

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

**Cril.Petn. No. 68 of 2025 with
Cril.Petn. No. 69 of 2025 with
Cril.Petn. No. 70 of 2025**

Md. Khurshid

.....*Petitioner/s*

- Versus -

Union of India

.... *Respondent/s*

BEFORE
HON'BLE MR. JUSTICE A. GUNESHWAR SHARMA

Order (Oral)

22.01.2026

[1] Heard Mr. Serto T Kom, learned counsel along with Mr. RP. Daida, learned counsel for the petitioners and Mr. W. Darakishwor, learned Sr. PCCG along with Mr. Jason, learned counsel on behalf of the respondent.

[2] The three criminal petitions i.e. Cril.Petn. Nos. 68 of 2025, 69 of 2025 & 70 of 2025 raise out of the common order dated 14.03.2025 passed by the Ld. Duty Magistrate, Thoubal [Ref: NCB Crime No. 01/NCB/IMP/Meth/2025 dated 13.03.2025] U/S: 8©, 22©, 23, 25, 29 & 35 of the ND & PS Act, 1985 (as amended).

[3] The present petitions have been filed under Section 528 of the BNSS, 2023 challenging the arrest memo dated 13.03.2025 and common remand order dated 14.03.2025. The main ground in these petitions is that the ground of arrest was not furnished on 13.03.2025 along with the arrest memo and the petitioners are not able to defend themselves during the period of remand and the same is in violation of the decision of the Hon'ble Supreme Court in the case of **Prabir Purkayastha vs. State (NCT of Delhi)** reported as **(2024) 8 SCC 254 para 37, 47, 48 & 52** and latest decision of the Hon'ble Supreme Court

in the case of **Mihir Rajesh Shah vs. State of Maharashtra & Anr.** reported as **(2025) SCC OnLine SC 2356 para 52, 56 & 57.**

[4] Learned counsel for the petitioners submits that the grounds of arrest mandated under Article 22(1) of the Constitution of India should be in writing:

- “i. Grounds of arrest mandated by Article 22(1) of the constitution of India should be in writing;*
- ii. Grounds of arrest must be communicated to the person arrested at the earliest;*
- iii. Grounds of arrest must contain all such details in hand of the LO of the case/basic facts, to provide him an opportunity of defending himself against custodial remand and to seek bail.*
- iv. The Non-compliance of the above vitiates the arrest and subsequent remand which entitled bail to the accused.*
- v. Any person arrested for allegation of commission of any offence (s) has a fundamental and 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 any exception at the earliest.*
- vi. The purpose of informing the arrested person the grounds of arrest is salutary and sacrosanct in as much as the information would be the only effective means for the arrested person to consult his advocate for opposing the police custody remand and to seek bail.*
- vii. Mere filing of charge sheet 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.”*

[5] Mr. Serto T Kom, learned counsel for the petitioners, submits that in the order dated 14.03.2025, the accused persons/petitioners herein above have been orally explained by the Ld. Duty Magistrate. However, no written ground of arrest has been furnished by the arresting authority.

[6] The order dated 14.03.2025 is reproduced as:

ORDER

14.03.2025

“Ref: NCB Crime No. 01/NCB/IMP/Meth/2025 dated 13-03-2025 U/s: 8 (c), 22(c),23,25,29 & 35 of the ND & PS Act, 1985

The accused persons namely

1. Amaldas Xalxo, 42 years, S/o Nicholas Xalxo Vill - Lachitgaon No. 2 Sarupathar Golaghat, Assam-785601;

2. Md Khurshid, 29 years, S/o Md. Abdul Salam, R/o Lilong, Hangamthabi Lilong, Thoubal District Sub-Division, Manipur-795130;

3. Mahedi Alam, 18 years, S/o Mannas Ali, R/o Borthal Kachari Gaon, PO Doloigaon, District-Laharighat, District-Morigaon, Assam-782126.

are produced before me by the IO of the case in c/w the above referred FIR along with a prayer for remanding the accused persons in J/C for 15 days.

Allegation against the accused persons are that they were found carrying items suspected to be WY tablets suspected to be Methamphetamine tablets.

Grounds of arrest are explained to the accused persons. On enquiry, they stated to have no health issues at the time of production. Their family members are aware of their arrest. They are further informed of their right to be represented by a lawyer and also availability of LAC.

Seen the FIR, OE, arrest memo, seizure memo along with seized items along with all other relevant items.

Upon perusal, I find prima facie case and further find detention of the accused person appropriate for smooth and proper investigation.

Hence prayer of the IO is allowed and accused persons are remanded into J/C for 15 days.”

[7] Learned counsel for the petitioners submits that the I.O. has issued written ground of arrest only on 14.03.2025 after the accused persons/petitioners have already been remanded to the judicial custody. The three grounds of arrest furnished by the I.O. are similar and one of the ground of arrest is reproduced as:

“GROUND OF ARREST

On 13.03.2025 at around 1145 hours NCB Imphal has effected a seizure in which 102.393 kg of suspected to be Methamphetamine/WY tablets seized/recovered from the tool box of one EICHER trailer bearing registration number NL07AA 1633 at near Lilong Bridge under PS Lilong Thoubal District Manipur which used in the transportation of seized contraband i.e 102.393 kgs were also seized under u/s 42 of the NDPS Act, 1985. Based on the confessional statement and on the reasonable ground to be believed that an offence had been committed in violation of provisions of Section 8(c), 22(c), 23, 25, 29 & 35 of the NDPS Act, 1985 (As amended) which attracts penal provisions so Mohammad Khurshid (co receiver of the seized drugs), was arrested on 13.03.2025 at 2015 hrs,

after his confession of guilt while tendering their voluntary statement recorded u/s 67 of the NDPS Act 1985(as Amended). Thereafter the accused person and seized bolero redg no. AS01GD 8673 and his personal items were produced before the duty magistrate Thoubal Manipur, where proceedings u/s 52A of NDPS Act, 1985 including drawing of samples and to certify the correctness of the Inventory and taking photographs of the proceedings as per provision under NDPS Act and are remanded in judicial custody.”

[8] Learned counsel for the petitioners draws the attention of this Court to para 56 of **Mihir Rajesh Shah case (Supra)** where it has been mandated that:

*“56. i) The constitutional mandate of informing the arrestee the grounds of arrest is mandatory in all offences under all statutes including offences under Penal Code, 1860 (now BNS 2023);
ii) The grounds of arrest must be communicated in writing to the arrestee in the language he/she understands;
iii) In case(s) where, the arresting officer/person is unable to communicate the grounds of arrest in writing on or soon after arrest, it be so done orally. The said grounds be communicated in writing within a reasonable time and in any case at least two hours prior to production of the arrestee for remand proceedings before the magistrate.
iv) In case of non-compliance of the above, the arrest and subsequent remand would be rendered illegal and the person will be at liberty to be set free.”*

[9] It is an admitted fact in the present case that the written ground of arrest was not given at the time of remand even though the magistrate has orally informed the accused about the ground of arrest and the written ground of arrest was furnished after the remand of the accused persons only on 14.03.2025. It is prayed that the remand order be set aside and petitioners are set at liberty.

[10] On the other hand, Mr. W. Darakishwor, learned Sr. PCCG for the respondent, submits that the ratio laid down in the case of **Prabir Purkayastha case (Supra)** will not be applicable in the present case, as on perusal of para 5, the magistrate has not applied mind and not even informed about the ground of arrest to the accused persons and in the present case, admittedly in the remand order dated

14.03.2025, the Ld. Duty Magistrate has explained about the ground of arrest to the accused persons at the time of remand. Ld. Sr. PCCG submits that chargesheet against the three petitioners/accused had already been submitted before the Special Court (NDPS), Thoubal on 08.09.2025 and in case this Court grants bail to the petitioners, sufficient conditions may be imposed.

[11] This Court has perused the materials on record. It is admitted fact that the petitioners were arrested on 13.03.2025 for possession and transportation of 102.393 kg of Amphetamine tablets. The arrest memo was duly issued at the time of arrest to all the accused persons. However, the limited case in the present case is that remand is illegal as the ground of arrest in writing was not furnished at the time of remand before the magistrate.

[12] This Court has perused the judgment cited by the learned counsel for the petitioners i.e. **Prabir Purkayastha case** and **Mihir Rajesh Shah case**. In para 56 of the **Mihir Rajesh Shah case**, it is stated that informing the arrestee the grounds of arrest is mandatory in all offences under all statutes including offences under Penal Code, 1860 (now BNS 2023); the grounds of arrest must be communicated in writing to the arrestee in language he/she understands; in case of unable to communicate, grounds of arrest in writing should be done orally immediately after arrest and written grounds of arrest to be given at least two hours prior to production of the ground of arrest before the next date.

[13] Admittedly in the present case, the ground of arrest was furnished after the accused was remanded on 14.03.2025 by a written communication dated 14.03.2025. Furnishing the ground of arrest after the remand is in infraction of the ratio laid down by the Hon'ble Supreme Court in the case of Prabir Purkayastha and especially, in the case of Mihir Rajesh Shah as recorded in para 56.

[14] In the circumstances, the accused are released on bail on furnishing a personal bond of Rs. 1,00,000/- with surety of each of the like amount (Government Employee) to the satisfaction of the Ld. Special Court (NDPS), Thoubal with the following conditions:

- (i) The petitioners shall appear on the date fixed for the trial;
- (ii) The petitioners shall not leave the State of Manipur without the leave of the Trial Court;
- (iii) The petitioners shall not try to influence any persons acquainted with the fact of the present case;
- (iv) The petitioners shall not commit similar offence during the period on bail; and
- (v) If any of the conditions above is violated, the respondent has right to approach this Court for cancellation of the bail.

[15] With this observation, criminal petitions are allowed and disposed of.

JUDGE

Kh. Joshua Maring

KH.
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by KH. JOSHUA
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