

**HIGH COURT OF TRIPURA
AGARTALA**

B.A. No.24 of 2025

Sri Dipankar Debnath
S/O Dinesh Debnath
R/O- Dhanpur, P.S.-Sonamura,
Dist.-Sepahijala, Tripura

---- Applicant

On behalf of
Sri Supankar Debnath alias Subhankar
S/O- Sri Dinesh Debnath
R/O- Dhanpur, P.S.- Sonamura,
Dist.- Sepahijala, Tripura

---- Accused Person

Versus

The State of Tripura

----Respondent(s)

For Applicant(s)	:	Mr. Pijush Kanti Biswas, Sr. Adv, Mr. Pujan Biswas, Adv.
For Respondent(s)	:	Mr. Raju Datta, P.P., Mr. Rajib Saha, Addl. P.P.

HON'BLE MR. JUSTICE BISWAJIT PALIT

Order

17/04/2025

This bail application under Section 483 of BNSS, 2023 is filed for granting bail to the accused person in custody namely Sri Supankar Debnath alias Subhankar who is lodging in jail in connection with Ambassa P.S. case No.36 of 2024 corresponding to Spl(NDPS) case No.5 of 2025 for the offence punishable under Section 22(c)/21(c)/25/29 of NDPS Act read with Section 324(1)/281 of BNS, 2023 and 184 of MV Act. The accused was arrested on 10.08.2024 and since then he is lodging in jail.

Heard Learned Senior Counsel, Mr. Pijush Kanti Biswas assisted by Learned Counsel, Mr. Pujan Biswas appearing on behalf of the accused person in custody and also heard Learned P.P., Mr. Raju Datta along with Learned Addl. P.P., Mr. Rajib Saha appearing on behalf of the respondent-State.

Taking part in the hearing, Learned Senior Counsel first of all drawn the attention of the Court referring the order dated 21.03.2025 delivered by Learned Special Judge(NDPS), Dhalai, Ambassa and submitted that initially the accused was recommended to be shifted outside State by the State Referral Board in connection with this case No.Spl(NDPS)/5/2025 and thereafter he also referred another order passed by the said Special Judge dated 07.03.2025 and order dated 02.12.2024 delivered by this Court in connection with BA No.80 of 2024 and submitted that the physical condition of the accused person in custody is very serious and in spite of order of the Court, the State authority is not sending him outside the State for his better treatment. So, for the purpose of his immediate treatment, the accused may be released on bail in any condition considering the period of his detention in custody.

Learned Senior Counsel thereafter as a second phase of his argument drawn the attention of the Court referring Annexure-9 (arrest memo) of the petition and stated that the grounds of arrest was not communicated to the accused person in custody which violates Article 22(1) of the Constitution of India as well as Section 50 of Cr.P.C. In support of his contention, Learned Senior Counsel referred several judgments and submitted that in view of the principles of law laid down by the Hon'ble Apex Court, this present accused deserves to be released on bail henceforth in any condition.

Regarding medical treatment of the accused person in custody, Learned Senior Counsel referred one judgment of Karnataka High Court reported in **2003 CRI. L. J. 999 [Syed Abdul Ala v. Narcotic Control Bureau dated 17.12.2002]**

wherein in para Nos.12 and 13, Hon'ble Karnataka High Court observed as under:

"12. In the present case, the medical reports are produced. The petitioner is suffering from serious heart ailment and there is 90% blockage of his arteries, immediate By-Pass Surgery is advised. Even after By-Pass Surgery, the post-operative care and treatment is necessary. A patient undergoing By-pass Surgery cannot have brisk and risky movements. In that view, I find that the petitioner at the time of operation and after the operation for substantial time has to remain docile. It may not be probable that the petitioner would make any drastic physical efforts to abscond hazarding his life. Accordingly, I pass the following order.

13. The petition is allowed.

The petitioner is granted limited bail for a period of 3 months from today, on executing a bond for Rs. 1,00,000/- with a like surety before the trial Court.

The petitioner is entitled to get himself operated and treated at the hospital of his choice and he should inform the trial Court about the place of treatment before he is released on bail.

The Audugodi police, shall keep police surveillance on the petitioner at the place where he is taking treatment.

The petitioner is directed not to tamper with the prosecution witnesses. After limited period of 3 months, the accused shall surrender before the trial Court.

Sri Hasmath Pasha, learned counsel submits that necessary applications would be made before the trial Court to proceed with the trial even in the absence of the petitioner without disputing the say of witnesses regarding the personal identity of the petitioner during the course of trial.

The trial Court shall expedite the disposal of the case within three months from the date of this order, on day to day basis.

Request for hand delivery of the operative portion of the order is granted.

The Registry is directed to send a copy of this order to Adugodi Police for compliance.

Petition allowed."

Referring the same, Learned Senior Counsel submitted that since the accused is suffering from severe illness and inspite of order of the Court, no effective step was taken by the State authority for shifting him outside the State for his better treatment as referred by the State Referral Board which shows

clear violation of the order of the Court and as such, Learned Senior Counsel urged for releasing the accused person on bail for the purpose of his treatment in any condition.

Thereafter, Learned Senior Counsel referred one citation of Hon'ble Supreme Court of India reported in **(2024) 7 SCC 576 [Pankaj Bansal v. Union of India and others dated 03.10.2023]** wherein para Nos.16, 17, 18, 37, 38, 39, 42 and 45, Hon'ble the Apex Court observed as under:

"16. Though much was stated and argued by both sides on the merits of the matter in terms of the involvement of the appellants in the alleged offence of money laundering, we make it clear that we are not concerned with that issue at this point. The only issue for consideration presently is whether the arrest of the appellants under Section 19 PMLA was valid and lawful and whether the impugned orders of remand passed by the learned Vacation Judge/Additional Sessions Judge, Panchkula, measure up. In that context, we may also make it clear that the mere passing of an order of remand would not be sufficient in itself to validate the appellants' arrests, if such arrests are not in conformity with the requirements of Section 19 PMLA. Though judgments were cited by the ED which held to the effect that legality of the arrest would be rendered immaterial once the competent court passes a remand order, those cases primarily dealt with the issue of a writ of habeas corpus being sought after an order of remand was passed by the jurisdictional court and that ratio has no role to play here. The understanding of ED and its misplaced reliance upon that case law begs the question as to whether there was proper compliance with Section 19(1) PMLA and as to whether the learned Vacation Judge/Additional Sessions Judge, Panchkula, correctly considered that issue while passing the remand orders. Therefore, as the very validity of the remand orders is under challenge on that ground, the issue as to whether the arrest of the appellants was lawful in its inception may also be open for consideration.

17. At this stage, it would be apposite to consider the case law that does have relevance to these appeals and the issues under consideration. In *Vijay Madanlal Choudhary*:(2023) 12 SCC 1, a 3-Judge Bench of this Court observed that Section 65 PMLA predicates that the provisions of the Code of Criminal Procedure, 1973, shall apply insofar as they are not inconsistent with the provisions of PMLA in respect of arrest, search and seizure, attachment, confiscation, investigation, prosecution and all other proceedings thereunder. It was noted that Section 19 PMLA prescribes the manner in

which the arrest of a person involved in money laundering can be effected. It was observed that such power was vested in high-ranking officials and that apart, Section 19 PMLA provided inbuilt safeguards to be adhered to by the authorized officers, such as, of recording reasons for the belief regarding involvement of the person in the offence of money laundering and, further, such reasons have to be recorded in writing and while effecting arrest, the grounds of arrest are to be informed to that person. It was noted that the authorized officer has to forward a copy of the order, along with the material in his possession, to the adjudicating authority and this safeguard is to ensure fairness, objectivity and accountability of the authorized officer in forming an opinion, as recorded in writing, regarding the necessity to arrest the person involved in the offence of money laundering. The Bench also noted that it is the obligation of the authorized officer to produce the person so arrested before the Special Court or Judicial Magistrate or a Metropolitan Magistrate, as the case may be, within 24 hours and such production is to comply with the requirement of Section 167 Cr.P.C. It was pointed out that there is nothing in Section 19 PMLA which is contrary to the requirement of production under Section 167 Cr.P.C and being an express statutory requirement under Section 19(3) PMLA, it has to be complied by the authorized officer. It was concluded that the safeguards provided in 2002 Act and the preconditions to be fulfilled by the authorized officer before effecting arrest, as contained in Section 19 PMLA, are equally stringent and of higher standard when compared to the Customs Act, 1962, and such safeguards ensure that the authorized officers do not act arbitrarily, by making them accountable for their judgment about the necessity to arrest any person involved in the commission of the offence of money laundering, even before filing of the complaint before the Special Court. It was on this basis that the Bench upheld the validity of Section 19 PMLA.

18. The Bench in Vijay Madanlal Choudhary(supra) further held that once the person is informed of the grounds of arrest, that would be sufficient compliance with the mandate of Article 22(1) of the Constitution and it is not necessary that a copy of the ECIR be supplied in every case to the person concerned, as such a condition is not mandatory and it is enough if the ED discloses the grounds of arrest to the person concerned at the time of arrest. It was pointed out that when the arrested person is produced before the Court, it would be open to the Court to look into the relevant records presented by the authorized representative of the ED for answering the issue of need for continued detention in connection with the offence of money laundering. It was, in fact, such stringent safeguards provided under Section 19 PMLA that prompted this Court to uphold the twin conditions contained in

Section 45 thereof, making it difficult to secure bail.

37. No doubt, in *Vijay Madanlal Choudhary* (supra), this Court held that non-supply of the ECIR in a given case cannot be found fault with, as the ECIR may contain details of the material in the ED's possession and revealing the same may have a deleterious impact on the final outcome of the investigation or inquiry. Having held so, this Court affirmed that so long as the person is "informed" of the grounds of his/her arrest, that would be sufficient compliance with the mandate of Article 22(1) of the Constitution.

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 authorized 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.

39. We may also note that the language of Section 19 PMLA puts it beyond doubt that the authorized officer has to record in writing the reasons for forming the belief that the person proposed to be arrested is guilty of an offence punishable under the 2002 Act. Section 19(2) requires the authorized officer to forward a copy of the arrest order along with the material in his possession, referred to in Section 19(1), to the adjudicating authority in a sealed envelope. Though it is not necessary for the arrested person to be supplied with all the material that is forwarded to the adjudicating authority

under Section 19(2), he/she has a constitutional and statutory right to be "informed" of the grounds of arrest, which are compulsorily recorded in writing by the authorized officer in keeping with the mandate of Section 19(1) PMLA. As already noted hereinbefore, it seems that the mode of informing this to the persons arrested is left to the option of the ED's authorized officers in different parts of the country, i.e., to either furnish such grounds of arrest in writing or to allow such grounds to be read by the arrested person or be read over and explained to such person.

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 authorized 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* (supra). 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 authorized 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 authorized officer.

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* (supra) and the Bombay High Court in *Chhagan Chandrakant Bhujbal* (supra), which hold to the contrary, do not lay down the correct law. In the case on hand, the admitted position is that the 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 the 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 the ED and, thereafter, to judicial custody, cannot be sustained."

He also referred another citation of the Hon'ble Supreme Court of India reported in **AIR 2024 SC 2967 [Prabir Purkayastha v. State (NCT of Delhi) dated 15.05.2024]** wherein in para Nos.3, 4, 8, 20, 21, 25, 30, 31 and 34, Hon'ble the Apex Court observed as under:

"Brief facts:-

3. The officers of the PS Special Cell, Lodhi Colony, New Delhi carried out extensive raids at the residential and official premises of the appellant and the company, namely, M/s. PPK Newsclick Studio Pvt. Ltd. ("said company") of which the appellant is the Director in connection with FIR No.224 of 2023 dated 17-8-2023 registered at PS Special Cell, Lodhi Colony, New Delhi for the offences punishable under Sections 13, 16, 17, 18, 22C of the Unlawful Activities (Prevention) Act, 1967 (for short "UAPA") read with Sections 153A, 120B of the Indian Penal Code, 1860 (hereinafter being referred to as the 'IPC'). During the course of the search and seizure proceedings, numerous documents and digital devices belonging to the appellant, the company and other employees of the company were seized. The appellant was arrested in connection with the said FIR on 3-10-2023 vide arrest memo (Annexure P-7) prepared at PS Special Cell, Lodhi Colony, New Delhi.

4. It is relevant to mention here that the said arrest memo is in a computerised format and does not contain any column regarding the 'grounds of arrest' of the appellant. This very issue is primarily the bone of contention between the parties to the appeal.

Submissions on behalf of the appellant:-

8. Shri Kapil Sibal, learned Senior Counsel representing the appellant canvassed the following submissions in order to question the proceedings of arrest and remand of the appellant:

(i) That FIR No.224 of 2023 (FIR in connection of which the appellant was arrested) is virtually nothing but a second FIR on same facts because prior thereto, another FIR No.116 of 2020 dated 26-8-2020 had been registered by PS EOW, Delhi Police

("EOW FIR") alleging violation of foreign direct investment (FDI) regulations and other laws of the country by the appellant and the company, thereby causing loss to the exchequer. A copy of the said FIR was, however, not provided to the appellant. By treating the EOW FIR as disclosing predicate offences, the Directorate of Enforcement (for short "ED") registered an Enforcement Case Information Report (for short "ECIR") for the offences punishable under Sections 3 and 4 of the Prevention of Money-Laundering Act, 2002 (for short "PMLA"). The ED carried out extensive search and seizure operations at various places including the office of the company PPK Newsclick Studio Pvt. Ltd., of which the appellant is the Director.

(ii) The company assailed the ECIR by filing Writ Petitions(Crl.) Nos.1129 and 1130 of 2021 wherein interim protection against coercive steps was granted by the High Court of Delhi on 21-6-2021. The appellant was also provided interim protection in an application seeking anticipatory bail vide order dated 7-7-2021.

(iii) The FIR No.224 of 2023 has been registered purely on conjectures and surmises without there being any substance in the allegations set out in the report. The contents of the FIR which were provided to the appellant at a much later stage discloses a purely fictional story without any fundamental facts or material warranting registration of the FIR.

(iv) Admittedly, the copy of FIR No. 224 of 2023 was neither made available in the public domain nor a copy thereof supplied to the appellant until his arrest and remand which is in complete violation of the fundamental right to life and personal liberty enshrined in Articles 20, 21 and 22 of the Constitution of India.

(v) Shri Sibal pointed out that the learned Remand Judge, vide order dated 5-10-2023, allowed the application filed by the appellant seeking certified copy of the said FIR which was provided to the learned counsel for the appellant in the late evening on 5-10-2023 i.e. well after the appellant had been remanded to police custody.

(vi) That the grounds of arrest were not informed to the appellant either orally or in writing and that such action is in gross violation of the constitutional mandate under Article 22(1) of the Constitution of India and Section 50 of the Code of Criminal Procedure, 1973 (hereinafter being referred to as "CrPC").

(vii) Reliance was placed by the learned Senior Counsel on the judgment of this Court in *Pankaj Bansal v. Union of India* and other:2023 SCC OnLine SC 1244, and it was contended that the mere passing of successive remand orders would not be sufficient to validate the initial arrest, if such arrest was not in conformity with law. The learned Senior Counsel urged that this Court in the case of *Pankaj Bansal*(supra) interpreted the provision of Section 19(1) PMLA which is *pari materia* to the provisions contained in Section 43B(1) of the UAPA. Thus, the said judgment fully applies to the case of the appellant.

(viii) Shri Sibal referred to the observations made in the judgment of *Pankaj Bansal* (supra) and urged that since the grounds of arrest were not furnished to the appellant at the time of his arrest and before remanding him to police custody, the continued custody of the appellant is rendered grossly illegal and a nullity in the eye of the law because the same is hit by the mandate of Article 22(1) of the Constitution of India.

(ix) Shri Sibal further urged that the view taken by a two-Judge Bench of this Court in *Ram Kishor Arora v. Directorate of Enforcement*:2023 SCC OnLine SC 1682 holding the judgment in *Pankaj Bansal* (supra) to be prospective in operation would also not come in the way of the appellant in seeking the relief. He pointed out that the judgment in *Pankaj Bansal* (supra) was pronounced on 3-10-2023 whereas the illegal remand order of the appellant was passed on 4-10-2023 and hence, the law laid down in *Pankaj* (supra) is fully applicable to the case of the appellant despite the interpretation given in *Ram Kishor Arora* (supra).

(x) That the arrest of the appellant is in gross violation of the provisions contained in Article 22 of the Constitution of India, hence, the appellant is entitled to seek a direction for quashment of the remand order and release from custody forthwith.

(xi) That the action of the investigating officer in arresting and in seeking remand of the appellant is not only *mala fide* but also fraught with fraud of the highest order.

(xii) Referring to the remand order dated 4-10-2023, it was contended that the appellant was kept confined overnight by the investigating officer without conveying the grounds of arrest to him. He was presented in the court of the learned Remand Judge on 4-10-2023 in the early morning

without informing Shri Arshdeep Khurana, Advocate engaged on behalf of the appellant who was admittedly in contact with the investigating officer because he had attended the proceedings at Police Station Lodhi Colony, post the appellant's arrest. In order to clandestinely procure police custody remand of the appellant, the investigating officer, presented the appellant at the residence of the learned Remand Judge before 6.00 a.m. by informing a remand Advocate Shri Umakant Kataria who had never been engaged by the appellant to plead his cause.

(xiii) Learned Remand Judge remanded the accused to police custody at 6.00 a.m. sharp as is evident from the remand order (supra). Shri Arshdeep Khurana, the appellant's advocate was informed about the order granting remand by a WhatsApp message at 7.07 a.m. but the same was an exercise in futility because there was no possibility that the learned advocate could have reached the residence of the learned Remand Judge in time to oppose the prayer for remand.

(xiv) That, as a matter of fact, the remand application had already been accepted at 6.00 a.m. which fact is manifested from the time appended at the end of the remand order (supra). The learned Remand Judge signed the proceedings by recording the time as 6.00 a.m. Hence, there is no escape from the conclusion that the remand order was passed without supplying copy of the grounds of arrest to the appellant or the advocate engaged by him. The appellant was intentionally deprived from information about the grounds of his arrest and thereby he and his advocate were prevented from opposing the prayer of police custody remand and from seeking bail.

(xv) He further urged that the stand taken by the respondent that the grounds of arrest were conveyed to the learned counsel for the appellant well before the learned Remand Judge passed the remand order is unacceptable on the face of the record because the time of passing the remand order is clearly recorded in the order dated 4-10-2023 as 6.00 a.m. Admittedly, the grounds of arrest were conveyed to Shri Arshdeep Khurana, Advocate for the appellant well after 7.00 a.m. It was contended that the noting made by the learned Remand Judge in the order dated 4-10-2023 that the learned counsel for the appellant was heard on the application for remand is a subsequent insertion clearly visible from the remand order. The fact of subsequent insertion of

these lines is fortified from the fact that the appellant had already been remanded to police custody by the time the advocate was informed and the copy of the remand application containing the purported grounds of arrest was transmitted to him.

(xvi) That the foundational facts in FIR No.224 of 2023 are almost identical to the allegations set out in the EOW FIR. The appellant had been granted protection against arrest by the High Court of Delhi in the EOW FIR. Owing to this protection, the mala fide objective of the authorities in putting the appellant behind bars was not being served and, therefore, a new FIR No.224 of 2023 with totally cooked-up allegations came to be registered and the appellant was illegally deprived of his liberty without the copy of the FIR been provided and without the grounds of arrest being conveyed to the appellant.

20. 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.

21. The right to life and personal liberty is the most sacrosanct fundamental right guaranteed under Articles 20, 21 and 22 of the Constitution of India. Any attempt to encroach upon this fundamental right has been frowned upon by this Court in a catena of decisions. In this regard, we may refer to the following observations made by this Court in Roy V.D. v. State of Kerala :(2000) 8 SCC 590 (SCC p. 593, para 7)

“7. The life and liberty of an individual is so sacrosanct that it cannot be allowed to be interfered with except under the authority of law. It is a principle which has been recognised and applied in all civilised countries. In our Constitution Article 21 guarantees protection of life and personal liberty not only to citizens of India but also to aliens.”

Thus, any attempt to violate such fundamental right, guaranteed by Articles 20, 21 and 22 of the Constitution of India, would have to be dealt with strictly.

25. A Constitution Bench of this Court examined in detail the scheme of Article 22(5) of the Constitution of India in *Harikisan v. State of Maharashtra and others*:1962 SCC OnLine SC 117 and held that the communication of the grounds of detention to the detenu in writing and in a language which he understands is imperative and essential to provide an opportunity to detenu of making an effective representation against the detention and in case, such communication is not made, the order of detention would stand vitiated as the guarantee under Article 22(5) of the Constitution was violated. The relevant para is extracted hereinbelow : (SCC OnLine SC para 7)

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

(emphasis supplied)

30. 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.

31. Furthermore, the provisions of Article 22(1) have already been interpreted by this Court in Pankaj (supra) laying down beyond the pale of doubt that the grounds of arrest must be communicated in writing to the person arrested of an offence at the earliest. Hence, the fervent plea of the learned ASG that there was no requirement under law to communicate the grounds of arrest in writing to the appellant-accused is noted to be rejected.

34. The accused was arrested on 3-10-2023 at 5.45 p.m. as per the arrest memo (Annexure P-7). As per Section 43C of the UAPA, the provisions of CrPC shall apply to all arrests, search and seizures made under the UAPA insofar as they are not inconsistent with the provisions of this Act. As per Section 57CrPC read with Section 167(1) CrPC, the appellant was required to be produced before the concerned Magistrate within twenty-four hours of his arrest. The investigating officer, therefore, had a clear window till 5.44 p.m. on 4-10-2023 for producing the appellant before the Magistrate concerned and to seek his police custody remand, if so required. There is no dispute that Shri Arshdeep Khurana, learned advocate, engaged on behalf of the appellant had presented himself at the police station on 3-10-2023 after the appellant was arrested and the mobile number of the advocate was available with the investigating officer. In spite thereof, the appellant was presented before the learned Remand Judge at his residence sometime before 6.00 a.m. on 4-10-2023. A remand Advocate, namely, Shri Umakant Kataria was kept present in the Court purportedly to provide legal assistance to the appellant as required under Article 22(1) of the Constitution of India. Apparently, this entire exercise was done in a clandestine manner and was nothing but a blatant attempt to circumvent the due process of law; to confine the accused to police custody without informing him the grounds on which he has been arrested; deprive the accused of the opportunity to avail the services of the legal practitioner of his choice so as to oppose the prayer for police custody remand, seek bail and also to mislead the court. The accused having engaged an advocate to defend himself, there was no rhyme or reason as to why, information about the proposed remand application was not sent in advance to the advocate engaged by the appellant."

Referring the said citations, Learned Senior Counsel drawn the attention of the Court that since in the instant case, grounds of arrest were not communicated to the accused person in custody and the concerned relevant arrest memo does not contain such information, so, in view of the principle of law laid down by the Hon'ble Apex Court, the accused person deserves to be released on bail henceforth.

He also referred another citation of the Hon'ble Supreme Court of India in **Crl. A. No.1518 of 2025 [Ashish Kakkar v. UT of Chandigarh] dated 25.03.2025** wherein in the middle portion of the said judgment, Hon'ble Apex Court observed as under:

"This, being a clear non-compliance of the mandate under Section 50 of the Code which has been introduced to give effect to Article 22(1) of the Constitution of India, 1950 we are inclined to set aside the impugned judgment, particularly, in light of the judgment rendered by this Court reported as Prabir Purkayastha v. State (NCT of Delhi) : (2024) 8 SCC 254.

In such view of the matter, the impugned judgment stands set aside and the arrest of the appellant followed by the consequential remand order are also set aside.

The appellant shall be set at liberty, until and unless he is required in any other case. The appeal stands allowed accordingly."

He further referred another citation of the Hon'ble Supreme Court of India reported in **2025 SCC OnLine SC 269 [Vihaan Kumar v. State of Haryana & Anr. dated 07.02.2025]** wherein in para No.33, Hon'ble the Apex Court observed as under:

"33. Hence, the appeal is allowed, and we pass the following order:

a) The arrest of the appellant shown on 10th June 2024 in connection with FIR no. 121 of 2023 dated 25th March 2023 registered at Police Station DLF, Sector-29, Gurugram stands vitiated;

b) Therefore, the appellant shall be forthwith released and set at liberty;

c) We clarify that the finding of this Court that the arrest of the appellant stands

vitiated will not affect the merits of the chargesheet and the pending case;

d) We direct the appellant to regularly and punctually attend the trial court unless his presence is exempted, and cooperate with the trial court for early disposal of the trial. We direct the appellant to furnish a bond in accordance with Section 91 of the BNSS to the satisfaction of the Trial Court within a period of two weeks from his release;

e) The State of Haryana shall issue guidelines/departmental instructions to the police (i) to ensure that the act of handcuffing an accused while he is on a hospital bed and tying him to the hospital bed is not committed again. (ii) to ensure that the constitutional safeguards under Article 22 are strictly followed. If necessary, the State Government shall amend the existing Rules/guidelines; and

f) A copy of the judgment shall be forwarded to the Home Secretary of the State of Haryana.

JUDGMENT

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

2. The issue on the requirement of communication of grounds of arrest to the person arrested, as mandated under Article 22(1) of the Constitution of India, which has also been incorporated in the Prevention of Money Laundering Act, 2002 under Section 19 thereof has been succinctly reiterated in this judgment. The constitutional mandate of informing the grounds of arrest to the person arrested in writing has been explained in the case of Pankaj Bansal (supra) so as to be meaningful to serve the intended purpose which has been reiterated in Prabir Purkayastha (supra). The said constitutional mandate has been incorporated in the statute under Section 50 of the CrPC (Section 47 of BNSS). It may also be noted that the aforesaid provision of requirement for communicating the grounds of arrest, to be purposeful, is also required to be communicated to the friends, relatives or such other persons of the accused as may be disclosed or nominated by the arrested person for the purpose of giving such information as provided under Section 50A of the CrPC. As may be noted, this is in the addition of the requirement as provided under Section 50(1) of the CrPC.

3. The purpose of inserting Section 50A of the CrPC, making it obligatory on the person making arrest to inform about the arrest to the friends, relatives or persons nominated by the arrested person, is to ensure that they would be able to take immediate and prompt actions to secure the release of the arrested

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

Thereafter, Learned Senior Counsel referred another judgment/order dated **02.04.2025** in connection with **Bail Appln. No.3429 of 2024 [Akash Yadav @ Akash Kumar v. The State of Assam]** wherein in para Nos.15 and 16, Hon'ble Gauhati High Court observed as under:

"15. More so, the Hon'ble Supreme Court in the case of Vihaan Kumar (supra) has also held that even after filing of the charge-sheet, the arrest and the detention will be considered as unconstitutional being violative of Articles 21 & 22(1) of the Constitution of India. The Hon'ble Supreme Court in paragraph No.16 of the said judgment has held as under:

"16. An attempt was made by learned senior counsel appearing for 1st respondent to argue that after his arrest, the appellant was repeatedly remanded to custody, and now a chargesheet has been filed. His submission is that now, the custody of the appellant is pursuant to the order taking cognizance passed on the charge sheet. Accepting such arguments, with great respect to the learned senior counsel, will amount to completely nullifying Articles 21 and 22(1) of the Constitution. Once it is held that arrest is unconstitutional due to violation of Article 22(1), the arrest itself is vitiated. Therefore, continued custody of such a person based on orders of remand is also vitiated. Filing

a charge sheet and order of cognizance will not validate an arrest which is per se unconstitutional, being violative of Articles 21 and 22(1) of the Constitution of India. We cannot tinker with the most important safeguards provided under Article 22."

16. In view of the entire discussions made above, it is the opinion of this Court that the period of incarceration undergone by the accused/petitioner may not be a good ground for considering his bail application at this stage as the charge already been framed and the trial is about to commence. However, considering the fact that the grounds of arrest were not communicated to the petitioner or mentioned in the Notice issued to the present accused/petitioner under Section 50 of Cr.P.C., this Court find it a fit case to extend the privilege of bail to the accused/petitioner."

Again, he referred another judgment of the Hon'ble High Court of Bombay in **WP(ST) No.13835 of 2024 with Interim Application (ST) No.14637 of 2024 dated 18.07.2024** wherein in para No.25, Bombay High Court observed as under:

"25. For the reasons recorded above, since the arrest of the Petitioner is not compliant with clause (1) of Article 22 of the Constitution of India and Section 50 of the Criminal Procedure Code, 1973 and the position of law, as laid down by the Hon'ble Apex Court, to the above effect and it being binding on all the Court, it is declared that the arrest of the Petitioner in connection with F.I.R. No.68 of 2020 registered with Malad Police Station is illegal and in gross violation of his fundamental right.

Resultantly, the remand order dated 23/02/2024 and the subsequent orders passed by the Special Judge, MPID Court, Gr. Bombay, also cannot be sustained and are liable to be set aside and, accordingly, they are set aside.

Upon setting aside the aforesaid orders, the Petitioner is entitled for his release and, since, the charge-sheet has been filed against him, we direct his release from custody on furnishing bail and bonds to the satisfaction of the trial Judge.

Rule is made absolute in the aforesaid terms."

Lastly, he referred another citation of Hon'ble Punjab and Haryana High Court in **CRWP No.2396 of 2025 (O & M) dated 11.03.2025** wherein in para No.14 observed as under:

"14. Recently, a two Judge bench of the Hon'ble Supreme Court in Vihaan Kumar vs. State of Haryana and another, 2025 SCC

OnLine SC 269, delved into the purpose and object of Article 22 of the Constitution of India and speaking through Justice Abhay S. Oka, opined as follows:

"11. The view taken in the case of Pankaj Bansal was reiterated by this Court in the case of Prabir Purkayastha. In paragraphs nos. 28 and 29, this Court held thus:

"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."

(emphasis added)

12. 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 the case of 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 paragraph 21, in the case of Prabir Purkayastha, 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. Paragraph 21 reads thus:

"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 added)

xxx xxx xxx

14. ...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.

15. We have already referred to what is held in paragraphs 42 and 43 of the decision in the case of Pankaj Bansal. 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 paragraphs 42 and 43 of the decision in the case of Pankaj Bansal 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 noncompliance 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.

16. An attempt was made by learned senior counsel appearing for 1st respondent to argue that after his arrest, the appellant was repeatedly remanded to custody, and now a chargesheet has been filed. His submission is that now, the custody of the appellant is pursuant to the order

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

(emphasis added)

A perusal of Vihaan Kumar's case (supra) would indicate that the grounds of arrest must now be communicated in writing to the arrestee. As such, the failure to adequately inform the arrestee of the grounds of his arrest equates to deprivation of his personal liberty in contravention of the procedure established by law, which is in direct violation of Article 22 as well as Article 21 of the Constitution of India. Consequently, any action taken post an unlawful arrest is automatically rendered void ab initio, be it obtaining a remand order from the jurisdictional Magistrate."

Referring the aforesaid citations, Learned Senior Counsel finally argued that since the grounds of arrest were not communicated to the accused person in custody which violates Article 22(1) of the Constitution of India. So, this present accused person needs to be released henceforth on bail.

On the other hand, Learned P.P. appearing on behalf of the State-respondent strenuously opposed the submission made by Learned Senior Counsel and submitted that as per order of the Court once he was shifted to Apollo Hospital, Chennai for his treatment and thereafter, further order was made for his re-checkup but that could not be done. However, he fairly submitted before the Court to pass an order so that immediate steps may be taken by the State authority for shifting him outside the State as per advice of the standing Medical Board.

Now, in respect of grounds of arrest, Learned P.P. referred the contents of Case Diary and submitted that on perusal of the Case Diary, it would be clear that the grounds of arrest were duly communicated to the accused person in custody and prior to that, other requirements of law as per the relevant provisions of NDPS Act were duly complied with and before arrest of the accused, the contraband items were recovered from his possession. So, the citations as referred by Learned Senior Counsel cannot be applied in this case.

In support of his contention, Learned P.P. referred one citation reported in **(2024) 7 SCC 599 [Ram Kishor Arora v. Directorate of Enforcement dated 15.12.2023]** wherein in para No.22, Hon'ble the Apex Court observed as under:

"22. In **Vijay Madanlal Choudhary [Vijay Madanlal Choudhary v. Union of India, (2023) 12 SCC 1 : 2022 SCC OnLine SC 929]**, it has been categorically held that so long as the person has been informed about the grounds of his arrest, that is sufficient compliance with mandate of Article 22(1) of the Constitution. It is also observed that the arrested person before being produced before the Special Court within twenty-four hours or for that purposes of remand on each occasion, the Court is free to look into the relevant records made available by the authority about the involvement of the arrested person in the offence of money-laundering. Therefore, in our opinion the person arrested, if he is informed or made aware orally about the grounds of arrest at the time of his arrest and is furnished a written communication about the grounds of arrest as soon as may be i.e. as early as possible and within reasonably convenient and requisite time of twenty-four hours of his arrest, that would be sufficient compliance of not only Section 19 PMLA but also of Article 22(1) of the Constitution of India."

He again referred another citation of the Hon'ble Supreme Court of India reported in **2024 SCC OnLine SC 520 [Najmunisha v. Abdul Hamid Chandmiya alias Ladoo Bapu dated 09.04.2024]** wherein para No.41, Hon'ble the Apex Court observed as under:

"41. In the instant case, we are primarily affected by virtue of the jurisprudence of Section 41(2) of the NDPS Act 1985, which begins from the power of search and seizure conferred by the State upon its executive or administrative arms for the protection of social security in any civilized nation. Such power is inherently limited by the recognition of fundamental rights by the Constitution as well as statutory limitations. At the same time, it is not legitimate to assume that Article 20(3) of the Constitution of India would be affected by the provisions of search and seizure. It is a settled law that the statutory provisions conferring authorities with the power to search and seize are a mere temporary interference with the right of the accused as they stand well regulated by reasonable restrictions emanating from the statutory provisions itself. Thence, such a power cannot be considered as a violation of any fundamental rights of the person concerned. The same is iterated in *MP Sharma v. Satish Chandra Sharma*, District Magistrate, Delhi, (1954) 1 SCC 385 : 1954 SCR 1077."

Referring the aforesaid citations, Learned P.P. submitted that the said citations of the Hon'ble Apex Court are very much relevant for decision of this case.

He further referred another citation of the Hon'ble Supreme Court of India dated **16.07.2024** in **State of Meghalaya v. Lalrintluanga Sailo & Anr.** reported in **2024 SCC OnLine SC 1751** wherein in para No.10, Hon'ble the Apex Court observed as under:

"10. The subject FIR viz., FIR No. 06(02)23 under Section(s) 21(c)/29 of the NDPS Act, would reveal that the quantity of the contraband involved is 1.040 kgs of heroin. The impugned order granting bail to accused-Smt. X, dated 29.09.2023 would reveal, this time also, the bail was granted on the ground that she is suffering from HIV and conspicuously, without advertent to the mandate under Section 37(1)(b)(ii), NDPS Act, even after taking note of the fact that the rigour of Section 37, NDPS Act, calls for consideration in view of the involvement of commercial quantity of the contraband substance. When the accused is involved in offences under Section 21(c)/29 of NDPS Act, more than one occasion and when the quantity of the contraband substance viz., heroin is 1.040 Kgs, much above the commercial quantity, then the non-consideration of the provisions under Section 37, NDPS Act, has to be taken as a very serious lapse. In cases of like nature, granting bail solely on the ground mentioned,

relying on the decision in *Bhawani Singh v. State of Rajasthan*: 2022 SCC OnLine SC 1991 would not only go against the spirit of the said decision but also would give a wrong message to the society that being a patient of such a disease is a license to indulge in such serious offences with impunity. In the contextual situation it is to be noted that in *Bhawani Singh's* case the offence(s) involved was not one under the NDPS Act. We have no hesitation to say that in the above circumstances it can only be held that the twin conditions under Section 37 of the NDPS Act, are not satisfied and on the sole reason that the accused is a HIV patient, cannot be a reason to enlarge her on bail. Since the impugned order was passed without adhering to the said provision and in view of the rigour thereunder the accused-Smt. X is not entitled to be released on bail, the impugned order invites interference."

Referring the said citation, Learned P.P. further submitted that in view of the provision of Section 37 of NDPS Act, there is no scope to consider the bail application of the accused person in custody.

Thereafter, Learned P.P. referred one order dated **08.04.2025** of Hon'ble Gauhati High Court in connection with case No. **BA No.3015 of 2024 [Zabel Hussain @ Jabel Hussain v. The State of Assam]** wherein in para Nos.6, 7, Gauhati High Court observed as under:

"6. Learned Addl. Public Prosecutor has further submitted that the contemporaneous record in this case is the forwarding report which clearly reflects the grounds of arrest. It is further submitted that on interpreting the decision of the Hon'ble Supreme Court, it appears that the grounds of arrest has to be communicated in a language understood by the accused. It can also be understood from the decision of *Vihaan Kumar* (supra) that the grounds of arrest may not be communicated in writing when there is contemporaneous record of forwarding under the grounds of arrest. Section 50 of CrPC notice submitted by the petitioner clearly reveals that he was aware that he was arrested in a case which falls under the NDPS Act. It is further submitted that over and above communication, the grounds of arrest in the notice under Section 50 of the CrPC was communicated with the full particulars of the offence for which the petitioner was arrested and this has been accepted by the petitioner with his signature.

7. The learned Addl. Public Prosecutor has thus submitted that the petitioner has failed to affirm effectively that the grounds of arrest were not communicated to him in a language understood by him. He has taken a false plea under a false pretext that the grounds of arrest were not communicated to him only to take the benefit of decision in Vihaan Kumar's case (supra) and procure an order of bail. It is further submitted that the petitioner is complicit, and when the contraband was found in his possession, he cannot deny that he was not aware of the grounds of arrest when he was taken into custody."

He further referred another judgment of the Hon'ble High Court of Karnataka in connection with **Crl. P. No.3700 of 2024[Mr. Kalam Narendra @ Pandu v. Union of India]** dated **11.06.2024** wherein in para No.39, the High Court of Karnataka observed as under:

"39. In the present case, it is pertinent to note that the petitioner himself has produced the copy of arrest memo dated 05.01.2024 which reads as under:

ARREST MEMO "Consequent upon the seizure of 0.11 Grams (10 Numbers of Blotter Papers) of LSD and 34.38 Grams of Ganja Gummies (Ganja) on 02.01.2024 at Foreign Post Office, 5th Main, 4th Cross, Chamrajpet, Bangalore-560 018 and on the basis of corroborative evidence and voluntary statement of KALAM NARENDRA ALIS PANDU S/O ANJANEYULU, AGED 28 YEARS dated 05.01.2024 recorded u/s 67 of the NDPS Act, 1985 having reason to believe that Kalam Narendra Alis Pandu S/O Anjaneyulu, Aged 28 Years R/O-308, Royal Heritage Apartments, Old Madras Road, Doorvani Nagar, Bangalore -560 016 (Rented house) And Permanent Address: No-1-26. Denduluru, Mandalam, Dosapadu, West Godavani, Dosapadu, Andhra Pradesh-534 442 has committed an offence punishable u/s 8 (c) r/w 20b (ii)(A), 22 (c), 27 and 28 of the NDPS Act. Accordingly, I place KALAM NARENDRA ALIS PANDU S/O ANJANEYULU AGED 28 YEARS under arrest on 05.01.2024 at 22:30 Hrs. The grounds of the arrest have been explained to the arrestee".

Lastly, Learned P.P. referred another citation of Hon'ble Bombay High Court in **Vicky Bharat Kalyani v. State of Maharashtra & Anr.** reported in **2025 SCC OnLine Bom 193** dated **31.01.2025** wherein in para No.27, Hon'ble Bombay High Court observed as under:

"27. The learned Advocate General referred to the order passed in the case of Danish Rafiq Fansophkar v. State of Maharashtra[decided on 16.10.2024 in Criminal Writ Petition (stamp) No.19471/2024 (Division Bench of this Court)]. In that case, the Petitioner was caught with the contraband. His search had led to seizure of the contraband. The station diary entry mentioned that the Petitioner was informed about the grounds of arrest. It was observed that in a peculiar case like that, where the Petitioner was conscious of the fact as to why his arrest was being effected, since his search led to seizure of contraband from him and even if the formal grounds of arrest were not communicated to him, the Court did not find any flaw in the action on the part of the investigating agency; and hence he was not released."

Referring the said citation, Learned P.P. drawn the attention of the Court that the ground of arrest was duly communicated to the accused.

Considered.

In the case at hand, the prosecution was set into motion on the basis of an FIR laid by one Udayan Das, P/SI of Police, Ambassa PS, to O/C, Ambassa PS alleging inter alia that on 10.08.2024 at about 1630 hours he had received one information from reliable source that one four-wheeler white colour Bolero vehicle displaying Registration No.TR01-F-2938 was proceeding towards Betbagan Naka from North side and it was loaded with brown sugar & Yaba tablets in its secret chamber. The matter was entered in the PS G.D. vide No-23 at 1630 hours and the information was immediately given to the on duty staff of Betbagan Naka. I/C Ambassa PS and SDPO ABS were informed as well. The extract of GD was sent by hand and mobile phone to SDPO Ambassa for seeking permission to search the vehicle. Accordingly, SDPO Ambassa issued written permission to conduct search and seizure as per procedure which was again written in GD vide No.25 dated 10.08.2024. Thereafter, the informant along

with I/C, PS and other staff, kit box, weighing machine left PS to verify the matter. Accordingly, at about 1705 hours the said Bolero reached near Betbagan Naka and the vehicle was stopped but instead of stopping, the driver suddenly started running the vehicle with high speed by passed the Naka to rush towards Agartala side. Thereafter, the informant along with senior officer and on duty staff started chasing the vehicle and it was again signed to stop at Chamalcherra area but again the driver rather tried to whistle pass the police vehicle only to loss control and thus it collided with a Bolero PIKUP van coming from the opposite side and the vehicle stopped. On duty police got down hurriedly from the police vehicle and detained the driver while two other persons managed to escape thorough nearby jungle. On spot interrogation, the driver disclosed his name as Supankar Debnath of Sonamura, Sepahijala and admitted that the vehicle was carrying Brown sugar & Yaba tablets in its secret chamber nearby door specifically created to hide contraband items and to avoid being caught by police. In the mean time, Executive Magistrate appeared and two independent witnesses also arranged on the spot. On their arrival, he prepared pre-search memo in presence of independent witnesses and DCM Ambassa then he caused search in the said vehicle in presence of DCM Ambassa and independent witnesses and recovered total 49 nos. plastic soap case where brown sugar was kept/found and 80,000 methamphetamine tablets of commercial quantity known to be as Yaba tablets from inside the door panel and inside the tail lamp of the vehicle. Thereafter, seized the vehicle displaying registration No.TR-01-F-2938 and brought to the PS along with the damaged Bolero Pickup vehicle and subsequently seized the same in

connection with the case. Then he conducted kit test by the PS investigation NDPS kit box at spot in presence of independent witnesses and found the colour changed as per kit box guideline which indicates the presence/sign of brown sugar. Thereafter, he arrested the accused person and the ground of arrest was also informed to the arrestee and his family member over telephone. After that all the seized items along with the arrested person were brought to Ambassa PS.

This is the sum and substance of the FIR laid by the informant. Accordingly, the case was registered and in course of investigation, the IO produced the accused under arrest before the Court on 11.08.2024 and since then he is lodging in custody.

Admittedly, the seized items were of commercial quantity. I have heard detailed argument of both the sides at length and perused the citations as referred by the Learned Senior Counsel for the accused person in custody and also Learned P.P. representing the State-respondents.

Here, in the case at hand on 10.08.2024 at the time of checking of the vehicle in presence of the accused and other independent witnesses, the contraband items of commercial quantity were seized by the informant and after that, the accused was arrested and he was duly informed the grounds of arrest and also before search, pre-search memo was prepared by IO and copy of seizure list was also supplied to him.

After meticulous examination of the Case Diary and other relevant prosecution papers, this Court is of the considered opinion that grounds of arrest were duly informed to the accused at the time of arrest, as such, the citations as referred by Learned Senior Counsel for the accused person although are relevant but

the said principles cannot be applied in this case. Rather the citations referred by Learned P.P. representing the prosecution appears to be more appropriate for decision of this bail application and accordingly, those are taken note of.

So, considering the nature and gravity of the offence, at this stage, I find no scope to release the accused person on bail and accordingly his bail application stands rejected being devoid of merit. The accused is to remain in Judicial Custody as before.

As submitted by Learned P.P. if the State Medical Board opines for further shifting of the accused person in custody from Agartala to Apollo Hospital, in that case, the State authority shall without any further delay make immediate arrangement for his further medical check-up outside the State since the accused is lodging in custody. I/G, Prison is to take immediate steps accordingly.

Send down the record of the concerned Court below along with a copy of this order.

Also, return back the Case Diary to the IO through Learned P.P. along with a copy of this order.

A copy of this order also be communicated to the Office of IG, Prison through Learned P.P. for information and necessary action.

With this observation, the bail application stands disposed of.

JUDGE