute a valid ground for declaring the detention illegal.

26. In light of the preceding analysis, it is imperative to re-establish the principle that the preservation of individual rights and freedom is at the heart of every democratic nation's goal of a just and equitable society. As a thriving democracy, India respects these ideals by granting certain essential rights to all citizens, including those who find themselves on the wrong side of law. These rights underscore the constitutional commitment to the dignity and value of every individual, particularly when faced with the immense coercive power of the State. When a person is arrested in India, they have numerous rights whch are designed to ensure justice, due process, and the preservation of human dignity. These safeguards are not mere formalities but are the bulwarks

against arbitrary state action, ensuring that no one is deprived of their liberty except through the procedure established by law. The failure to adhere to these foundational principles constitutes a challenge to the rule of law itself. The principles enshrined in Article 21 (Right to Life and Personal Liberty) serve as the paramount touchstone against which the legality of any arrest and detention must be tested, demanding strict scrutiny from the judiciary.

27. The present petition, by challenging the procedure of arrest and remand, effectively calls upon this Court to re-affirm the sanctity of these fundamental rights and to ensure that the Executive's power to curtail liberty is exercised strictly in conformity with law. This judicial review is essential to maintain the delicate balance between State security and individual freedom, which is a cornerstone of the constitutional scheme. Therefore, the determination of the issues presented here is not merely a procedural exercise but an affirmation of the constitutional morality upon which the Indian legal system is founded, necessitating a detailed examination of the arresting authority's compliance with the letter and spirit of the law, which we now proceed to undertake.

28. We have meticulously examined the simultaneous operation of the raid and the documentation. The petitioner challenges the absence of grounds in the formal Arrest Memo. However, the recovery memo, which is the foundational document of the entire criminal proceeding, specifically mentions compliance with the relevant BNSS Sections and was signed by the petitioner. The contents of the recovery memo clearly detail the recovered items and the corresponding penal provisions. We find that this act of having the accused sign the recovery memo, which was prepared on the spot and detailed the basis for arrest, constitutes substantial compliance with the mandate of Article 22(1) and Section 50 Cr.P.C. / Section 47 BNSS.

29. We acknowledge the strict standards set in the case of **Pankaj Bansal (Supra)** and **Prabir Purkayastha (Supra)** regarding written communication. However, the present case involves a lengthy on-site operation following a search warrant, which is a distinguishing feature. The approach adopted here, where the accused signed the detailed recovery memo, harmonizes the principles laid down in **State of Karnataka v. Sri Darshan (Supra)** with the necessity of informing the accused. The argument, that the non-disclosure of grounds led to prejudice ipso facto, fails to hold ground when the accused attested to the document detailing the entire factual basis of the charges.

30. The contention that the petitioner was taken into custody on 17th May and produced after 24 hours is not supported by the official record. The raid commenced on 17.05.2025, but the formal arrest was recorded on 18.05.2025 at 4:45 AM, which is subsequent to the mid-night mark. The production before the Duty Magistrate on the same date, 18.05.2025, was thus within the statutory 24-hour period. The allegation of illegal detention beyond 24 hours is unsubstantiated by the record and is therefore rejected.

31. The record demonstrates that the Duty Magistrate passed the remand order after reviewing the prosecution papers and applying his judicial mind. The remand order is detailed, addressing the material collected during the raid. The contention that the remand order is perverse is thus unsustainable. Furthermore, in line with Vihaan Kumar v. State of Haryana, even assuming a procedural irregularity in the arrest, this does not automatically vitiate the subsequent valid remand order passed by a competent Judicial Magistrate.

32. We conclude that the failure to incorporate the grounds in the Arrest Memo when the same were detailed in the simultaneously prepared and signed recovery memo is a procedural irregularity, not a fatal jurisdictional defect that would lead to the quashing of the remand

order. The petitioner was apprised of his rights, and the core constitutional and statutory mandates were substantially adhered to.

33. We further observe that the orders passed in the cases of co-accused Rajesh and Mukesh Thakur were passed either at the bail stage or were specifically based on the distinct facts and legal points presented at that time. The relief granted to them essentially took the form of interim bail or the quashing of a specific order followed by interim bail. Granting similar relief to the petitioner by quashing the foundational remand order would be inappropriate when this Court has found substantial compliance by the arresting authority through the provision of the detailed Recovery Memo. The principle of parity does not extend to forcing the Court to declare a procedural document illegal when the legal requirements have been largely met, particularly when the underlying challenge to the remand order itself fails on judicial scrutiny.

34. We find that the arresting authority has substantially complied with the mandatory provisions, and the remand order is not tainted by perversity or lack of judicial application. Consequently, the detention of the petitioner is deemed legal as per the subsisting remand order. The challenge to the legality of custody based on a procedural technicality, where the accused suffered actual prejudice, cannot succeed in the face of binding precedents.

35. The petitioner seeks to quash the remand order as a path to immediate interim bail. The Court observes that the petitioner has already pursued the statutory remedy of bail before the Sessions Court, which was dismissed. The appropriate remedy for the petitioner is to file a Regular Bail Application before this Court under Section 439 Cr.P.C. / Section 480 BNSS. This Court, under its extraordinary writ jurisdiction, will not typically entertain a petition aimed at circumventing the statutory procedure for bail. The writ petition is, therefore, not only legally unmeritorious on the challenge to the remand order but also fails

on the principle of availability of an efficacious alternate remedy. The jurisdiction under Article 226, while wide, is generally not exercised to grant relief that can be obtained through the established criminal procedure.

36. The petition is devoid of merit, and the grounds urged do not justify declaring the entire custody illegal. The continuous detention of the petitioner is supported by the valid remand order passed by the Chief Judicial Magistrate/Duty Magistrate, Hapur, and the writ petition must fail.

37. We conclude that the petitioner has failed to establish a case for the exercise of the extraordinary jurisdiction conferred under Article 226 of the Constitution of India. Although the contentions regarding the non-communication of the grounds of arrest and the resulting illegality of the remand order are serious, they do not meet the threshold required for declaring the entire detention illegal, given the clear evidence of substantial compliance by the police officers, which effectively safeguarded the spirit of Article 22(1). The arguments raised by the State, particularly concerning the detailed nature of the Recovery Memo, the subsequent valid remand order, and the application of the principle laid down in **State of Karnataka v. Sri Darshan (Supra)**, are well-founded and successfully outweigh the petitioner's reliance on mere technical defects in the document format. Consequently, the proper and efficacious remedy available to the petitioner is to pursue their application for Regular Bail before the Court of competent jurisdiction, as seeking the quashing of the foundational remand order as a measure to obtain interim bail is legally untenable when the remand order is found to be based on the proper application of the judicial mind and valid documents.

38. In view of above, the Criminal Miscellaneous Writ Petition No. 19091 of 2025 is, hereby, **dismissed**. However, it is made clear that the

dismissal of this writ petition shall not be construed as an expression of opinion on the merits of the case and shall not prejudice the right of the petitioner to file a Regular Bail Application before the Court of competent jurisdiction. The Bail Court shall consider the said application, if filed, expeditiously and decide the same solely on its own merits, without being influenced by any of the observations made in this Order, and the records shall be remitted to the court concerned forthwith to ensure formal compliance with this order by the registry.

(Pramod Kumar Srivastava, J.)(Salil Kumar Rai, J.)

Order Dated: 15.12.2025
Haseen U.