

CRM-M-2979-2026 (O&M)

2026:PHHC:057291



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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****CRM-M-2979-2026 (O&M)**

Anuj Kumar Singh

....Petitioner

versus

Union of India

....Respondent

Date of Decision: April 16, 2026

Date of Uploading: April 17, 2026

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL**Present:** Mr. Preetinder Singh Ahluwalia, Senior Advocate with
Mr. Rahil Mahajan, Advocate,
Ms. Kadambari Bhan, Advocate and
Mr. Lovejeet Poonia, Advocate for the petitioner.Mr. Sourabh Goel, Special Public Prosecutor with
Ms. Deify Jindal, Advocate and
Ms. Anju Bansal, Advocate for the respondent – NCB.

SUMEET GOEL, J.

The concept of personal liberty is the bedrock of a constitutional democracy, a primordial right so inextricably linked to human dignity, that one cannot conceive of meaningful existence in its absence. It is neither a gift of the state nor a creature of the codified statutes, rather it is a pre-political and inherent attribute of humanity that the law merely seeks to recognize and fortify. The antiquity of this reverence is evidenced by the fact that as early as 13th Century, long before the contemporary lexicon of human rights was articulated, Clause 39 of Magna Carta (1215) decreed that no free

man shall be disseised of his liberties save by the *per legem terrae*, i.e. the law of land, relevant whereof (translated version) reads thus:

“No free man is to be arrested, or imprisoned, or disseised, or outlawed, or exiled, or in any other way ruined, nor will we go against him or send against him, except by the lawful judgment of his peers or by the law of the land.”

The recognition of and protection of this *first freedom* acts as the very marrow of a legal system, the maturity whereof, is fathomed by the vehemence and zeal with which it stands as a *sentinel on the qui vive* to protect the inalienable sanctity of personal freedom. A legal system governed by the Rule of Law, attains its full stature only when it recognizes *libertas est res inestimabilis* i.e. liberty is a thing beyond all price. Indeed, the protection of one’s personhood from unlawful restraint is a duty so sacred that it transcends the ordinary business of courts. Highlighting this judicial imperative, Lord Denning in his seminal work, *Freedom under the Law (1949)* recorded a venerable rule of practice: that whenever a cause concerning the personal freedom is espoused, the judge must cast aside all other temporal matters to afford it an immediate hearing. The relevant excerpt from *Freedom under the Law (1949)* reads thus:

“Let me start with an instance of how the courts approach the subject. Whenever one of the King’s judges takes his seat, there is one application which by long tradition has priority over all others. Counsel has but to say ‘My Lord, I have an application which concerns the liberty of the subject’ and forthwith the judge will put all other matters aside and hear it. It may be an application for a writ of habeas corpus, or an application for bail, but, whatever form it takes, it is heard first. This is of course only a matter of procedure, but the English law respecting the freedom of the individual has been built up from the procedure of the courts : and this simple instance of priority in point of time contains within it the fundamental principle that, where there is any conflict between the freedom of the individual and any other rights or interests, then no matter how great or powerful those others may be, the freedom of the humblest citizen shall prevail over it.”

Whenever the monolithic overreach or arbitrary high-handedness of a State instrumentality, infringing upon the sanctity of personal liberty or culminating in an unlawful/extra-legal restraint, is brought to judicial notice, the same must be subjected to exacting scrutiny. An age old adage, which met with approval from the Hon'ble Supreme Court, reads thus:

“2. Albert Schweitzer, highlighting on Glory of Life, pronounced with conviction and humility, "the reverence of life offers me my fundamental principle on morality". The aforesaid expression may appear to be an individualistic expression of a great personality, but, when it is understood in the complete sense, it really denotes, in its conceptual essentiality, and connotes, in its macrocosm, the fundamental perception of a thinker about the respect that life commands. The reverence of life is inseparably associated with the dignity of a human being who is basically divine, not servile. A human personality is endowed with potential infinity and it blossoms when dignity is sustained. The sustenance of such dignity has to be the superlative concern of every sensitive soul. The essence of dignity can never be treated as a momentary spark of light or, for that matter, 'a brief candle', or 'a hollow bubble'. The spark of life gets more resplendent when man is treated with dignity sans humiliation, for every man is expected to lead an honourable life which is a splendid gift of "creative intelligence". When a dent is created in the reputation, humanism is paralysed. There are some megalomaniac officers who conceive the perverse notion that they are the 'Law' forgetting that law is the science of what is good and just and, in very nature of things, protective of a civilised society. Reverence for the nobility of a human being has to be the corner stone of a body polity that believes in orderly progress. But, some, the incurable ones, become totally oblivious of the fact that living with dignity has been enshrined in our Constitutional philosophy and it has its ubiquitous presence, and the majesty and sacrosanctity dignity cannot be allowed to be crucified in the name of some kind of police action.”

2. The *petition in hand* has been preferred by the accused – Anuj Kumar Singh with the following substantive prayer(s):

“i. XX XX XX XX

ii. *Hold and declare the arrest of the Petitioner by the respondent investigating agency to be wholly illegal, non-est, arbitrary and violative of the principles laid to rest by the Hon'ble Supreme Court in Prabir Purkayastha v. State (NCT of Delhi) 2024 SCC OnLine SC 934; Vihaan Kumar vs. State of Haryana & Anr, 2025 SCC OnLine SC 269; Mihir Rajesh Shah v. State of Maharashtra and anr. 2025 SCC OnLine SC 2356 and Directorate of Enforcement vs. Subhash Sharma, 2025 SCC OnLine SC 240 as the petitioner was not produced before the Magistrate within 24 hours of his detention and further no Grounds of Arrest were ever provided to the petitioner either while arresting*

him or during remand which is in clear violation of Article 22 of the Constitution of India thereby warranting his forthwith release from custody.

- iii. Quash and set-aside the Impugned Remand Orders dated 02.11.2025 (Annexure P-3), 07.11.2025 (Annexure P-5), 11.11.2025 (Annexure P-7) & 13.11.2025 (Annexure P-9) as well as all subsequent and consequential remand orders passed by the Ld. CJM, Amritsar in case NCB Crime No. 04/2025 dated 07.02.2025 under Sections 8, 8-A, 21, 22, 23, 25, 26,27-A, 27-B, 29 & 60 NDPS Act,PS Narcotics Control Bureau, Amritsar Zonal Unit, Amritsar as the impugned remand orders so passed are mechanical in nature which cannot cure the constitutional infirmities as guaranteed under Article 21 and 22(1) & (2) of the Constitution.*
- iv. Direct the forthwith release of the petitioner from custody as any further incarceration would be anathema to law and gravely detrimental to the cause of justice.”*

3. The relevant factual backdrop of the *lis* in hand is adumbrated thus:

(i) The genesis of the present case lies in the seizure of 5,000 tablets of Tramadol Hydrochloride 100 mg on 07.02.2025 from accused Aashu @ Ashu Arora at Jandiala Guru, Amritsar. As per the investigation conducted, three pharmaceutical distributors i.e. M/s Tiwari Medical Agencies, Dehradun, M/s Maa Jagdamba Medicose, Jodhpur & M/s Rama Medicose, Jodhpur were surfaced out as diversion points of the psychotropic medicines. It is the case of the prosecution that said distribution firms do not exist physically, but firms including the firm of the petitioner used to bill such medicines in the name of the non-existent firms which were actually diverted in the illicit market. Further, the investigation revealed that M/s Digital Vision, 176 Mouza Ogli, Kala-Amb, Distt. - Sirmour, Himachal Pradesh used to supply various psychotropic medicines illegally to said non-existing firms i.e. M/s Tiwari medical Agencies, Dehradun, M/s Maa Jagdamba Medicose, Jodhpur & M/s Rama Medicose, Jodhpur.

Accordingly, a follow up action was conducted by NCB team at M/s Digital Vision, 176 Mouza Ogli, Kala-Amb, Distt. - Sirmour, Himachal Pradesh on 12.08.2025 which resulted in seizure of 1368 capsules of Tramadol Hydrochloride and 16 bottles of Codeine phosphate Cough Syrup. Out of the seized illegal medicines, 656 capsules of Tramadol Hydrochloride belong to M/s Tiwari Medical Agencies Dehradun; 192 capsules of Tramadol Hydrochloride belong to M/s Rama Medicose, Jodhpur and 520 capsules of Tramadol Hydrochloride + 16 bottles of Codeine phosphate Cough Syrup belong to M/s Maa Jagdamba Medicose, Jodhpur, Rajasthan. As per prosecution case, the firm M/s Tiwari Medical Agencies Dehradun, M/s Rama Medicose, Jodhpur and M/s Maa Jagdamba Medicose, Jodhpur, Rajasthan are physically not in existence. It is further case of the prosecution that M/s Digital vision had supplied 13,79,232 capsules of Tramadol to Tiwari Medical Agencies Dehradun in the year 2024; 9,21,600 capsules of Tramadol to M/s Rama Medicose Jodhpur in the year 2024 and 11,49,120 Capsules of Tramadol and 11,970 bottles of Codeines Phosphate cough syrup 100 ml in the year 2024 and 23,01,696 Capsule of Tramadol in the year, 2025 (till June month) to M/s Maa Jagdamba Medicose, Jodhpur Rajasthan. The petitioner is involved in inter-state illegal diversion of Psychotropic medicine through his firm M/s Digital Vision which contravene the provision of NDPS Act. As per prosecution case, on 12.08.2025, during search of the house of Manic Goyal (Partner of M/s Digital Vision) S/o - Parshotam Lal Goyal (owner of house), R/o-House No.28-A, Gobind Nagar, Ambala Cantt., Ambala Haryana, sale proceeds of drug crime worth Rs.32,44,360/- INR were seized by the NCB team. The

family of Manic Goyal could not explain the source of the recovered money. As per prosecution case, M/s Digital vision has been sending the Psychotropic medicines illegally to aforesaid non-existing firms and the diversion of the controlled medicines by the firm is apparent on record. In order to ascertain illegal supply of controlled medicines and trace the source of the recovered illegal money, notices u/s 67 of NDPS Act, 1985 dated 12.08.2025 were issued to Manic Goyal and Parshotam Lal Goyal to appear on 13.08.2025 and 14.08.2025 respectively at NCB Chandigarh Zonal Unit, Mohali and notices u/s 67 of NDPS Act, 1985 dated 14.08.2025, 29.08.2025 and 18.09.2025 were issued in the name of Manic Goyal, Konic Goyal, Anuj Kumar Singh (*petitioner herein*) (Partners of M/s Digital Vision) and Parshotam Lal Goyal to appear at NCB Chandigarh Zonal Unit, Mohali on 19.08.2025, 02.09.2025 and 22.09.2025 respectively. However, they failed to appear in response to the notice. During investigation, another firm M/s Vellinton Healthcare, Kala-amb, Sirmour, HP whose partners are Konic Goyal, Manic Goyal, Anuj Kumar Singh (*petitioner herein*) and Parshotam Lal Goyal and one company named Parb Pharmaceuticals Private Limited, Dehradun whose directors are Konic Goyal, Manic Goyal and Anuj Kumar Singh (*petitioner herein*) was surfaced.

(ii) It is also the case of NCB that, during further investigation, a follow-up action was conducted by the NCB on 31.10.2025 at the residential address of the petitioner & notice dated 31.10.2025 under Section 67 of the NDPS Act, 1985 was issued and was served to him on the same date, i.e., 31.10.2025. Along with the said service of summons, the premises of the petitioner were searched and *panchnama* dated 31.10.2025 was prepared.

The said notice called upon the petitioner to appear in person before the NCB office at Mohali at 11:00 A.M. on 01.11.2025.

(iii) As per case set up by the NCB, the petitioner voluntarily stated that he would accompany the NCB team to NCB office and a statement to that effect was recorded by the NCB.

(iv) The petitioner departed, along with NCB team, from Uttarakhand to Chandigarh at around 11:00 P.M. on 31.10.2025 and reached the NCB office at Chandigarh between 3:00 A.M. to 4:00 A.M. on 01.11.2025.

(v) It is the specific plea of the NCB that the petitioner was provided with all necessary facilities/ assistance during the travel time, i.e., from 11:00 P.M. to 03:00 A.M./ 04:00 A.M. and thereafter as well. Further, the petitioner was permitted to use his mobile phone.

(vi) However, it is not in dispute that the petitioner continued to remain either with the NCB team or in the NCB office from 11:00 P.M. on 31.10.2025 till about 10:30 A.M. on 01.11.2025, wherein NCB commenced recording the statement of the petitioner.

(vii) The petitioner came to be formally arrested by NCB at 9:00 P.M. on 01.11.2025. In the morning of 02.11.2025, the NCB team took the petitioner to Amritsar from Chandigarh and his medical examination was got conducted at Amritsar at 11:30 A.M. Thereafter, the petitioner, after conclusion of his medical examination was produced before the concerned Duty Magistrate at around 2:00 P.M.

(viii) A remand application was preferred on 02.11.2025 by NCB (hereinafter referred to as "*remand application dated 02.11.2025*"), pleading

therein for grant of police remand of the petitioner, relevant whereof reads thus:

“7. That, during investigation on 31.10.2025 the accused Anuj Kumar Singh was apprehended by the officials of the NCB from Dehradun, Uttarakhand and notice under section 67 of NDPS Act, 1985 was served to him and thereafter, the accused Anuj Kumar Singh came along with NCB officials at NCB office Chandigarh Zonal Unit, Mohali and his statement under section 67 of NDPS Act, 1985 was recorded on 01.11.2025. xx xx xx”

With similar averments, NCB filed applications on 07.11.2025, 11.11.2025 and 13.11.2025 (hereinafter referred to as “*remand application dated 07.11.2025, remand application dated 11.11.2025 and remand application dated 13.11.2025*”) seeking police/ judicial remand of the petitioner. At present, the petitioner is in judicial custody.

It is in this factual backdrop that the *petition in hand* has come up for hearing before this Court.

RIVAL SUBMISSIONS

4. Learned senior counsel for the petitioner, at the outset, gave up the plea of non-supply of requisite grounds of arrest and has confined the prayer(s) in petition regarding arrest/ detention of the petitioner being illegal as he was detained beyond the period of 24 hours without requisite judicial order(s).

4.1. Learned senior counsel has asserted that the petitioner was in the custody of NCB right from the time when search of the premises of the petitioner was being conducted. Learned senior counsel has submitted that, even if it is assumed that the petitioner was not detained till conclusion of search of his premises at about 10:45 P.M., the very factum of petitioner being in continuous custody/ detention of NCB right since 10:45 P.M. on

31.10.2025 till 9:00 P.M. on 01.11.2025, whereinafter, formal arrest of the petitioner was recorded, cannot be denied. Learned senior counsel has urged that the “custody” does not essentially mean formal arrest, but it also includes restriction of movement of person concerned by the police. Learned senior counsel has, thus, urged that once a person is deprived of his personal liberty to go wherever he pleases irrespective of the label, which investigating officer may affix on the act of restraint, the period of 24 hours, as mandated under Section 57 Cr.P.C./ Section 58 BNSS/ Article 22(2) of the Constitution of India, commences. Learned senior counsel has urged that factum of arrest is to be deciphered from totality of the facts/ circumstances of the case as the petitioner was in continuous custody of NCB atleast from about 10:45 P.M. on 31.10.2025 till his production before the concerned Court on 02.11.2025 at about 2:00 P.M. Learned senior counsel has further urged that even if total custody is counted excluding the investigation period, i.e., 11:00 A.M. to 09:00 P.M. on 01.11.2025 till the custody from 08:00 P.M. on 31.10.2025 at 11:00 A.M. on 01.11.2025 and 09:00 P.M. on 01.11.2025 to 02:00 P.M. on 02.11.2025 comes out to 32 hours, which is more than 24 hours. Learned senior counsel has, thus, urged that once it is found that the petitioner was detained for a period of more than 24 hours without requisite order(s), arrest/ detention becomes *ipso facto* illegal and hence, deserves to be set aside. On the strength of these submissions, learned senior counsel has sought for grant of *petition in hand* by directing for forthwith release of the petitioner.

5. Reply by way of affidavit dated 03.01.2026 of the Respondent through Amit Kumar, Investigating Officer, NCB, Amritsar Zonal Unit has

been filed by the NCB. Further, NCB has filed additional affidavit dated 07.04.2026 of the Respondent through Amit Kumar, Investigating Officer, NCB, Amritsar Zonal Unit.

While raising submissions in tandem with the said reply/ additional affidavit, learned Special Public Prosecutor has urged that the petitioner himself volunteered to accompany the NCB team on 01.11.2025 and his statement to that effect was also duly recorded as well. Learned Special Public Prosecutor has further urged that time period from around 11:00 P.M. on 31.10.2025 to 03:00 A.M/ 04:00 A.M. on 01.11.2025 was on account of sheer travel time between Dehradun (Uttarakhand) to Chandigarh. Learned counsel has further urged that the petitioner was permitted unbridled use of his mobile phone, which is reflectable from call detail record of the petitioner, and hence, the time period from 11:00 P.M. on 31.10.2025 to 03:00 A.M/ 04:00 A.M. on 01.11.2025 (travel time from Dehradun to Chandigarh) as also thereafter, upto 10:30 A.M. when the petitioner's statement was recorded in the NCB office, cannot be termed to be a period, wherein, the petitioner stood arrested. Learned Special Public Prosecutor has further submitted that the petitioner was arrested at 09:00 P.M. on 01.11.2025 and was served with requisite arrest memo/ grounds of arrest. Learned Special Public Prosecutor has submitted that his statements are as per records documented with the NCB and no material has been brought forth to raise any shadow of doubt towards their genuineness. Learned Special Public Prosecutor has urged that the petitioner stands arrested in NDPS case, wherein, huge recovery has been made. On the

strength of these submissions, dismissal of the *petition in hand* is entreated for.

6. I have heard counsel for the parties and have gone through the available records of the case.

Prime issue

7. The issue that arises for consideration is as to whether the petitioner was detained by the NCB for more than 24 hours without requisite order from the concerned Court/ Magistrate.

The seminal legal issue that arises for cogitation is as to the time from when 24 hours period referred in Section 58 of the BNSS, 2023 (erstwhile Section 57 of the Cr. P.C., 1973) commences.

8. **Relevant statutory provisions**

(i). Code of Criminal Procedure, 1973

Section 57. Person arrested not to be detained more than twenty-four hours.—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 167, exceed twenty-four hours exclusive of the time necessary for the journey from the place of arrest to the Magistrate's Court.

(ii). Bharatiya Nagarik Suraksha Sanhita, 2023

Section 58. Person arrested not to be detained more than twenty-four hours.— 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.

(iii). Constitution of India

Article 22. (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.

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Relevant Case Law

9. The precedents, *apropos*, to the matter(s) in issue, are as follows:

(i) The Hon’ble Supreme Court in a judgment titled as ***Niranjan Singh and Another Vs. Prabhakar Rajaram Kharote and Another; 1980 AIR Supreme Court 785***, has held as under:

“7. When is a person in custody, within the meaning of Section 439 Criminal Procedure Code, 1973 ? When he is in duress either because he is held by the investigating agency or other police or allied authority or is under the control of the court having been remanded by judicial order, or having offered himself to the court's jurisdiction and submitted to its orders by physical presence. No lexical dexterity nor precedential profusion is needed to come to the realistic conclusion that he who is under the control of the court or is in the physical hold of an officer with coercive power is in custody for the purpose of Section 439. This word is of elastic semantics but its core meaning is that the law has taken control of the person. The equivocatory quibblings and hide-and-seek niceties sometimes heard in court that the police have taken a man into informal custody but not arrested him, have detained him for interrogation but not taken him into formal custody and other like terminological dubieties are unfair evasions of the straight forwardness of the law. We need not dilate on this shady facet here because we are satisfied that the accused did physically submit before the Sessions Judge and the jurisdiction to grant bail thus arose.”

(ii). The Hon’ble Supreme Court in a judgment titled as ***Manoj versus State of Madhya Pradesh, 1999(2) RCR (Criminal) 426***, has held as under:

“10. The police officer who conducts investigation cannot obviate the legal obligation to perform two requisites if he knows that investigation cannot be completed within 24 hours after arrest of the accused. One requested is, to transmit a copy of the case diary to the nearest judicial magistrate. The other is, to forward the accused to such magistrate simultaneously. The only exceptional ground on which the police officer

can avoid producing the arrested person before such magistrate is when the officer concerned is satisfied that there are no grounds for believing that the information or accusation was well-founded. In such a case, the accused must be released from custody to which he was interred pursuant to the arrest.

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12. *If the police officer is forbidden from keeping an arrested person beyond twenty four hours without order of a magistrate, what should happen to the arrested person after the said period. It is a constitutional mandate that no person shall be deprived of his liberty except in accordance with the procedure established in law. Close to its heels the Constitution directs that the person arrested and detained in custody shall be produced before the nearest magistrate within 24 hours of such arrest. The only time permitted by Article 22 of of the Constitution to be excluded from the said period of 24 hours is "the time necessary for going from the place of arrest to the court of the magistrate". Only under two contingencies can the said direction be obviated. One is when the person arrested is an "enemy alien". Second is when the arrest is under any law for preventive detention. In all other cases the Constitution has prohibited peremptorily that "no such person shall be detained in custody beyond the said period without the authority of a magistrate".*

(iii). The Hon'ble Supreme Court in a judgment titled as ***Directorate of Enforcement versus Subhash Sharma, 2025(1) RCR (Criminal) 817***, has held as under:

"7. The requirement of clause 2 of Article 22 has been incorporated in Section 57 of the Code of Criminal Procedure, 1973 (for short 'the Cr.P.C). There is no inconsistency between the provisions of the PMLA and Section 57 of Cr.P.C. Hence, by virtue of Section 65 of the PMLA, Section 57 of the Cr.P.C applies to the proceedings under the PMLA.

8. Once a Court, while dealing with a bail application, finds that the fundamental rights of the accused under Articles 21 and 22 of the Constitution of India have been violated while arresting the accused or after arresting him, it is the duty of the Court dealing with the bail application to release the accused on bail. The reason is that the arrest in such cases stands vitiated. It is the duty of every Court to uphold the fundamental rights guaranteed under Articles 21 and 22 of the Constitution."

(iv). The Hon'ble Bombay High Court in a judgment titled as ***Ashak Hussain Allah Detha alias Siddique and another versus Assistant Collector of Customs (P.), Bombay and another, 1990 SCC Online Bom 3***, has held as under:

"7. Admittedly, the Applicants were detained without any authority from the midnight of 20th July, 1989 to 5.20 p.m. of 21st July,

1989 - for 17 hours. Their arrest has been so recorded that their production before the Magistrate falls within 24 hours stipulated by Article 22(2) of the Constitution of India and Section 57 of the Code of Criminal Procedure. The Prosecution urges that after the "arrest" they were not detained beyond 24 hours. This submission is a distortion of the true meaning of the constitutional guarantee against detention without the sanction of judicial Tribunal. The word "arrest" has not been defined in the Code of Criminal Procedure or in any other law. The true meaning needs to be understood. The word "arrest" is a term of art. It starts with the arrester taking a person into his custody by action or on words restraining him from moving anywhere beyond the arrester's control, and it continues until the person so restrained is either released from custody or, having been brought before a Magistrate, is remanded in custody by the Magistrate's judicial act. In substance "arrest" is the restraint on a man's personal liberty by the power or colour of lawful authority (*The Law Lexicon - P. Ramanatha Aiyar Reprint Edition 1987, page 85*). In its natural sense also "arrest" means the restraint on or deprivation of one's personal liberty (*The Law Lexicon - T.P. Mukherjee, (1989) page 177-178.*).

1. *Christie v. Leachinsky, (1947)1 All England Reporter 567, Holgate Mohammed v. Duke, (1984)1 All England Reporter 1054. Both quoted in WORDS AND PHRASES LEGALLY DEFINED Vol. 1, Third Edition - page 113.*

It is thus clear that arrest being a restraint on the personal liberty, it is complete when such restraint by an authority, commences (The Law Lexicon - P. Ramanatha Aiyar Reprint Edition 1987, page 85). Whether a person is arrested or not does not depend on the legality of the Act. It is enough if an authority clothed with the power to arrest, actually imposes the restraint by physical act or words. Whether a person is arrested depends on whether he has been deprived of his personal liberty to go where he pleases (The Law Lexicon - T.P. Mukherjee (1989), Page 177-178). It stands to reason, therefore, that what label the investigating officer affixes to his act of restraint is irrelevant. For the same reason, the record of the time of arrest is not an index to the actual time of arrest. The arrest commences with the restraint placed on the liberty of the accused and not with the time of "arrest" recorded by the Arresting Officers.

The argument that the applicants were not arrested at the mid-night of 19th July, 1989 but were detained for interrogation is untenable. Since the offences under the Narcotic Drugs And Psychotropic Substances Act are cognisable (Section 37(1) of the Narcotic Drugs and Psychotropic Substances Act), the Investigating Officers possess the authority to arrest without warrant. They arrest a suspect or do not arrest at all. The detention in custody for interrogation is known to law. A person may be lawfully interrogated. But during such interrogation he is a free man. If he is detained, not allowed to leave the office of the Respondent No. 1 and compelled to eat and sleep there, he is under detention. This restraint is in reality an arrest.

In this case, the applicants were not allowed to leave the Office of the Respondent No. 1 after the mid-night of 19th July, 1989. In the circumstances of this case, the applicants were arrested at the mid-night of 19th July, 1989.

8. *The Investigating Officers may lawfully detain a suspect for an offence. But detention in custody for interrogation is not authorised by law. The*

Investigating Officers may detain for an offence only. In an English Case where the Customs Officers detained a person "for helping with their inquiries", it was held that there was no authority in the Customs Officers to detain a person except for an offence. The principle that emerges is this: Any restraint on a person's liberty except for an offence is illegal. There is no authority in the Investigating Officers to detain a person for the purpose of interrogation or helping them in the enquiry."

- (v). The Hon'ble Andhra Pradesh High Court in a judgment titled as ***Mrs. Iqbal Kaur Kwatra versus The Director General of Police, Rajasthan State, Jaipur and others, 1996 SCC Online AP 206***, has held as under:

"18. It is well settled that "police custody" does not necessarily mean custody after formal arrest. It also includes "some form of police surveillance and restriction on the movements of the person concerned by the police". The word "custody" does not necessarily mean detention or confinement. A person is in custody as soon as he comes into the hands of a police officer.

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20. On a reading of Section 57 of the Code of Criminal Procedure it is evident that no police officer can detain in custody a person arrested without warrant for a period longer than twenty-four hours besides the time taken for journey."

- (vi). The Hon'ble Telangana High Court in a judgment titled as ***Smt. T. Ramadevi versus The State of Telangana and ors., 2024(4) Crimes 9***, has held as under:

"2. The present is a second writ petition seeking for issuance of a Writ of Habeas Corpus by the same petitioner, and by way of the present writ petition the petitioner herein seeks for production of the four detenus viz., Thallapally Srinivas Goud, Thallapally Sai Sharath, Thallapally Sai Rohith and Palavalasa Siva Saran. This writ petition has been filed substantially on two questions of law, which are:-

a) Whether the period of apprehension by the police authorities before the official arrest being shown is also to be considered for the purpose of fulfilling the requirement of producing the so-called apprehended person before the Judicial Magistrate within 24 hours?

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10. In the given factual backdrop and the judicial precedents referred to in the preceding paragraphs, what is evident and an admitted fact is that accused Nos.3 and 4 remained in police custody for a period of 38 hours before they were produced before the Judicial Magistrate under Section 57

of Cr.P.C. However; the accused Nos.1, 2 and 6 though remained in police custody, but were produced within 24hours before the Judicial Magistrate.

11. *In the aforesaid backdrop, when we look into the provisions of Section 57 of Cr.P.C, the very first line of the said provision refers to the term detention. It does not use the term "from the time of arrest", which further strengthens the case of the petitioner when they say that period of detention starts the moment they stand apprehended by the police, as from that moment itself there is a restraint so far as personal liberty of the concerned person and there is also an arrest of his movement, as he remains under confines of police personnel. Thus, it would amount to a detention of a person right from the time he is apprehended by the police personnel. Thus, in terms of the judgment of the Bombay High Court in the case of Ashak Hussain (supra), the arrest of a person commences from the time restraint is placed on his liberty and not from the time of the arrest officially recorded by the arresting officers.*

12. *Accordingly, this Bench has no hesitation in reaching to the conclusion that question No.1 as regards the commencement of the period of apprehension is concerned, it is held that the period of apprehension is also to be taken into consideration for the purpose of calculating the period of 24 hours as is envisaged under Section 57 of Cr.P.C. In other words, 24 hours is not to be calculated from the time of the official arrest being shown by the police personnel in the arrest memo, but from the time he was initially apprehended or taken into custody. In view of the same, accused Nos.3 and 4 have been produced before the Judicial Magistrate only after completion of 24 hours from the time they were apprehended. Accused Nos.1, 2 and 6 were produced before the Judicial Magistrate before completion of 24 hours. Therefore, there is clear violation of the statutory requirement under Section 57 of Cr.P.C so far as accused Nos.3 and 4 are concerned, and they are accordingly liable to be given the benefit for the illegal act which the respondent-authorities have committed.”*

Analysis (re law)

10. The *police power* to investigate into an offence is a creature of the statute, a delegated authority intended to maintain public peace. To this end, the procedural code arms the investigating agency with a formidable *panoply of powers*: search, seizure, perquisition of documents/other material objects, and also the arrest of suspected individuals. Yet, the legislature, in its wisdom, has never intended for these powers to be absolute, rather, they are hedged by inbuilt safeguards, designed to ensure that the *sword of the state* does not become an instrument of oppression. There exists no such thing as unfettered discretion in the realm of statutory powers indeed,

unlimited discretion in that sphere can become a ruthless destroyer of personal freedom. The power to investigate into offences must, therefore, be exercised *strictissimi juris* i.e., according to the strictest letter of law and only on the condition on which it is granted by the Code/procedural law. A profitable reference in this regard can be made to the following aureate observations made by the Hon'ble Supreme Court:

“68. xxx xxx We say and we think it is necessary to repeat, that the gravity of the evil to the community resulting from anti-social activities can never furnish an adequate reason for invading the personal liberty of a citizen, except in accordance with the procedure established by the Constitution and the laws. The history of personal liberty is largely the history of insistence on observance of procedure. And observance of procedure has been the bastion against wanton assaults on personal liberty over the years. Under our Constitution the only guarantee of personal liberty for a person is that he shall not be deprived of it except in accordance with the procedure established by law. xxx xxx xxx”

- M.H. Beg, J. vide ***Prabhu Dayal Deorath Vs. District Magistrate, Kamrup and Others; 1974 AIR Supreme Court 183***

11. In cases of arrest by a Police officer/investigating agency, otherwise than by way of execution of a warrant, one such safeguard, requiring production of individual detained, before the nearest magistrate, within a reasonable time and by the latest within twenty four hours of arrest, stands as the primary bulwark against the dark peril of *incommunicado detention*. As observed by the Hon'ble Supreme Court in ***Manoj*** (supra) that the police officer arresting the individual cannot obviate this legal obligation as statutorily mandated. This procedural exigency, enshrined in Section 57 of the Cr.P.C./Section 58 of the BNSS and anchored in the bedrock of Article 22(2) of the Constitution, is designed to facilitate an instantaneous judicial audit of the executive's action. The procedural mandate contained in

Section 57 Cr.P.C./Section 58 BNSS/ Article 22(2) of the Constitution serves a dual, sacrosanct purpose: *firstly*, to verify the *vires* and legality of the arrest; and *secondly*, to submit the necessity of further detention for judicial scrutiny. However, for this Constitutional shield to be effective, the law must resolve a question of profound temporal significance: What should be the *terminus a quo* for computation of twenty-four-hour limit?; which requires for us to determine the meaning of ‘*arrest*’ as employed in Section 57 Cr.P.C./Section 58 BNSS/Article 22(2) of the Constitution.

11.1. The term ‘*arrest*’ is neither defined in the Cr.P.C./BNSS nor in the constitutional framework; however, when interpreted in its ordinary and natural sense, it signifies a state of apprehension, restraint or the total deprivation of an individual’s liberty. The dictionary meaning of ‘*arrest*’ as contained in different dictionaries, reads thus:

The Oxford Dictionary (online) defines custody as imprisonment, detention, confinement, incarceration, internment, captivity; remand, duress, and durance.

Chambers Dictionary (online) clarifies that custody is “the condition of being held by the police; arrest or imprisonment; to take someone into custody to arrest them.”

Chambers Thesaurus supplies several synonyms, such as detention, confinement, imprisonment, captivity, arrest, formal incarceration.

The Collins Cobuild English Dictionary for Advance Learners states in terms of that someone who is in custody or has been taken into custody or has been arrested and is being kept in prison until they get

tried in a court or if someone is being held in a particular type of custody, they are being kept in a place that is similar to a prison.

The Corpus Juris Secundum under the topic of Escape & Related

Offenses; Rescue adumbrates that “Custody, within the meaning of statutes defining the crime, consists of the detention or restraint of a person against his or her will, or of the exercise of control over another to confine the other person within certain physical limits or a restriction of ability or freedom of movement.”

This is how Custody is dealt with in **Black’s Law Dictionary**, (5th Edn. 2009):-

Custody- The care and control of a thing or person. The keeping, guarding, care, watch, inspection, preservation or security of a thing, carrying with it the idea of the thing being within the immediate personal care and control of the person to whose custody it is subjected. Immediate charge and control, and not the final, absolute control of ownership, implying responsibility for the protection and preservation of the thing in custody. Also the detainer of a mans person by virtue of lawful process or authority.

Ergo, the term ‘*arrest*’ is a term of art representing a state of affairs where an individual’s autonomy is subsumed under the control and supervision of an authority acting under the colour of law. For the purposes of Section 57 Cr.P.C./58 BNSS/Article 22(2), whether an individual has been ‘arrested’ or not, depends upon the factual imposition of restraint through physical acts or verbal commands. The quintessential test remains one of volition: whether the individual has been deprived of his/her personal

liberty to move where he/she pleases? As observed by a division Bench of the Hon'ble Andhra Pradesh High Court in the *Iqbal Kaur Kwatra* (supra) that the term does not necessarily mean custody after formal arrest but also includes some form of surveillance/restriction on the movement by the police. It is thus clear that 'arrest' being a restraint on the personal liberty, it is complete when such restraint by the authority commences. The moment some form of police surveillance and restriction on the movements of the individual concerned by the police/investigating agency begins, he is said to have been arrested and detained in custody. An 'arrest' is crystallized the moment the individual's ambulatory providence is extinguished and his volition is subsumed by the coercive power of authority detaining him.

11.2. Consequently; the nomenclature assigned by the investigating agency, such as; "detention for questioning", "custody for inquiry" or similar expression is wholly immaterial and legally irrelevant for the purposes of determining whether the individual has been arrested or not and rather weightage has to be given to the factual aspects of the matter as have truly transpired. The time recorded in the arrest memo or other police records is a mere procedural formality that cannot be treated as a definitive or infallible index of actual time of arrest. To grant such records a status of absolute verity would be to allow the concerned authorities (investigating agency) to act as the sole auditor of its own compliance, thereby reducing a constitutional safeguard to a matter of administrative whim. Whether an individual is under 'arrest' is a question of fact, not of nomenclature. To hold otherwise would be to allow the *Rule of Law* to be defeated by a semantic *sleight of hand*. The record is merely a *post facto* declaration; it is

the *de facto* restraint that triggers the clock of liberty. Pertinently, in *Niranjan Singh* (supra) the Hon'ble Supreme Court pointed out this prevalent practice of using of disingenuous subtitles and linguistic evasions by the investigating agency whereby an effort is made to distinguish between informal detention and statutory arrest/ preliminary inquiry and *de facto* custody. These are hollow terminological conceits.

Having said so, *lest* the above analysis be perceived as an absolute embargo upon the investigative functions of the State, this Court must hasten to offer a necessary caveat. A clear distinction must be carved out between the coercive subsumption of volition and the genuine investigative functions. There are instances where an individual is summoned for merely joining investigation, production of documents, recording of statement. In such instances, where there is no palpable fetter upon the ambulatory providence of the individual and he remains at liberty to depart the precincts of the police station at his own will; retains unhindered access to his mobile phone to communicate with the world at large; and may be accompanied by friends and legal acquaintances, it cannot be termed as coercive detention. In such like cases/ circumstances, it would be a legal misconception to suggest that the *clock of liberty* has commenced. The twenty-four-hour mandate is not a reflexive trap for a diligent investigating officer, but a shield against overbearing captor.

11.3. It is a settled principle of jurisprudence that while interpreting provisions that intend to safeguard fundamental human rights, the Court must adopt a *Pro Homine* approach. A narrow and pedantic interpretation of 'arrest' would not merely be a legal error; it would be a constitutional

apostasy. It would defeat the very purpose of the provision, which is to prevent clandestine/illegal detentions. It would tantamount to condoning an illegality that perpetuates under the colour of authority and granting the concerned authorities a temporal immunity to operate in a vacuum where the individual detained is neither free nor yet under the protective aegis of statutory safeguards. Such a vacuum is abhorred by the law as the same is antithetical for a system governed by the Rule of Law.

Ergo, for the twenty-four-hour mandate, as provided under Section 57 Cr.P.C./58 BNSS/Article 22(2) of the Constitution, it must be reckoned from the exact moment of physical deprivation of personal liberty, for any delay beyond this window, however, seemingly minute, constitutes a constitutional trespass that the law cannot and must not condone. As observed by the Hon'ble Bombay High Court *Ashak Hussain Allah Detha* (supra) it and the Hon'ble Telangana High Court in *T. Ramadevi* (supra), the period of twenty-four hours is not to be computed from the official time of arrest as shown in the arrest memo but from the time, actual restraint was put upon the individual's volition to move.

It goes without saying that it is neither pragmatic nor feasible to lay any universal exhaustive yardstick or inexorable set of guidelines for adjudication of this aspect as every case has its own unique factual conspectus, which has to be taken into account by the Court which is *seisin* of the mater in question. It was said by Lord Denning, an observation which met with approval by the Hon'ble Supreme Court, that:

“.....Each case depends on its own facts, and a close similarity between one case and another is not enough, because even a single significant detail may alter the entire aspect. In deciding such case, one should avoid the temptation to decide case (As said by Cardozo) by matching the colour

of one case against the colour of another. To decide, therefore, on which side of the line a case falls, its broad resemblance to another case is not all decisive.”

It must be underscored that the mandate enshrined under Section 57 Cr.P.C./ Section 58 BNSS/ Article 22(2) is not a surplusage of legal prose; rather a peremptory command, and the violation thereof cannot be cured by the subsequent passing of remand order. As observed by the Hon’ble Supreme Court in ***Subhash Sharma*** (supra), in such like cases, the arrest itself stands vitiated and the individual concerned, deserves to be enlarged on bail.

11.4. This court must hasten to add a word of caution herein.

The duty of the magistrate or court, before whom an arrestee is produced is not a mere ministerial act of recording presence, but a solemn, judicial interrogation of the arresting authority’s narrative. The magistrate /court concerned must act as the *sentinel on the qui vive*; recognizing that the production of the accused is a jurisdictional gateway designed to bring the coercive power of arresting authority under direct judicial scrutiny. It is incumbent upon the concerned Court/Magistrate to proactively pierce the *veil of documentation* and look past the self-serving entries contained in the police record to identify the actual *terminus a quo* of the detention, which requires pragmatic and rigorous examination of the factual substratum of the arrest, stripping away any administrative curtain that the investigating agency may have drawn to mask a prior *de facto* apprehension. The magistrate/Court concerned is duty bound to inquire into the *where, when and how* of the capture to ensure that twilight zone of illegal detention is not regularized through sanitized police record/arrest memo.

12. As a sequitur to the above rumination, the following postulates emerge:

(i) The twenty-four-hour period under Section 57 Cr.P.C./Section 58 BNSS begins from exact moment of physical arrest. The *clock of liberty* begins the moment an individual's volition is subsumed by the arresting authority's coercive power and he/she is no longer free to depart, regardless of when a formal declaration is made.

(ii) There is no straight-jacket formula for determining the moment of arrest as it is a question of fact that depends upon the facts/ circumstances of a particular case, including but not limited to, whether the individual concerned was kept in the police station/ office of the investigating agency overnight, whether such individual had freedom to get his own food etc., whether the individual was freely permitted to meet his friend(s)/ relative(s), whether the petitioner could leave the police station/ office of the investigating agency on his own discretion etc. No universal guidelines or parameters can possibly be enumerated for this exercise of power by the Magistrate/ concerned Court as every case has its own unique factual conspectus.

(iii) Entry(s) contained in police records or arrest memos are merely declaratory and do not constitute infallible or conclusive proof of the time of arrest.

(iv) The magistrate /Court before which the arrestee/ detained person is produced bears a non-delegable solemn duty to act proactively piercing the documentary veil of the timeline provided by the arresting authority.

Analysis (re: facts of the present case)

13. The facts of the *petition in hand* reflect that, upon conclusion of search at around 10:45 P.M., on 31.10.2025 a notice under Section 67 of the NDPS Act was served upon the petitioner, wherein, he was asked to appear before the NCB, Chandigarh office at 11:00 A.M. on 01.11.2025. It is highly unbelievable that petitioner, instead of making his own arrangements and to

make an attempt to come to the NCB office on 01.11.2025 along with his friend(s)/ relative(s)/ lawyer, chose to accompany the NCB team in the intervening night of 31.10.2025 and 01.11.2025. Further, it is not in dispute that the petitioner remained in NCB office from 03:00 A.M./ 04:00 A.M. in the early morning hours of 01.11.2025, after reaching Chandigarh NCB office and continued to remain therein till 09:00 P.M. on 01.11.2025 when his formal arrest was recorded.

Perusal of *remand application dated 02.11.2025*, *remand application dated 07.11.2025*, *remand application dated 11.11.2025* and *remand application dated 13.11.2025* moved by NCB (for police remand/ judicial remand) indubitably reflects that it was the specific stand of the NCB before the concerned Court that it had *apprehended* the petitioner from Dehradun (Uttarakhand) on 31.10.2025.

From the totality of factual *milieu* of the case in hand; especially the prosecution narrative of the petitioner having accompanied the NCB team from Dehradun to Chandigarh in an NCB vehicle; the petitioner remaining continuously with NCB officials from about 10:45 P.M. on 31.10.2025 till preparation of arrest memo at 09:00 P.M. on 01.11.2025; the petitioner, even if having access to his mobile phone as stated by the NCB, but not calling any of the friend(s)/ relative(s)/ lawyer to the NCB office; does, indubitably, reflect that the petitioner was actually in coercive custody of NCB right from about 10:45 P.M. on 31.10.2025. It is, thus, clear that preparation of arrest memo of the petitioner at about 09:00 P.M. on 01.11.2025 is merely a paper transaction. Since this Court has found that the petitioner was in coercive NCB detention since at about 11:00 P.M. on

31.10.2025 till about 02:00 P.M. on 02.12.2025 (when he was produced before the concerned Court), arrest/ detention of the petitioner is clearly beyond the prescribed period in Section 58 of BNSS, 2023 which renders his arrest/ custody illegal.

Decision

14. In view of the convenient ratiocination, it is ordained thus:
- (i) The *petition in hand* is granted and it is held that the petitioner was arrested/ detained by NCB beyond the prescribed period of 24 hours, as contained in Section 58 of the BNSS, without requisite judicial order(s);
 - (ii) Consequently, it is mandated that the petitioner be released from jail, if not required in any other case, upon furnishing requisite bonds to the satisfaction of the concerned Trial Court/ Chief Judicial Magistrate/ Duty Magistrate;
 - (iii) Any observations made and/ or submissions noted hereinabove shall not have any effect on the merits of the case and the Trial Court shall proceed further, in accordance with law, without being influenced with them;
 - (iv) Pending application(s), if any, shall also stand disposed of.

(SUMEET GOEL)
JUDGE

April 16, 2026
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No