

Ajay

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.3388 OF 2026

1) Santosh Bhiku Pisal (Accused No.1)
 2) Aniket Chandrakant Pisal (Accused No.2)
 3) Raju alias Babu Bhiku Pisal (Accused No.3) .. Applicants

Versus

State of Maharashtra .. Respondent

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- Mr. Vipul Dushing a/w Mr. Ashraf Kazi and Mr. Saurav Tadv, Advocates for Applicants.
 - Mr. Ashwin R. Kapadnis, Advocate for Original Complainant.
 - Mr. Yogesh M. Nakhwa, APP for Respondent – State.
 - Ms. Dipti Kapre, API – Bhore Police Station, Pune.

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CORAM : MILIND N. JADHAV, J.

DATE : SEPTEMBER 21, 2026

P.C.:

1. Heard Mr. Dushing, learned Advocate for Applicants; Mr. Kapadnis, learned Advocate for Original Complainant and Mr. Nakhwa, learned APP for Respondent – State.

2. This is an Application under Section 439 of the Criminal Procedure Code, 1973 seeking bail in connection with C.R.No.71 of 2025 registered with Bhore Police Station, Pune for the offences punishable under Sections 103(1), 140(1), 238(c) and 3(5) of the Bharatiya Nyaya Sanhita, 2023.

3. There are three (3) Applicants in the present case. Applicant Nos.1 and 2 were arrested on 26.04.2025 and Applicant No.3 was arrested on 30.05.2025. Applicants before me are all newspaper vendors. Chargesheet has been filed. *Prima facie* on perusal of record

before me, it is seen that there is no direct evidence. FIR is lodged on 26.04.2025 about an unidentified male body found in a decomposed state in Shirgaon.

4. It is the case of prosecution that the precursor to the present crime is a money dispute between Applicant No.1 and deceased - victim due to which the deceased victim had smashed car windows of Applicant No.1's car. Second reason for implicating Applicants as per prosecution case is the alleged extra-marital affair between Applicant No.1 and wife of deceased - victim. According to prosecution case, on 23.04.2025 an altercation ensued between Applicant No.1 and deceased - victim when the victim was assaulted by Applicant Nos.1 and 3 with fist blows and iron rod and thereafter all three (3) Applicants disposed off the body after smashing the head of the victim.

5. It is seen that case of the prosecution is completely based on circumstantial evidence and there is no direct evidence. However Mr. Dushing, learned Advocate for Applicants would draw my attention to the Arrest Form of Accused Nos.1 and 3 appended at page Nos.193 and 198 pertaining to these 2 accused persons where in Column No.8 it is merely stated that they are taken into custody on 26.04.2025 at 20:45 hours without any reasons stated therein, however their intimation of "grounds of arrest" is a common letter issued to both of them which is appended at page No.202 of the Application and when the said letter is seen it is *prima facie* noticed that there is no date on

that letter of intimation and neither any time is stated. He would further draw my attention to Column No.8 of the Arrest Form of Accused No.3 appended at page No.227 of the Application and would submit that the “grounds of arrest” which are to be informed and served upon Applicant is blank and it does not bear the date and time at all either.

6. *PER CONTRA*, According to Mr. Kapadnis, learned Advocate for Original Complainant, the procedure followed is that on the Arrest Form the time is written and the intimation of the grounds of arrest is in continuation of the Arrest Form and hence the procedure is duly followed. I am afraid and unable to comprehend this submission.

7. I have heard Mr. Dushing, learned Advocate for Applicants; Mr. Kapadnis, learned Advocate for Original Complainant and Mr. Nakhwa, learned APP for Respondent – State and perused the record of the case. Submissions made by learned Advocates at the bar have received due consideration of the Court.

8. It is pertinent to note that Section 47 of the BNS requires the Police Officer to forthwith communicate the full particulars of the offence or other grounds for such arrest and also inform the person arrested that he is entitled to be released on bail and he may arrange for surety accordingly. *Prima facie* on reading page No.202 , it is seen that there is clear non-compliance of Section 47 of the BNS to the extent that no date and time is stated on the said intimation / Arrest

Form and most importantly Section 47(2) of the BNS is not complied with at all.

9. Though, it is argued by Mr. Kapadnis that Section 48 of the BNS has been complied with but that will come in the picture only once Section 47 of the BNS stands duly complied with. Once this is seen and the case of prosecution is purely based on circumstantial evidence, then arrest of Applicants in such circumstances without following the due procedure is deemed to be illegal on the face of record.

10. It is seen that the Constitutional safeguard provided under Article 22 of the Constitution of India has been effectuated by the legislature by incorporating Section 47 of BNSS, 2023 (earlier Section 50 of CrPC, 1973) which puts into force the procedural mandate providing for protection of personal liberty of the person so arrested. It is seen that Section 47 of BNSS, 2023 casts a clear duty on the police officer or any other person arresting a person without a warrant that he shall communicate to him the grounds of his arrest. Section 47 reads thus:-

*“47. Person arrested to be informed of grounds of arrest and of right to bail.—
(1) Every police officer or other person arresting any person without warrant shall forthwith communicate to him full particulars of the offence for which he is arrested or other grounds for such arrest.
(2) Where a police officer arrests without warrant any person other than a person accused of a non- bailable offence, he shall inform the person arrested that he is entitled to be released on bail and that he may arrange for sureties on his behalf.”*

11. It is seen that Section 50A of CrPC, 1973, now replicated as Section 48 of BNSS, 2023 was further added to extend the scope of such protection by casting a duty upon the person arresting to inform such grounds of arrest either to his friend, relative or any other person nominated by the arrested person. Section 48 of BNSS 2023 reads as follows:

*“48. Obligation of person making arrest to inform about arrest, etc., to relative or friend.— – (1) Every police officer or other person making any arrest under this Sanhita shall forthwith give the information regarding such arrest and place where the arrested person is being held to any of his relatives, friends or such other persons as may be disclosed or nominated by the arrested person for the purpose of giving such information and also to the designated police officer in the district.
 (2) The police officer shall inform the arrested person of his rights under sub-section (1) as soon as he is brought to the police station.
 (3) An entry of the fact as to who has been informed of the arrest of such person shall be made in a book to be kept in the police station in such form as the State Government may, by rules, provide.
 (4) It shall be the duty of the Magistrate before whom such arrested person is produced, to satisfy himself that the requirements of sub-section (2) and sub-section (3) have been complied with in respect of such arrested person.”*

12. From the mere reading of above provisions, I am of the view that mere oral communication of such grounds, in the absence of specific date and time and infact common intimation in case of Accused Nos.1 and 2 would render the compliance of Section 47 susceptible to factual disputes which would otherwise result into conflicting claims between the arrested person and investigating agency.

13. Attention is drawn to the recent decision of the Supreme Court in the case of *Mihir Rajesh Shah Vs. State of Maharashtra and*

Another¹ wherein it was held that grounds of arrest are to be furnished to the arrestee at the earliest and in writing in the language he/she understands and in any case two hours before production of the arrestee before the Magistrate for remand. Relevant paragraph Nos. 62 to 66 are reproduced hereunder:-

"62. We thus hold, that, in cases where the police are already in possession of documentary material furnishing a cogent basis for the arrest, the written grounds of arrest must be furnished to the arrestee on his arrest. However, in exceptional circumstances such as offences against body or property committed in flagrante delicto, where informing the grounds of arrest in writing on arrest is rendered impractical, it shall be sufficient for the police officer or other person making the arrest to orally convey the same to the person at the time of arrest. Later, a written copy of grounds of arrest must be supplied to the arrested person within a reasonable time and in no event later than two hours prior to production of the arrestee before the Magistrate for remand proceedings. The remand papers shall contain the grounds of arrest and in case there is delay in supply thereof, a note indicating a cause for it be included for the information of the Magistrate.

63. The above indicated lower limit of two hours minimum interval before the production is grounded in the functional necessity so that the right as provided to an arrestee under the Constitution and the statute is safeguarded effectively. This period would ensure that the counsel has adequate time to scrutinize the basis of arrest and gather relevant material to defend the arrestee proficiently and capably while opposing the remand. Any shorter interval may render such preparation illusory, thereby resulting in non-compliance of the constitutional and statutory mandate. The two-hour threshold before production for remand thus strikes a judicious balance between safeguarding the arrestee's constitutional rights under Article 22(1) and preserving the operational continuity of criminal investigations.

64. In view of the above, we hold with regard to the second issue that non-supply of grounds of arrest in writing to the arrestee prior to or immediately after arrest would not vitiate such arrest on the grounds of non-compliance with the provisions of Section 50CrPC (now Section 47 of BNSS 2023) provided the said grounds are supplied in writing within a reasonable time and in any case two hours prior to the production of the arrestee before the Magistrate for remand proceedings.

65. It goes without saying that if the abovesaid schedule for supplying the grounds of arrest in writing is not adhered to, the arrest will be rendered illegal entitling the release of the arrestee. On such release, an application for remand or custody, if required, will be moved along with the reasons and necessity for the same, after the supply of the grounds of arrest in

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writing setting forth the Explanation for non-supply thereof within the above stipulated schedule. On receipt of such an application, the Magistrate shall decide the same expeditiously and preferably within a week of submission thereof by adhering to the principles of natural justice.

66. *In conclusion, it is held that:*

66.1. *The constitutional mandate of informing the arrestee the grounds of arrest is mandatory in all offences under all statutes including offences under IPC, 1860 (now BNS 2023);*

66.2. *The grounds of arrest must be communicated in writing to the arrestee in the language he/she understands;*

66.3. *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.*

66.4. *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."*

14. The right of the person being arrested to know the reasons of his arrest is a very valuable right as it would curb his freedom and place him in custody away from being free and such drastic power when exercised will have to be shown as exercised rather than simply done. Once a person is apprehended he has a right to know the reason and this can only be gathered from he having been informed the same without any ambiguity whatsoever when so informed in writing and his signature having been obtained on the arrest form informing him the grounds of his arrest. This would be the correct logical interpretation of Section 47 and submissions of Mr. Kapadnis that intimation letter without date and time should be accepted as it is without reasons being stated in the Arrest Form either cannot be countenanced for more than one reason. It is observed that such

conflict results in jeopardizing the integrity of the arrest process and thereby giving an opportunity to the accused person to claim immediate release. It is observed that such situation can be obviated by furnishing the grounds of arrest in writing with all particulars and obtaining the signature or thumb impression of the accused person on the Form of grounds of arrest with appropriate date and time specified thereon, otherwise it is susceptible to manipulation.

15. Apart from the practical difficulties, it is seen that furnishing grounds of arrest in writing with all details also results into effective compliance of the mandate provided under Article 22 of the Constitution of India. In present case it is observed that provisions of Section 48 were complied with as per law however, prosecution has failed to prove that provisions of Section 47 are complied with by following due process of the law. In fact it is seen that the Arrest Form and Section 48 compliance bearing the same date and time but Section 47 compliance has no date and time.

16. Contention of the prosecution in the present case that Applicants were informed about the grounds of arrest as envisaged under Section 47 of the BNSS, 2023 cannot be countenanced and accepted as due compliance in the above facts. This amounts to a clear breach of the Constitutional and statutory safeguards provided to an arrestee.

17. In view of the above and non-compliance of statutory provision of Section 47 as noted above the 3 Applicants are directed to be released on bail.

18. Hence, in view of above *prima facie* observations and finding, Bail Application of Applicants is allowed subject to the following terms and conditions:-

- (i) All three (3) Applicants are directed to be released from prison in connection with CR. No.71 of 2025;
- (ii) All three (3) Applicants are directed to be released on bail on furnishing P.R. Bond of Rs.10,000/- (Rs. Ten Thousand only) each with one or two surety of the like amount;
- (iii) All three (3) Applicants shall report to the Investigating Officer at Bhore Police Station, Pune, once every month, on the first Sunday of the month between 10:00 a.m. to 12:00 p.m. until commencement of trial and thereafter shall attend all dates of hearing before the Trial Court;
- (iv) All three (3) Applicants shall cooperate with the conduct of the trial and remain present before the Trial Court on all dates, unless specifically exempted. Applicants shall not seek unnecessary adjournments. Any such conduct shall entitle the prosecution to apply for cancellation of bail;
- (v) All three (3) Applicants shall not leave the State of Maharashtra without prior permission of the Trial Court;
- (vi) Applicants shall not influence any of the witnesses or tamper with the evidence in any manner;

(vii) All three (3) Applicants shall keep the Investigating Officer informed of their respective current residential address and mobile telephone numbers and shall forthwith inform the Investigating Officer of any change in their residential addresses or mobile telephone numbers, as and when such change occurs; and

(viii) Any breach or infraction of any of the aforesaid conditions shall entail cancellation of the bail granted to the Applicants.

19. It is clarified that the observations made in this order are limited for the purpose of granting bail only and I have not made any observations on merits of the case. The trial shall be adjudicated on the strength of the evidence led and strictly on its own merits being uninfluenced with any of the *prima facie* observations made hereinabove in this order.

20. All three Bail Applications are allowed and disposed in the above terms.

[MILIND N. JADHAV, J.]

Ajay

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by AJAY
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