

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO. 4714 OF 2025

Naveen Siyaram Sharma

.... Petitioner

V/s.

State of Maharashtra & Ors.

.... Respondents

Mrs. Pushpa Ganediwala a/w Adv. Pradyumna Agrawal, Adv. Anshu Agrawal and Adv. Ankit Rathod i/by Pradyumna Agrawal for the Petitioner.
Mrs. Sangeeta D. Shinde, APP for the Respondent-State.
Adv. Manisha Jagtap, for the Respondent No.2-BOI.

**CORAM: BHARATI DANGRE, &
SHYAM C. CHANDAK, JJ.**

DATED : 19th NOVEMBER, 2025.

ORAL JUDGMENT :- (Bharati Dangre J.)

1) Rule. Rule made returnable forthwith.

F.I.R. No.707 of 2024 came to be registered with Sahar Police Station invoking Sections 327, 125 and Section 61(2) of the Bharatiya Nyaya Sanhita (BNS), 2023 read with Section 3(1)(c) of the Suppression of Unlawful Acts against Safety of Civil Aviation Act, 1982.

On completion of investigation, the charge sheet was filed in the said offence against the Accused Nos.1 to 5 on 11/10/2024. However, as far as the Petitioner is concerned, he being arraigned as accused No.6, was declared to be absconding and a Look Out Circular was issued against

him in September, 2024 by the Deputy Commissioner of Police, Zone-VII, Mumbai.

2) It is the claim of the Petitioner that he was unaware of the offence being registered him since he was resident of Congo and on 04/08/2025, he arrived in India by Ethiopian Airlines Flight No.ET-0686 and landed at Indira Gandhi International Airport, New Delhi at 08:25 hours. In light of the Look Out Circular issued, he came to be detained by the Bureau of Immigration and on 14:48 hours, his custody was handed over to the IGI Airport Police Station, New Delhi. However, since the offence was registered with Sahar Police Station, the officials from the Police Station were intimated and they arrived in New Delhi, and on 05/08/2025 at 05:33 hours his custody is handed over to official from Sahar Police Station, Mumbai where C.R. No.707 of 2024 was registered.

The Petitioner was thereafter produced before the 65th Metropolitan Magistrate, Andheri, Mumbai at 15:20 hours and he was remanded to police custody for a period of three days and subsequently on 07/08/2025, he is remanded to Judicial custody.

3) The Petition raises a challenge to his arrest, effected in above situations on the ground that the required statutory formalities before effecting his arrest, are not complied with and the prominent among various grounds raised in the Petition is, the arrest being effected without communication of the grounds of arrest.

Placing reliance upon the decision of the Apex Court in case of *Pankaj Bansal V/s. Union of India & Ors.*¹ to be followed by the decision of Apex Court *Prabir Purkayastha V/s. State (NCT of Delhi)*² and *Vihan Kumar V/s. State of Haryana & Anr.*³ where it is categorically held that it is imperative to communicate the "Grounds of Arrest" in writing and in a language that the detenu understands, it is urged before us by Mrs. Ganediwala the learned Counsel for the Petitioner that in absence of compliance of said provision, his arrest, detention and subsequent remand deserve to be declared as illegal and the Petitioner is entitled to be set at liberty.

Mrs. Ganediwala has specifically urged that the Petitioner is a permanent resident of Kurukshetra, Haryana and he is unable to follow Marathi language but despite this, the grounds of arrest, if at all, they are construed as grounds of arrest, were communicated to him in Marathi, which is again violation of Article 22 of the Constitution of India as well as guidelines issued by the Apex Court which categorically declare that the grounds of arrest must be communicated in the language which the detenue/detainee understands.

4) With these arguments being advanced, we have heard the learned Public Prosecutor and perused the Affidavit filed by the Police

1 (2024) 7 SCC 576

2 2024 INSC 414

3 2025 INSC 162

Inspector attached to Sahar Police Station.

The Affidavit refer to the sequence of events and state that the Petitioner came to be arrested on 05/08/2025 at 12:12 p.m. and produced before Magistrate at 15:20 p.m. on the same day which is within the period of 24 hours as provided by Section 58 of Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 and there is no merit in the contention. However, the Affidavit is conspicuously silent upon the specific plea raised in the Petition, as regards non-communication of the grounds of arrest.

5) During the course of hearing Mrs. Shinde, the learned APP has produced before us the grounds of arrest which were communicated to the Petitioner on 05/08/2025, under the caption as “Notice under Section 35(3) of the BNSS” and we have perused the grounds which are communicated in Marathi language which reads to the following effect :-

- (i) The offence committed by you is cognizable and non-bailable.
- (ii) It is necessary to prevent you from committing such offence once again.
- (iii) In order to investigate the offence, necessary evidence against you is to be collected.
- (iv) If you are not arrested and your presence is required in the Court, there is no assurance that you shall attend the judicial proceedings.

(v) You are not resident of Mumbai or Maharashtra and therefore if he is wanted for the Judicial Proceedings it will be difficult for the police to search him.

6) Yesterday, we had adjourned the Petition so as to enable the learned APP to find out whether any other communication is addressed to the Petitioner, which could be construed as grounds of arrest and she has returned back with the instructions that there is no other communication and what was communicated on 05/08/2025 itself are the grounds of arrest.

7) The Apex Court in case ***Pankaj Bansal*** (supra) has categorically set out as to what would amount to grounds of arrest and with specific emphasis on the provision in form of Article 22(1) of the Constitution, it is categorically held that no person who is arrested shall be detained in custody without being informed, as soon as may be, the grounds of arrest and considering it to be a fundamental right guaranteed to the arrested person, and the mode of conveying the requisite information or grounds of arrest was held to be necessarily meaningful so as to serve the intended purpose.

A clear distinction was drawn between the “Grounds of Arrest” and the "Reasons for arrest" in a subsequent decision in ***Prabir Purkayastha*** (supra), and it was specifically set out in paragraph 49 which reads to the following effect :-

“ 49. 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 tempering with such evidence in any manner; to prevent the arrested person from 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) The above decisions have received a further clarification by the Apex Court in case of ***Mihir Rajesh Shah v/s. The State of Maharashtra and another***⁴ when the principle of law laid down in ***Pankaj Bansal*** (supra) and ***Prabir Purkayastha*** (supra) has been followed, by keeping in mind the constitutional mandate of Article 22 as well as the legislative intent behind incorporation of Section 50A of Criminal Procedure Code, 1973, being to ensure that by communicating the grounds of arrest, the detainee gets an opportunity to defend the remand proceedings and adopt a specific stance

4 2025 INSC 1288

when he is produced before the Magistrate.

It is reiterated that the grounds of arrest must be provided to the arrestee in such a manner that sufficient knowledge of facts constituting, the grounds is imparted and communicated to the arrested person in a language which he/she understands.

9) The emphasis on communication of the grounds of arrest being the focus of all the aforesaid decisions, and since non-compliance of the said directives have been held to be fatal resulting into declaring the arrest illegal, when we have perused the grounds of arrest which are communicated to the Petitioner, by no stretch of imagination, they can be construed as “Grounds of Arrest”, sufficient enough to offer any clue to the Petitioner to defend himself in remand proceedings. On the other hand, we find that what is communicated to him are largely the species of “Reasons for arrest” as contemplated under Section 35(1)(b)(ii) of the Bharatiya Nagarik Suraksha Sanhita (BNSS) and not grounds of arrest.

Since we find that the Investigating Officer before effecting the arrest, has failed to communicate the grounds of arrest, the consequences must follow.

10) For reasons recorded above, we declare the detention of the Petitioner on 04/08/2025 by Sahar Police Station as illegal, non-compliance of the mandatory requirement of communicating the "Grounds of arrest". As a result thereof, the Remand Orders passed by the learned

Metropolitan Magistrate, 65th Court, Andheri on 05/08/2025 and 07/08/2025 are also declared as illegal.

The Petitioner is entitled to be released forthwith by the Sahar Police Station.

Rule is made absolute in above terms.

(SHYAM C. CHANDAK, J.)

(BHARATI DANGRE, J.)