

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL WRIT PETITION NO. 6057 OF 2025****WITH****CRIMINAL WRIT PETITION NO.6074 OF 2025****WITH****CRIMINAL WRIT PETITION NO. 6084 OF 2025****WITH****CRIMINAL WRIT PETITION NO. 6089 OF 2025****WITH****CRIMINAL WRIT PETITION NO.6108 OF 2025****WITH****CRIMINAL WRIT PETITION NO.6109 OF 2025**

Naushad Ahmed Shaikh

.. Petitioner

Versus

The State of Maharashtra and anr

.. Respondents

...

Mr. Mahendra Kawchale a/w Mr. Nishant Patil, Mr. Premkumar Mishra, Mr. Raj Bannatwala, Mr. Rajveer Mundhe for the petitioner.

Mr. Ayush Pasbola a/w Vighneswar Subramanian, Omkar Patil, Himanshu Mane for respondents/victims.

Mr. Y.S. Bhate a/w Mr. D.P. Singh a/w Mr. Harikishan, Sr. Prosecutor, SFIO for the respondents, in IAL No. 20236 of 2025, IAL No.23191 of 2025 in WP No.3199 of 2022.

Ms. Supriya Kak, APP for the respondent State in WP No. 6057 of 2025 and WP No.6109 of 2025.

Mr. T.G. Khan, APP in for the respondent State in WP No. 6074 of 2025, WP No.6084 of 2025 and WP No. 6108 of 2025.

Ms. S.R. Agarkar, APP for respondent State in WP No. 6089 of 2025.

Ms. Vanita Dhumal, P.I., Pimpri Chinchwad police station.

Ms. Chhaya Borkar, P.S.I., EOW.

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

DATED : 25th NOVEMBER, 2025

JUDGMENT :- (PER BHARATI DANGRE J.)

1. The Six Writ Petitions filed by the same Petitioner Naushad Ahmed Shaikh, who is accused of offence under the POCSO Act, 2012 in distinct CRs registered with Ravet Police Station, Pimpri Chinchwad, pray for a declaration that his arrest in connection with the CRs is illegal and the same is liable to be quashed and set aside along with the subsequent orders of remand. The Petitions seek issuance of writ of habeas corpus for securing his release from the judicial custody in connection with each of the case registered with Ravet Police Station.

2. We have heard learned counsel Mr. Mahendra Kawchale for the Petitioner in all the Writ Petitions along with learned APP Ms. Supriya Kak, Mr. T.G. Khan and Mr. S.R. Agarkar for the State and also Mr. Ayush Pasbola for respondents.

Rule. Rule is made returnable forthwith by Consent of the Parties.

3. For the sake of convenience, we would refer to the facts in WP No. 6057 of 2025, which involve C.R. No. 68 of 2024 registered with Ravet Police Station.

The said FIR came to be registered on the complaint stating that the complainant, was admitted in 2019 in Creative Academy, Ravet, since she gathered the information that it offers good educational facilities for 11th and 12th standard. According to the complainant the accused was a Director of the academy, but he was not teaching any subject. According to the complaint, the petitioner was residing in Flat No.6 in the girls hostel in the academy, where he

used to invite girls and by establishing friendly relationship, he made them watch objectionable videos, focusing upon the relationship between man and woman and he also collected their personal information. The complaint specifically refer to certain conversations and directions issued by him with a specific allegation that, he used to talk to the girls about private parts. It is also alleged that he used to make the girls sit in his lap and kiss them on their cheeks, lips, forehead by saying that engaging in such act would enhance their personality. The complaint also states that he used to give them the reading material from Osho and used to often discuss sex related issues with them.

The complaint also refers to several objectionable acts attributed to the accused, where he developed close proximity with the young girls, which involved physical connect and advised the girls to have sex at early age, if they were interested in establishing a career.

4. The complainant specifically alleged in her complaint that between November 2020 and August 2021, he established physical relationship with her on multiple times and even clicked her pictures in a revealing dress, which he asked her to purchase and while doing so he convinced her that this would enhance her physical and mental growth. Being in her youth and with lack of understanding the complainant stated that though she was not approving of the same but because of his image in the academy, she did not dare to reveal the same to any outsider.

5. The aforesaid complaint resulted in registration of C.R. No. 68 of 2024 on 17/02/2024 which invoked Section 354, 354-D, 376 (2-

D), 376 (2-N) of IPC and Section 4, 5, 6, 7, 8, 9, 10, 11, 12 of the POCSO Act, with the period of occurrence of the offence being given as 1/05/2019 to 31/1/2023.

During the course of investigation the statement of the victim girl was also recorded under Section 164 before the Magistrate, where she reiterated the contents of her complaint by stating that all the while since the day she sought admission in the academy, she was subjected to sexual assault.

6. In the other five writ petitions the date of registration of offence is below, with the complainant being a different girl but more or less the accusations of sexual harassment faced by the complainant are of similar nature. The details of the FIR and the date of its Registration is as below:-

Sr No.	C.R. No.	Date of Registration of FIR
1.	29 of 2024	30/01/2024
2.	44 of 2024	04/02/2024
3.	50 of 2024	07/02/2024
4.	51 of 2024	08/02/2024
5.	57 of 2024	10/02/2024

7. It is the grievance of the Petitioner that his arrest in C.R. No. 68 of 2024 on 17/02/2024 is illegal and unlawful as the grounds of arrest are not communicated to him before his arrest was effected and neither the remand paper nor the charge-sheet reflect that the same were communicated to him and his relative/nominee in writing or in an effective manner. Alleging that the non-communication of the grounds of arrest is violation of his statutory rights as well as constitutional rights. Reliance is placed upon the decision in case of *Prabir Purkayasta vs. State (NCT of Delhi)*, (2024) 8 SCC 254.

8. The petition also plead that the FIR was registered with Ravet Police Station, but since it was against child and women, it was not uploaded on the website of Maharashtra Police and neither the Petitioner and nor the lawyer representing him in the remand proceedings could lay their hands on the FIR till the Petitioner was subjected to first police custody remand and he was deprived of his liberty, as the grounds of arrest were not communicated to him and he was unable to defend the application for remand. Reliance is also placed upon the decision in case of *Vihaan Kumar vs. State of Haryana and anr*, (2025) 5 SCC 799 and also the decision of the Apex Court in case of *Kasireddy Upender Reddy vs. State of Andhra Pradesh and ors*, (2025) SCC Online SC 1228 and by relying upon the ratio flowing from the said decision, it is urged before us that even in the most heinous offences, the fundamental right guaranteed under Article 22(1) of the Constitution of India, must be honoured without carving any exception as the same is enshrined therein.

9. Mr. Kawchale would invite our attention to the order passed by the Apex Court on 28/07/2025, when he filed a Petition before the Higher Court for protection of his fundamental right, which read to the following effect:-

“Having considered the matter, we are of the view that the petitioner directly approaching this Court does not appear to be justified in the facts and circumstances of the present case.

2. Faced with the situation, learned counsel for the petitioner submits that regular bail petition filed by the petitioner is pending before the Bombay High Court. Thus, he seeks liberty to withdraw the present petition to pursue the said bail petition before the Bombay High Court.

3. Having regard to the aforesaid, the present writ Petition stands disposed of as withdraw, with liberty aforesaid.

4. *However, it shall be open to the petitioner to move the High Court for consideration of his bail petition, which shall be considered on its own merits and in accordance with law.*
5. *Further, we make it clear that the Court concerned shall consider the matter on its own merits and in accordance with law, without being prejudiced by this order.*
6. *Pending application(s), if any, shall also stand disposed of.”*

10. He would submit that pursuant to the said order, he filed a bail application before the learned Single Judge seeking bail in C.R. No. 68 of 2024, which was converted into Special Case No.47 of 2024 and pending before the Special POCSO Court, Vadgaon, Maval, Pune. The said order record thus:-

“3. Mr. Mahendra Kawchale, submits that the Applicants intends to raise a specific ground of illegal detention of Applicant by amending the present Bail Application.

4. Ms. M. H. Mhatre, learned APP for the State and Mr. Ayush Pasbola, learned Advocate for Respondent No. 2 submit that the Applicant had not raised such a ground before the Trial Court and Applicant is urging the said ground for the first time before this Court. They therefore submits that it would be appropriate that such a ground is first raised and considered by the Trial Court, at the first instance.

5. In view of the said objection, Mr. Mahendra Kawchale, learned Advocate for the Applicant craves leave to withdraw the present Bail Application with liberty to file a fresh Bail Application before the learned Trial Court raising the ground of illegal detention. Liberty as prayed for is granted. Applicant is at liberty to file a fresh Bail Application before the learned Trial Court raising the ground of illegal detention. If such Application is filed, the same shall be considered expeditiously, on its own merits and in accordance with law.”

11. Pursuant to this order, we find that the applicant approached the Special Court by filing an application under Section 483 of BNSS for bail, wherein he specifically raised a ground about non-compliance of the provisions of Sections 50 and 50-A of the Code of

Criminal Procedure, 1973 and Article 22(1) of the Constitution of India, as he pleaded that the arrest is illegal and void. A specific ground was also raised that there is nothing in the charge-sheet to show that the reasons of arrest were communicated to him and the arrest memo was a typed formate, only revealing the place and date of arrest with no grounds being mentioned and therefore, the arrest is illegal.

The Special Judge in light of the submission advanced also considered the plea of the Special Public Prosecutor, who strongly resisted the bail application by submitting that the incident had taken place in an educational institution and the victims were minor girls admitted in the institution and the accused held a dominant position in the said institution as a trustee and therefore the matter was serious.

It was also urged that the arrest memo clearly recorded the grounds of arrest and also the fact that the intimation was given to the relatives.

12. On perusal of the record and proceedings, which reveal a serious offence by a highly educated person, the petitioner being a Mechanical Engineer and occupying the post of Director of the Creative Academy, it is recorded that the remand report reflected the mentioning of brief summary of the occurrence and also disclosed the nature of the crime, the manner in which it is committed and it is also recorded that since the applicant had approached the Court earlier by filing bail application, which was rejected on merits and he approached the High Court, which was also rejected. However, when he approached the Supreme Court, by filing proceedings and all the

while he was aware of the reasons of his arrest and since he defended the remand proceedings, it cannot be said that the grounds of arrest were not known to him. As a result, by reasoning the rejection in the following words the application came to be rejected.

“19. In the bail application itself it is stated that in arrest memo it is stated that reasons of arrest are given. The document also shows that no prejudice was caused to applicant/accused. At least nothing is brought on record that the prejudice was caused to applicant/accused. Arrest memos and remand records clearly reflects that the applicant/accused was aware of the reasons for his arrest. He was legally represented from the beginning and applied for the 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 to the alleged procedural lapse. In the absence of demonstrable prejudice such as irregularity is, at the best, a curable defect and cannot by itself warrant release on bail. Thus the reliance in case of *Prabir Purkayastha - vs- State (NCT of Delhi)* and *Pankaj Bansal -vs- Union of India* and *anr* (cited *supra*) is misplaced, as those decisions turned on materially different facts and the statutory context. The approach adopted by the applicant/accused in preferring this application is inconsistent with the settled principle that procedural lapses in furnishing grounds of arrest, absent prejudice do not *episo facto* render custody illegal or entitle the accused to bail.”

13. Though, Mr. Kawchale, had urged before us that the non-communication of grounds of arrest has caused him grave prejudice, as there is a breach of the constitutional obligation to furnish him the grounds of arrest and his detention is therefore illegal and he deserves his release on bail, we must take note of the Remand reports in C.R. No. 68 of 2024.

The said remand reports refer to the arrest of the petitioner at 19:35 hours on 5/04/2024 and an entry to that effect being taken vide Station Diary No. 46/2024 at 21:30 hours. The remand application refers to previous 7 offences registered against the petitioner all

invoking provisions of the POCSO Act.

The Additional Sessions Judge, while granting police custody has recorded that the accused was experimenting on different girls and he need to be investigated.

Reading of the distinct FIRs registered against the petitioner at the instance of the minor girls admitted in the institution would reflect the perversity in his behaviour and it is not on one or two occasions that he has indulged into this deplorable act, but it appears that his behaviour was consistent, as he was in a habit of furnishing objectionable material to young girls and attempted to imbibe in their mind that sex is necessary for over all development and he forcefully committed sexual intercourse with the girls. Further, he was holding the important post of the Director of the institute, there was a lot of hesitancy to complaint either to the parents or discuss the same amongst the girls themselves. However, once, a complaint was filed, the other girls came forward and lodged complaints.

It is pertinent to note that on 1/08/2024, the application filed by the applicant seeking his release on bail was rejected by the Additional Sessions Judge, by testing the accusations against him and by examining the material collected by the investigating agency, recorded that it was sufficient to establish his *prima facie* involvement. Further noting that if bail is granted there was a possibility of he pressurize the witnesses or tampering with the evidence, the application came to be rejected.

The order dated 1/08/2024, by the Additional Sessions Judge, examined the merits of the matter and found that the applicant is not

entitled to be released on bail.

14. The Petitioner chose to approach the Supreme Court by filing a Writ Petition, when the Court expressed that he was not justified in approaching the Court directly and particularly when his bail application is pending before the Bombay High Court, and the petition was withdrawn with liberty to pursue the bail application before the Bombay High Court.

Before this Court, in Criminal Bail Application No. 4369 of 2024, the Advocate representing him submitted that he intended to raise a specific ground of illegal detention and considering that and on the objection being raised that the ground was never raised in the earlier round, the application was permitted to be withdrawn with liberty to file fresh bail application, raising the ground of illegal detention. This ground being permitted to be raised, another application was filed by the Petitioner before Special Court in Special Case No.47 of 2024, seeking his release on bail in the wake of non-compliance of provisions in Section 50 and 50 (A) of the Code of Criminal Procedure and Article 22(1) of the Constitution of India, by relying upon the authoritative pronouncements from the Hon'ble Apex Court, including the recent one in case of *Mihir Rajesh Shah vs. State of Maharashtra*, (Supreme Court SLP (Criminal) No. 17132 of 2024).

15. We have perused the order considering the plea of violation of Section 50 and 50 (A) of the Code along with Article 22(1) of the Constitution, which record that while arresting the accused, the reasons for his arrest were communicated to him and he was also informed of his legal rights. It is also recorded that the accused was

permitted to meet the legal adviser and the information of his arrest was given to his son. At the time of production he was assisted by his counsel with whom the accused consulted and the copy of the remand reports was given to the Advocate in presence of the accused and even the copy of the charge-sheet was furnished, since charge-sheet was already filed.

16. The learned APP specifically point out to us that the Petitioner came to be arrested in connection with the C.Rs registered against him for the first time on 30/01/2024 and the decision in case of *Parbir Purkayasta* (supra) is delivered on 15/05/2024 with a clarification that the decision in case of *Pankaj Bansal vs. Union of India and anr* (2024) 7 SCC 576, was delivered on 3/10/2023 and the argument that the proceedings of remand on 4/10/2023 would not govern the same came to be rejected by declaring that once Court had interpreted the provisions of the statute in context to the constitutional scheme and has laid down that the grounds of arrest have to be conveyed to the accused in writing expeditiously, the said ratio becomes the law of land and binding on all the Courts.

It is submitted before us that the law laid down in case of *Pankaj Bansal* (supra) would apply to all arrest effected after 3/10/2023, but it is only upon the decision delivered in *Prabir Purkayasta* (supra) on 15/05/2024, the law laid down by the Apex Court was directed to be made applicable to every arrest with a declaration that the right to be informed about the grounds of arrest flows from Article 22(1) of the Constitution and any infringement of the fundamental right would vitiate the process of arrest and remand. We must note that it is in paragraph no.49 of the decision in *Prabir*

Purkayasta, it is held that the grounds of arrest shall be communicated in writing in every arrest as the law is laid down by this Court in case of *Pankaj Bansal*.

Since the arrest of the Petitioner is effected on 30/01/2024, much before the decision in case of *Prabir Purkyasta* (supra) and since we find that the grounds of arrest were communicated orally to the Petitioner and also the intimation of his arrest was forwarded to his son, and particularly, we find that no prejudice is caused to him, as he was defended by an Advocate at the time of remand and he was remanded to police custody in the wake of 6 offences registered against him which involved POCSO, as he had sexually indulged with young girls of his own institution, a very heinous crime.

17. One more aspect which we must take into consideration is, that on merits the Petitioner filed an application for bail, which came to be rejected as the Special Court found his act to be heinous, as he was found to be involved with multiple young girls, and was accused of forcing himself upon them and he being working as a Director of the Institute in which the girls were studying, it becomes the case of aggravated sexual assault and also considering that on being released on bail, he is likely to tamper with the prosecution evidence, his application is rejected. Against the same rejection, he approached the High Court, but pleaded that he intended to raise a ground that his arrest is illegal and with this liberty being granted, he approached the Special Court and the Special Court did not find any merits and substance and rejected the application.

In *State of Madhya Pradesh and ors vs. Kusum Sahu* (Criminal Appeal No.4710 of 2025), the Apex Court took note of the

fact that on four occasions the bail application filed by the respondent were dismissed by the High Court and an unusual way was adopted by his daughter by filing a Writ Petition before the High Court praying for issuance of writ of habeas corpus seeking his release by claiming that he is unlawfully detained by the State and the High Court allowed the Writ Petition.

Upon the State filing an appeal, it contended that the bail applications filed by the respondent were dismissed by the High Court and thereupon a Writ Petition of habeas corpus was filed and the Apex Court expressed its displeasure about the manner in which the High Court had exercised the jurisdiction, by observing thus:-

“16. The facts of the case, as noticed above, in brief, indicate that the manner in which the case has been dealt with really shocks the conscience of this Court. It is a case where accused was arrested and filed four bail applications before the High Court, which were rejected. Despite this, in a habeas corpus petition filed by his daughter, his custody has been held to be unlawful and he was directed to be released while examining the case on merits as if the Court was hearing appeal against the order rejecting the bail application. The process followed is totally unknown to law. Lest the High Court starts following the impugned order as a precedent to scuttle the due process of law, to nip the evil in the bud, we hold that custody of an accused in a criminal case registered against him cannot be held to be unlawful especially when his bail applications have been dismissed. In the case at hand, it is not disputed that jibrakhan Lal Sahu, father of the respondent herein, is an accused in a criminal case registered against him in which chargesheet has also been filed.

17. For the reasons mentioned above, the appeal is allowed. The accused/jibrakhan Lal Sahu is already in custody. The impugned order passed by the High Court is set aside.

18. We make it clear that whenever bail application is filed by the accused/jibrakhan Lal Sahu, the same may be considered on its own merits by the Court concerned.”

18. In the wake of the aforesaid, we find no merits and substance in the claim of the Petitioner, who is involved in a serious and heinous offence of committing sexual assault upon minor girls in his own institution, in which he is a Director and since his bail application is already rejected on merits, and no prejudice has been demonstrated by not communicating the grounds of arrest in writing, as the grounds and reasons of arrest were communicated him orally, we do not find any merits and substance in the contention raised by Mr. Kawchale and we dismiss all the writ petitions as it is the very same contention raised in all the petitions involving different C.Rs.

Rule discharged. No order as to costs.

(SHYAM C. CHANDAK,J)

(BHARATI DANGRE, J.)