

IN THE HIGH COURT OF CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
CRIMINAL MISCELLANEOUS JURISDICTION
APPELLATE SIDE

Present:

The Hon'ble Justice Md. Shabbar Rashidi

CRM (NDPS) 488 of 2025

Santosh Kumar Singh

Vs.

The State of West Bengal

For the Petitioner : Mr. Rajdeep Mazumdar, Sr. Adv.
Mr. Regean Lama, Adv.
Mr. Debabrata Rai, Adv.
Mr. Sanjeev Kr. Gupta, Adv.
Ms. Nancy Gurung, Adv.
Ms. Nevidita Lama, Adv.
Ms. Supriya Singh, Adv.

For the State : Mr. Nilay Chakraborty, Ld. A.P.P.
Mr. Biswarup Ray, Adv.

Heard on : 27.11.2025

Judgment on : 28.11.2025

MD. SHABBAR RASHIDI, J.:-

1. Petitioner Santosh Kumar Singh seeks bail.
2. This is a case under Sections 21(B)/27/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'NDPS' Act).

3. Learned Senior Advocate for the petitioner submits that in terms of the provisions of Article 22 of the Constitution of India, an accused is required to be necessarily communicated with the ground of his/her arrest and non-intimation of the grounds of arrest to the detenu, vitiates the arrest. In support of his contention, learned Senior Advocate for the petitioner relies upon **2025 SCC OnLine SC 2356 (*Mihir Rajesh Shah vs. State of Maharashtra and Another*)**.

4. Learned Senior Advocate for the petitioner further submits that the petitioner has been informed of the grounds of arrest which is violative of Article 22 of the Constitution of India. Learned Senior Advocate for the petitioner submits that there is a difference between the grounds of arrest and the reasons for arrest. Although, a memo of arrest was prepared at the time of the arrest of the petitioner, certain endorsements regarding the grounds were made in Column 11 of such memo of arrest. However, such endorsements cannot be accepted as grounds of arrest. According to learned Senior Advocate for the petitioner, at best, it may be considered as reason for arrest. Mere intimation of reason of arrest cannot be said to comply requirements under Article 22 of the Constitution of India. To such proposition, learned Senior Advocate for the petitioner relies upon **(2024) 8 SCC 254 (*Prabir Purkayastha vs. State (NCT of Delhi)*)**.

5. It is further submitted by learned Senior Advocate for the petitioner that the petitioner was arrested in connection with the instant case on September 24, 2025 on the basis of statement of co-accused made while in custody. No contraband narcotic was recovered from his possession. Learned Senior Advocate for the petitioner also submitted that the co-accused, from whose possession contraband narcotics were seized, has been released on bail. Learned Senior Advocate for the petitioner refers to the copy of charge-sheet and submitted that the charge-sheet was submitted against three accused persons including one foreign national which does not include the name of the petitioner. However, in such charge-sheet, the petitioner is alleged to have been involved in the business of contraband narcotics on the basis of a statement made by the co-accused. He is also said to have money transactions with the other accused persons which, according to the police, was for the purpose of running racket dealing in contraband articles. It is alleged that it is on such statement, the petitioner has been implicated in this case in course of further investigation of the case after, the initial charge-sheet was filed in the case.

6. Learned Senior Advocate for the petitioner also submits that the contraband articles seized from the possession of the co-accused were below commercial quantity and on this score, the co-accused

was granted bail earlier. According to learned Senior Advocate for the petitioner, there is no justification in keeping the petitioner behind the bars merely on the basis of statement of co-accused made while in custody.

7. Learned Additional Public Prosecutor for the State, on the other hand, submits that the petitioner is kingpin of the racket dealing in contraband narcotics. He refers to various materials in the case diary including the Call Detail Records (CDRs) as well as bank statement. He submits that there are several calls in between the petitioner and the other accused. There are many bank transactions between such persons.

8. As to the intimation of the grounds of arrest, learned Additional Public Prosecutor submits that at the time of arrest of the petitioner, a memo of arrest was drawn up which contains the grounds of arrest in clear terms. Moreover, the grounds of arrest were also communicated to the wife of the petitioner who acknowledged the same by putting her signature on the memo of arrest. As such, there is no violation of the provisions of Article 22 of the Constitution of India as stated by learned Senior Advocate for the petitioner. Accordingly, the petitioner does not deserve to be enlarged on bail.

9. Having heard the submissions made on behalf of the parties, it is evident that the petitioner was arrested in connection with

Siliguri Police Station Case No. 30 of 2025 dated January 12, 2025 under Sections 21(B)/29/27 of the NDPS Act. Memo of arrest of the petitioner goes to show that the wife of the petitioner signed on the memo of arrest as a witness. Column 11, with regard to reasons/grounds, contains an endorsement by the arresting officer to the effect 'for the involvement in connection with the above referred case and for purpose of investigation'. Such endorsement in the memo of arrest, according to learned Senior Advocate for the petitioner, does not constitute sufficient grounds of arrest for the purpose of Article 22 of the Constitution of India.

10. In ***Mihir Rajesh Shah*** (supra), the Hon'ble Supreme Court held as follows:-

“45. From the catena of decisions discussed above, the legal position which emerges is that the constitutional mandate provided in Article 22(1) of the Constitution of India is not a mere procedural formality but a constitutional safeguard in the form of fundamental rights. The intent and purpose of the constitutional mandate is to prepare the arrested person to defend himself. If the provisions of Article 22(1) are read in a restrictive manner, its intended purpose of securing personal liberty would not be achieved rather curtailed and put to disuse. The mode of communicating the grounds of arrest must be such that it effectively serves the intended purpose as envisioned under the Constitution of India which is to enable the arrested person to get legal counsel, oppose the remand and effectively defend himself by exercising his rights and

safeguards as provided in law. The grounds of arrest must be provided to the arrestee in such a manner that sufficient knowledge of facts constituting grounds is imparted and communicated to the arrested person effectively in a language which he/she understands. The mode of communication ought to be such that it must achieve the intended purpose of the constitutional safeguard. The objective of the constitutional mandate would not be fulfilled by mere reading out the grounds to the arrested person, such an approach would be antithesis to the purpose of Article 22(1). There is no harm in providing the grounds of arrest in writing in the language the arrestee understands, this approach would not only fulfil the true intent of the constitutional mandate but will also be beneficial for the investigating agency to prove that the grounds of arrest were informed to the arrestee when a challenge is made to the arrest on the plea of non-furnishing of the grounds of arrest.

46. This Court is of the opinion that to achieve the intended objective of the constitutional mandate of Article 22(1) of the Constitution of India, the grounds of arrest must be informed to the arrested person in each and every case without exception and the mode of the communication of such grounds must be in writing in the language he understands.”

11. The Hon’ble Supreme Court further held in the aforesaid case that,

“48. The second issue which requires consideration is when grounds of arrest are not furnished either prior to arrest or immediately after the arrest, would it vitiate the arrest for non-compliance of the provisions of Section 50 of CrPC 1973 (now

Section 47 of BNSS 2023) irrespective of certain exigencies where furnishing such grounds would not be possible forthwith.

49. It is by now settled that if the grounds of arrest are not furnished to the arrestee in writing, this non-compliance will result in breach of the constitutional and statutory safeguards hence rendering the arrest and remand illegal and the person will be entitled to be set at liberty. The statute is silent with regard to the mode, nature or the time and stage at which the grounds of arrest has to be communicated. Article 22 says ‘as soon as may be’ which would obviously not mean prior to arrest but can be on arrest or thereafter. The indication is as early as it can be conveyed. There may be situations wherein it may not be practically possible to supply such grounds of arrest to the arrested person at the time of his arrest or immediately.”

(Emphasis supplied)

12. As regards the sufficiency of the grounds of arrest, the Hon’ble Supreme Court in **Prabir Purkayastha** (supra) laid down that

“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.

49. From the detailed analysis made above, there is no hesitation in the mind of the court to reach to a conclusion that the copy of the remand application in the purported exercise of communication of the grounds of arrest in writing was not provided to the appellant-accused or his counsel before passing of the order of remand dated 4-10-2023 which vitiates the arrest and subsequent remand of the appellant.

50. As a result, the appellant is entitled to a direction for release from custody by applying the ratio of the judgment rendered by this Court in Pankaj Bansal.”

(Emphasis supplied)

13. I have noted hereinabove that a memo of arrest was drawn at the time of securing arrest of the petitioner and the petitioner himself signed on such memo of arrest. Not only that, his wife also signed on the memo of arrest as a witness. Column 11 of such memo of arrest

does contain that the petitioner was arrested for his involvement in connection with Siliguri Police Station Case No. 30 of 2025 dated January 12, 2025 under Sections 21(B)/29/27 of the NDPS Act. In my opinion, such memo of arrest was sufficient for the purpose of Article 22(1) of the Constitution of India as also in terms of the ratio laid down in the case of **Prabir Purkayastha** (supra) which ordained that 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.

14. In consideration of the ratio laid down in the case of **Mihir Rajesh Shah** (supra), the endorsements in Colum 11 of the memo of arrest appertain to the present petitioner. It does not merely set out the reasons of his arrest but it indicates the grounds of his arrest which notified the petitioner as to in connection with which case and for what offence he was being arrested.

15. From the materials on record, it transpires that the instant case was initiated with the arrest of one co-accused with a total of 93.60 gms. of *Cocaine*. The co-accused arrested with the possession of such contraband was granted bail by the learned Jurisdictional Court by an order passed on March 24, 2025 in consideration of the fact that the quantity of seized contraband was below commercial quantity

as also in view of the fact that he was a local. Later on, another co-accused was arrested on the basis of statement of the accused arrested with contraband articles, made while in custody. Such co-accused was granted bail by an order passed by a Co-ordinate Bench on May 23, 2025 in CRM (NDPS) 183 of 2025. In such order, it was noted that the quantity of the seized contraband was below commercial quantity and nothing was recovered from the possession of such person. According to the allegations made in the charge-sheet, which is relied upon by learned Additional Public Prosecutor, the present petitioner had telephonic conversation as well as monetary transactions with such co-accused. There is no positive evidence in the case diary, collected so far, to establish or at least indicate that the petitioner happens to be the kingpin of the racket dealing in contraband articles.

16. Considering the aforesaid facts and circumstances and taking into account with the quantity of narcotic drugs seized was below commercial quantity and also taking into account that the co-accused who was arrested with the contraband narcotics has been enlarged on bail, the petitioner deserves to be extended the same facility as that of the other co-accused who was granted bail by an order dated May 23, 2025 in CRM (NDPS) 183 of 2025.

17. Accordingly, I am inclined to grant bail to the petitioner. Therefore, bail prayer of the petitioner is **allowed**.

18. Accordingly, I direct that the petitioner, namely, **Santosh Kumar Singh** shall be released on bail upon furnishing a bond of Rs. 20,000/- (Rupees Twenty Thousands), with two sureties of Rs. 10,000/- (Rupees Ten Thousands) each, one of whom must be local, to the satisfaction of the Learned Special Judge, under NDPS Act, Siliguri subject to condition that the petitioner shall meet the Investigating Officer of this case once in a fortnight and on further condition that he shall not leave the jurisdiction of the concerned police station until conclusion of the investigation and shall not intimidate witnesses and/or tamper with evidence in any manner whatsoever.

19. C.R.M. (NDPS) 488 of 2025 is, thus, disposed of.

20. Urgent Photostat certified copy of this judgment, if applied for, be supplied to the parties on priority basis upon compliance of all formalities.

[MD. SHABBAR RASHIDI, J.]