Serial No. 02
Supplementary List

HIGH COURT OF MEGHALAYA
AT SHILLONG

BA. No. 6 of 2026

Date of Decision: 26.02.2026

Shri. Ronaldo Khongwir,
Aged about 42 years,
S/o (L) L. Dkhar,
R/o- 7th mile, Mawnianglah,
Upper Shillong,
East Khasi Hills District, Meghalaya

…….. **Petitioner**

- Vs-

1. The State of Meghalaya
   Represented by Secretary (Home)
   Government of Meghalaya.

2. The Superintendent of Police,
   Ri- Bhoi District, Meghalaya.

…… **Respondents**

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner/Appellant(s) : Mr. S.S. Yadav, Adv.
Ms. E. Law, Adv.

For the Respondent(s) : Mr. N.D. Chullai, AAG with
Mr. E.R. Chyne, GA.

i) Whether approved for reporting in Law journals etc.: Yes/No

ii) Whether approved for publication in press: Yes/No

JUDGMENT AND ORDER (ORAL)

1. Heard Mr. S.S. Yadav, learned counsel for the petitioner, who has submitted that this application has been made on behalf of Shri. Pradeep Das, who is an accused undergoing trial before the Court of the learned Special Judge (NDPS), East Jaintia Hills, District, Khliehriat. The petitioner herein is the brother-in-law of the said accused person.

2. The learned counsel has submitted that on the basis of an FIR dated 17.09.2025 lodged before the In-Charge, Umkiang Police Patrol Post, East Jaintia Hills District, wherein, it was alleged that contraband substance suspected to be heroin contained in a soap box along with 20(twenty) strips of Nitrazepam tablets was seized from the accused person (Pradeep Das), who was a passenger in the transport vehicle coming from Silchar towards Shillong on the said date, and accordingly, he was arrested on the said FIR being registered as Lumshnong P.S Case No. 20 (09) 2025 under Section 8(c)/21(b)/22(a) and 29 of the NDPS Act.

3. On investigation being completed, and charge sheet filed by the Investigating Officer on 03.10.2025, the case of the accused has been forwarded to the competent court of jurisdiction for him to stand trial thereto. The stage of the case is for consideration of charges.

4. The learned counsel has however submitted that the grievance raised

by the petitioner herein is that the constitutional mandate of Article 22 as well as the statutory provision of Section 47 BNSS, having been flouted, inasmuch as, the grounds of arrest were never communicated or furnished to the accused in writing, therefore, his arrest can be considered illegal, and he is to be released forthwith.

5. The learned counsel has further submitted that under Article 22 (1) of the Constitution of India, it has been mandated that no person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds of such arrest. On this premise, Section 47 (1) of the BNSS has also provided that every police officer or other person arresting any person without warrant shall forthwith communicate to him full particulars of the offence for which he is arrested or other grounds for such arrest.

6. In the case involving the accused person in question, amongst the police papers enclosed in the charge sheet, is found a communication dated 17.09.2025 by the I/O issued upon the accused person under the heading "Intimation of Grounds of Arrest", which is a format in the form of a checklist, the relevant box being tick marked contained the contents as " *You are suspected of being involved in a cognizable offence punishable with imprisonment for a term that may be less than seven years or which may extend to seven years, whether with or without a fine",* this according to the learned counsel does not

satisfy the requirement of law, and is therefore in violation of the right of the accused to be intimated of the grounds of arrest.

7. Further, elaborating on this as to what 'grounds of arrest' would constitute, the learned counsel has referred to the case of **Prabir Purkayastha v. State (NCT of Delhi) reported in (2024) 8 SCC 254**, wherein at para 48, the Apex Court has held as follows:

> **"48.** It may be reiterated at the cost of repetition that there is a significant difference in the phrase "reasons for arrest" and "grounds of arrest". The "reasons for arrest" as indicated in the arrest memo are purely formal parameters viz. to prevent the accused person from committing any further offence; for proper investigation of the offence; to prevent the accused person from causing the evidence of the offence to disappear or tampering with such evidence in any manner; to prevent the arrested person for making inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to the investigating officer. These reasons would commonly apply to any person arrested on charge of a crime whereas the "grounds of arrest" would be required to contain all such details in hand of the investigating officer which necessitated the arrest of the accused. Simultaneously, the grounds of arrest informed in writing must convey to the arrested accused all basic facts on which he was being arrested so as to provide him an opportunity of defending himself against custodial remand and to seek bail. Thus, the "grounds of arrest" would invariably be personal to the accused and cannot be equated with the "reasons of arrest" which are general in nature."

8. Grounds of arrest should be factual in nature and must indicate all the basic facts which has necessitated the arrest of a person and such grounds has to be intimated to the accused person which has not been done so in this case, at best, only the nature of the offence has been made known to the accused

person, further submits the learned counsel.

9. The learned counsel has however maintained that the accused person was never handed over the grounds of arrest in writing. This is evident on perusal of the first forwarding report filed by the Investigating Officer on 17.09.2025, informing the learned Special Judge (NDPS) of the facts surrounding the arrest of the accused person, wherein it was only remarked that the accused person was informed of the ground of his arrest. The corresponding order dated 17.09.2025 passed by the learned Judicial Magistrate First Class, East Jaintia Hills, in the said Lumshnong P.S Case No. 29 (09) 2025, has also only indicated that the intimation of the grounds of arrest has been noticed, but nothing is said as to whether it was actually furnished to the accused person.

10. To strengthen the contention of the petitioner in this regard, the learned counsel has also cited the case of Ahmed Mansoor and Ors. v. The State Rep. by Assistant Commissioner of Police, 2025 SCC OnLine SC 2650, wherein in that case, the Supreme Court has dwelt at length on the issue of the requirement of furnishing the copy containing the grounds of arrest to the accused person which should be in writing.

11. Per contra, Mr. N.D. Chullai, learned AAG assisted by Mr. E.R. Chyne, learned GA, in reply on behalf of the State respondent, has countered the contention raised by the learned counsel for the petitioner, and has asserted that

the materials on record, would show that the accused person has been duly intimated as far as the grounds of arrest is concerned referring to the communication annexed at page 38 (Annexure-VIII) of this petition, the learned AAG has submitted that the intimation of the grounds of arrest has been made known to the accused person and he has also acknowledged receipt of the same by putting his thumb impression on the said document.

12. This fact was also confirmed on perusal of the order dated 17.09.2025, passed by the learned Judicial Magistrate First Class, who has indicated in the said order that the accused person on being asked, has submitted that he knows why he has been arrested. Copy of the intimation of grounds of arrest have also been perused by the learned Magistrate. Furthermore, in the said order, it has also been shown that the accused person is represented by the learned ALADC, as such, the accused person cannot say that he was never intimated as to the grounds of his arrest.

13. In support of his contention, the learned AAG has relied upon the case of **State of Karnataka v. Sri Darshan (2025) SCC OnLine SC 1702**, and has referred to para 20.1.1 to 20.1.7 which is reproduced herein below as:

> **"20.1.1.** The learned counsel for the respondents – accused contended that the arrest was illegal as the grounds of arrest were not furnished immediately in writing, thereby violating Article 22 (1) of the Constitution and Section 50 Cr. P.C. (now Section 47 of the Bharatiya Nagarik Suraksha Sanhita). This submission, however, is devoid of merit.

20.1.2. Article 22(1) of the Constitution mandates that *"no person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest, nor shall he be denied the right to consult, and to be defended by, a legal practitioner of his choice"*. Similarly, Section 50 (1) Cr.P.C. requires that *"every police officer or other person arresting any person without warrant shall forthwith communicate to him full particulars of the offence for which he is arrested or other grounds for such arrest.*

20.1.3. The constitutional and statutory framework thus mandates that the arrested person must be informed of the grounds of arrest – but neither provision prescribes a specific form or insists upon written communication in every case. Judicial precedents have clarified that substantial compliance with these requirements is sufficient, unless demonstrable prejudice is shown.

20.1.4. In Vihaan Kumar v. State of Haryana, 2025 SCC OnLine SC 456, it was reiterated that Article 22(1) is satisfied if the accused is made aware of the arrest grounds in substance, even if not conveyed in writing. Similarly, in Kasireddy Upender Reddy v. State of Andhra Pradesh, 2025 INSC 768, it was observed that when arrest is made pursuant a warrant, reading out the warrant amounts to sufficient compliance. Both these post-Pankaj Bansal decisions clarify that written, individualised grounds are not an inflexible requirement in all circumstances.

20.1.5. While Section 50 Cr.P.C is mandatory, the consistent judicial approach has been to adopt a prejudice-oriented test when examining alleged procedural lapses. The mere absence of written grounds does not ipso facto render the arrest illegal, unless it results in demonstrable prejudice or denial of a fair opportunity to defend.

20.1.6. The High Court, however, relied heavily on the alleged procedural lapse as a determinative factor while overlooking the gravity of the offence under Section 302 IPC and the existence of a *prima facie* case. It noted, *inter alia*, that there was no mention in the remand orders about service of memo of grounds of arrest (para 45); the arrest memos were allegedly template-based and not personalised (para 50); and eyewitnesses had not stated that they were present at the time of arrest or had signed the memos (para 48). Relying on Pankaj Bansal v. Union of India, (2024) 7 SCC 576 and Prabir Purkayastha v. State (NCT of Delhi) (supra), it concluded (paras 43,

49 – 50) that from 03.10.2023 onwards, failure to serve detailed, written, and individualised grounds of arrest immediately after arrest was a violation entitling the accused to bail.

20.1.7. In the present case, the arrest memos and remand records clearly reflect that the respondents were aware of the reasons for their arrest. They were legally represented from the outset and applied for bail shortly after arrest, evidencing an immediate and informed understanding of the accusations. No material has been placed on record to establish that any prejudice was caused due to the alleged procedural lapse. In the absence of demonstrable prejudice, such as irregularity is, at best, a curable defect and cannot, by itself, warrant release on bail. As reiterated above, the High Court treated it as a determinative factor while overlooking the gravity of the charge under Section 302 IPC and the existence of a *prima facie case*. Its reliance on *Pankaj Bansal* and *Prabir Purkayastha* is misplaced, as those decisions turned on materially different facts and statutory contexts. The approach adopted here is inconsistent with the settled principle that procedural lapses in furnishing grounds of arrest, absent prejudice, do not *ipso facto* render custody illegal or entitle the accused to bail."

14. The learned AAG has submitted that since, it is evident from the record that the accused person has been duly intimated as far as the grounds of arrest is concerned, having been duly represented by a counsel before the court, no prejudice would be caused to him in this regard. Apart from the fact that the allegations against the accused person are serious in nature involving offences under the NDPS Act for being in possession of heroin which is a contraband substance, therefore, the court cannot overlook this aspect of the matter and focus only on the alleged procedural lapse. As has been held in the case of Sri Darshan (supra), procedural lapses in furnishing grounds of arrest, absent prejudice, do not *ipso facto* render custody illegal or entitle the accused to bail,

submits the learned AAG. It is prayed that this petition is devoid of merits and the same is liable to be dismissed.

15. This Court has carefully considered the argument of the respective parties, and is made to understand that the only ground for preferring this instant application with a prayer for grant of bail, is made on the basis that there have been procedural lapses on the part of the prosecution in the process of arrest of the accused person in question, inasmuch as, he was not intimated in writing as to the grounds of arrest, and further, that there was no factual and specific details of the allegations made against him noted down in the said format of the intimation shown to him.

16. On the question of the application of law as regard the mode, manner and requirement of what is to be done at the time when the person is arrested in respect of any allegation against such person said to have committed offences for which such person is criminally liable, reference being made to the constitutional provision of Article 22(1) read with Section 47(1) BNSS, the learned counsel for the petitioner has elucidated this aspect of the matter by referring to relevant case laws, the case of Prabir Purkayastha (supra) being one such authority which is holding the field till date.

17. What has emerged from this proposition of law is that on his or her being arrested a person must be immediately informed of the grounds of arrest,

and that too in writing. Secondly, that such grounds must be specific to the factual allegations against the arrested person, that is, the arrested person is to be made known the details of why he or she was arrested. This is to afford the arrested person with an opportunity to prepare his or her defence.

18. Though the learned counsel for the petitioner has admitted that there is found a format under the heading "Intimation of Grounds of Arrest", which form was acknowledged by the accused person in question by putting his thumb impression, the contention is that, no such communication was ever intimated to the accused person in writing and that he has not been supplied with a copy of such intimation. This was refuted by the State respondent when the learned AAG has stressed on the fact that since the accused person has acknowledged the same, therefore, it is deemed that he has been intimated of the grounds of arrest.

19. On this, what is noted and have been missed out by the petitioner is that a perusal of such intimation found at page 38 (Annexure VIII) of this petition, it is seen that such intimation was addressed to the accused person. As has been admitted by the parties herein, on the following page, it is also seen the thumb impression of the accused person. The date of such intimation was also noted down as 17.09.2025 which is the date the accused person was arrested. This can only mean one thing, that is, that such communication was indeed addressed to the accused person and that he has received the same. Therefore, to

say that there was no intimation of the grounds of arrest in writing, the records would say otherwise. Accordingly, the authorities citied by the petitioner in this regard would not help his case as such authorities cited, including the case of Prabir Purkayastha (supra), the issue therein was about non-communication of the grounds of arrest in writing.

20. The next contention of the petitioner that even, if such intimation has actually been communicated to the accused person, however, since the same is in the form of a format with a checklist, the relevant box being ticked marked, wherein the accused person was only informed that he is involved in a cognizable offence, without any specific details cited, therefore, the law in this regard has also been violated, this Court would agree with such contention since the same has been borne out from the records.

21. However, in this respect, looking into the facts and circumstances of the case of the accused person, that he is prima facie found to be involved in a case under the NDPS Act concerning seizure of contraband substance said to be heroin, and also the fact that the investigation stage has already been completed with the charge sheet filed, the same being within the knowledge and possession of the accused person, it stands to reason that at this stage, he is aware of the specific allegation against him. As has been canvassed by the learned AAG, at this stage of the proceedings, no prejudice would be caused to him. In fact, the

petitioner has also approached this Court too late in the day.

22. In view of the above observation, this Court is not inclined to allow this petition, the same being devoid of merits and is hereby rejected.

23. Petition disposed of. No Costs.

Judge

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