



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,  
NAGPUR BENCH, NAGPUR**

**CRIMINAL APPLICATION (BA) NO.191/2025**

**Yogesh s/o Ramesh Tonde**

**..VS..**

**The State of Maharashtra, through PSO PS Janefal, Buldhana, Tahsil  
and District Buldhana**

.....  
Office Notes, Office Memoranda of Coram,  
appearances, Court orders or directions  
and Registrar's orders  
.....

Court's or Judge's Order

**Shri S.V.Sirpurkar, Counsel for the Applicant.**

**Shri V.A.Thakare, Additional Public Prosecutor for the State.**

**CORAM : URMILA JOSHI-PHALKE, J.**

**CLOSED ON : 02/04/2025**

**PRONOUNCED ON : 16/04/2025**

1. By this application, being moved under Section 483 of the Bhartiya Nagrik Suraksha Sanhita, 2023, the applicant seeks regular bail in connection with Crime No.204/2024 registered with the non-applicant/police station for offences punishable under Sections 302 and 365 read with 34 of the Indian Penal Code.

2. The applicant came to be arrested on 10.7.2024 and since then he is in jail.

3. The crime is registered on the basis of report lodged by Jyoti Dilip Ingle, the wife of the deceased, alleging that her husband was working as a “Money Rain Pourer”. On 22.6.2024, at around 3:00 pm, he left the house by informing her that he is travelling to Ahmednagar for the work related to money rain accompanied by the applicant and one Sandip Shewale, but he did not return until 27.6.2024 and, therefore, she lodged missing report 27.6.2024. During enquiry of the missing report, it revealed that her husband has left in “Swift Desire Car MH-03/BH/1824 along with the applicant and Sheikh Sajid Sheikh. They travelled to Shirdi and were waiting at Nashik Fata. At around 7:00 pm, another car arrived with three unknown individuals. The informant was informed by Sandip Shewal, who was along with the deceased, that the deceased informed that he is proceeding at Kokandhan for the said money rain event. Thus, said Sandip and the deceased proceeded in the vehicle. The applicant was also along with them. At around 10:30 to 11:00 pm, when they

reached near SJS Hospital, another four-wheeler approached them and 4-5 persons got down from the vehicle and assaulted her husband. They forcibly took him in their vehicle and abducted him. Subsequently, the dead body of the deceased was found at Rashin-Karjat and, therefore, the offence was registered on the basis of the report lodged by the wife of the deceased alleging against the other co-accused.

4. During investigation, involvement of the applicant revealed in the conspiracy and, therefore, he is also arraigned as an accused.

5. Heard learned counsel Shri S.V.Sirpurkar for the applicant and learned Additional Public Prosecutor Shri V.A.Thakare for the State.

6. Learned counsel for the applicant submitted that the entire case is based on the circumstantial evidence. Not a single circumstance is on record to *prima facie* establish the involvement of the applicant in the conspiracy. Though

the applicant, allegedly, went along with the deceased, investigation papers show that from Kopargaon the deceased was taken by the unknown persons and, thereafter, his dead body was found. Thus, as far as involvement of the applicant is concerned, there is no sufficient material to connect him with the alleged offence. Now, investigation is completed and chargesheet is filed.

7. Learned counsel for the applicant also raised ground of non-compliance of Section 50 of the CrPC and violation of Article 22(1) of the Constitution of India. He, therefore, prays that the applicant be released on bail.

8. *Per contra*, learned Additional Public Prosecutor for the State submitted that the deceased and one Amol Rajput were involved in the activity like money rain and some dispute arose between the deceased and said Amol on account of money transaction. Therefore, said Amol hatched conspiracy with co-accused Sandip, the present applicant, and Sheikh Sajid Sheikh. As per the conspiracy,

the deceased was taken by the applicant and other co-accused at Kopargaon whereat they are contacted by the persons who came in another vehicle. Thereafter, the deceased was taken at Kokandhan for the event of money rain. At Kokandhan, in one vehicle, four persons came there and assaulted the deceased and the deceased was taken in the vehicle and, thereafter, the dead body of the deceased was found. Thus, involvement of the applicant revealed in the conspiracy. He invited my attention towards station diary entry No.027 and submitted that the grounds of arrest were communicated to the applicant. He also invited my attention towards the notice issued to the applicant and submitted that this notice also shows that the applicant was informed as to the grounds of his arrest. Thus, there is a compliance of Section 50 of the CrPC. He also placed on record extract of the register wherein entry was taken as to the compliance of the said Section. Thus, he submitted that there is no violation of Article 22(1) of the Constitution. Therefore, the application deserves to be rejected. He also

invited my attention towards statements of the witnesses and submitted that the witnesses have seen the applicant along with the deceased proceeding in Swift Desire Car MH-03/BH/1824. Thereafter, the deceased went along with the present applicant. The statements of witnesses further show that all the accused were communicating with each other and the CDRs show the calls between them. The dead body of the deceased was found at Rashin-Karjat. There was communication between the deceased and the co-accused also. Thus, the involvement of the applicant reveals from the investigation papers. In view of that, the application deserves to be rejected.

9. After hearing both the sides and perusing the investigation papers, it reveals that the applicant was lastly seen in the company of the deceased. The statements of the witnesses disclose that the deceased and the applicant along with other co-accused left to proceed to Ahmednagar. They went at Kopargaon. At Kopargaon, some persons

approached the deceased and the deceased and the applicant and other co-accused went at Kokandhan for money rain event. Thereafter, some persons approached the deceased at Kokandhan and assaulted him and taken him and, thereafter, his dead body was found. The statements of witnesses further reveal that there was enmity between Amol and the deceased on account of money transaction. On the say of co-accused Amol, the deceased was taken in a vehicle by the applicant and Sheikh Sajid. After they left with the deceased, there were continuous communications with co-accused Amol and Santosh; Amol and Mahadev; the deceased and co-accused Amol; and Amol and the applicant. Thus, there is a sufficient material to connect the applicant with the alleged offence.

10. As far as merits of the matter is concerned, sufficient material is collected during the investigation to show involvement of the applicant.

11. The statements of the witnesses and CDRs

sufficiently show the involvement of the applicant in conspiracy.

12. Admittedly, direct evidence would not be available as far as conspiracy is concerned. The circumstances show the applicant and other co-accused went with the deceased, communication between the co-accused and the applicant and other co-accused, statements of the witnesses showing the meeting of the applicant and other co-accused prior to the incident, and CDRs etc..

13. Thus, merits of the matter sufficiently show the involvement of the applicant in the alleged incident.

14. The another ground raised in the application is that there is non-compliance of Section 50 of the CrPC and Article 22(1) of the Constitution.

15. Considering the submissions made by both the parties, it is necessary to refer the relevant provisions.

16. Section 41 of the Code deals with when police

may arrest without warrant. Sub section (1) of Section 41 of the Code (Clause (c) of sub-section (1) of Section 35 of the BNSS Act) states about when police officer may without an order from a Magistrate and without a warrant, arrest any person subject to conditions enumerated therein.

Thus, it states that a police officer can arrest a person after satisfying himself when an offence punishable with imprisonment for more than 7 years is alleged. The police officer can arrest subject to condition mentioned in Section 35(1)(b) of the BNSS Act are satisfied.

17. Article 22(1) of the Constitution reads as under:

**“22. Protection against arrest and detention in certain cases-**

**(1)** 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.”

18. Thus clause (1) of Article 22 of the Constitution

states that no person shall be detained in custody without being informed as to the grounds of such arrest.

19. Section 50 of the Code (Section 47 of the BNSS Act) deals with persons arrested to be informed of grounds of arrest and of right to bail which reads as under:

**“Section 50. 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.

20. Thus, Section 41 of the Code (Section 35 of the BNSS Act), Section 50 of the Code (Section 47 of the BNSS

Act) and Article 22 of the Constitution are relevant provisions.

21. Learned counsel for the applicant vehemently submitted that there is non compliance of Section 50 of the CrPC as grounds of arrest are not communicated to the applicant. Whereas, the prosecution placed reliance on the notice issued to the applicant and station diary entry. Entry No.27 dated 10.7.2024 shows that the applicant was arrested and referred for the medical examination and, thereafter, entry was taken in register which is maintained in view of directions of the Hon'ble Apex Court. Notice was also issued to the applicant under Section 47(1)(2) of the BNS (Section 50 of the CrPC). Recital of the said notice shows that the offence is registered against the applicant vide Crime No.204/2024 on 9.7.2024 and he is arrested in the said crime. As to his arrest, information is given to his mother. The entry is also taken in the register which is maintained in view of the directions of the Hon'ble Apex

Court as to the compliance of Section 50 of the CrPC.

22. Thus, learned Additional Public Prosecutor for the State submitted that compliance under Section 50 of the CrPC and Article 22(1) of the Constitution is complied with before arrest of the applicant.

23. Learned counsel for the applicant placed reliance on the decision in the case of **Vihan Kumar vs. State of Haryana and anr, Special Leave Petition (Cri.) No.13320/2024 decided on 7.2.2025.** He also placed reliance on on the decision in the case of **Prabir Purkayastha vs. State (NCT of Delhi), reported in (2024)8 SCC 254** wherein the Hon'ble Apex Court by referring the relevant provisions and relying upon the decision in the case of **Harikisan vs. State of Maharashtra and ors, reported in 1962 SCC OnLine SC 117** held that the communication of the grounds of detention to the detenue in writing and in a language which he understands is imperative and essential to provide an opportunity to detenue of making an effective

representation against the detention and in case, such communication is not made, the order of detention would stand vitiated as the guarantee under Article 22(5) of the Constitution was violated.

By referring the decision in the case of **Lallubhai Jogobhai Patel vs. Union of India and ors, reported in (1981)2 SCC 427**, the Hon'ble Apex Court observed that “.... ‘Communicate’ is a strong word. It means that sufficient knowledge of the basic facts constituting the “grounds” should be imparted effectively and fully to the detenu in writing in a language which he understands. The whole purpose of communicating the “ground” to the detenu is to enable him to make a purposeful and effective representation. If the “grounds” are only verbally explained to the detenu and nothing in writing is left with him, in a language which he understands, then that purpose is not served, and the constitutional mandate in Article 22(5) is infringed.....”

The Hon'ble Apex Court further held that, "from a holistic reading of various judgments pertaining to the law of preventive detention including the Constitution Bench decision of this Court in *Harikisan supra* , wherein, the provisions of Article 22(5) of the Constitution of India have been interpreted, we find that it has been the consistent view of this Court that the grounds on which the liberty of a citizen is curtailed, must be communicated in writing so as to enable him to seek remedial measures against the deprivation of liberty.

It is further held that the language used in Article 22(1) and Article 22(5) of the Constitution of India regarding the communication of the grounds is exactly the identical. Neither of the constitutional provisions require that the 'grounds' of "arrest" or "detention", as the case may be, must be communicated in writing. Thus, interpretation to this important facet of the fundamental right as made by the Constitution Bench while examining the scope of Article

22(5) of the Constitution of India would ipso facto apply to Article 22(1) of the Constitution of India insofar the requirement to communicate the grounds of arrest is concerned.

24. The decision in the case of **Prabir Purkayastha vs. State (NCT of Delhi)** *supra* further shows that the provisions of Article 22(1) have already been interpreted by this Court in **Pankaj Bansal vs. Union of India and ors, reported in 2023 SCC OnLine SC 1244** laying down beyond the pale of doubt that the grounds of arrest must be communicated in writing to the person arrested of an offence at the earliest. Hence, the fervent plea of learned ASG that there was no requirement under law to communicate the grounds of arrest in writing to the accused appellant is noted to be rejected.

In paragraph No.48 in the decision in the case **Prabir Purkayastha vs. State (NCT of Delhi)** *supra* it is specifically observed 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 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.

25. The Hon’ble Apex Court in the case of **Vihan Kumar vs. State of Haryana and anr** *supra* also while considering Section 50 of the Code and Article 22(1) of the Constitution held that view taken in the cases of **Pankaj Bansal vs. Union of India and ors** *supra* was reiterated by this Court in the case of **Prabir Purkayastha** *supra*. The Hon’ble Apex Court further referred the decision in the case of **Lallubhai Jogobhai Patel vs. Union of India and ors** *supra*. The Hon’ble Apex Court by referring various decision observed that, “compliance can be made by communicating sufficient knowledge of the basic facts constituting the grounds of arrest to the person arrested. The grounds should be effectively and fully communicated to the arrestee in the manner in which he will fully understand the same. Therefore, it follows that the grounds of arrest must be

informed in a language which the arrestee understands. That is how, in the case of **Pankaj Bansal** *supra*, this Court held that the mode of conveying the grounds of arrest must necessarily be meaningful so as to serve the intended purpose. However, under Article 22(1), there is no requirement of communicating the grounds of arrest in writing. Article 22(1) also incorporates the right of every person arrested to consult an advocate of his choice and the right to be defended by an advocate. If the grounds of arrest are not communicated to the arrestee, as soon as may be, he will not be able to effectively exercise the right to consult an advocate. This requirement incorporated in Article 22(1) also ensures that the grounds for arresting the person without a warrant exist. Once a person is arrested, his right to liberty under Article 21 is curtailed. When such an important fundamental right is curtailed, it is necessary that the person concerned must understand on what grounds he has been arrested. That is why the mode of conveying information of the grounds must be meaningful so as to

serve the objects stated above.”

In paragraph No.14 it is further held “thus, the requirement of informing the person arrested of the grounds of arrest is not a formality but a mandatory constitutional requirement. Article 22 is included in Part III of the Constitution under the heading of Fundamental Rights. Thus, it is the fundamental right of every person arrested and detained in custody to be informed of the grounds of arrest as soon as possible. If the grounds of arrest are not informed as soon as may be after the arrest, it would amount to a violation of the fundamental right of the arrestee guaranteed under Article 22 (1). It will also amount to depriving the arrestee of his liberty. The reason is that, as provided in Article 22, no person can be deprived of his liberty except in accordance with the procedure established by law. The procedure established by law also includes what is provided in Article 22(1). Therefore, when a person is arrested without a warrant, and the grounds of

arrest are not informed to him, as soon as may be, after the arrest, it will amount to a violation of his fundamental right guaranteed under Article 21 as well. In a given case, if the mandate of Article 22 is not followed while arresting a person or after arresting a person, it will also violate fundamental right to liberty guaranteed under Article 22, and the arrest will be rendered illegal. On the failure to comply with the requirement of informing grounds of arrest as soon as may be after the arrest, the arrest is vitiated. Once the arrest is held to be vitiated, the person arrested cannot remain in custody even for a second.”

The Hon’ble Apex Court, therefore, concludes as follows:

- a) The requirement of informing a person arrested of grounds of arrest is a mandatory requirement of Article 22(1);
- b) The information of the grounds of arrest must be provided to the arrested person in such a

manner that sufficient knowledge of the basic facts constituting the grounds is imparted and communicated to the arrested person effectively in the language which he understands. The mode and method of communication must be such that the object of the constitutional safeguard is achieved;

c) When arrested accused alleges non-compliance with the requirements of Article 22(1), the burden will always be on the Investigating Officer/Agency to prove compliance with the requirements of Article 22(1);

d) Non-compliance with Article 22(1) will be a violation of the fundamental rights of the accused guaranteed by the said Article. Moreover, it will amount to a violation of the right to personal liberty guaranteed by Article 21 of the Constitution. Therefore, non-compliance with the

requirements of Article 22(1) vitiates the arrest of the accused. Hence, further orders passed by a criminal court of remand are also vitiated. Needless to add that it will not vitiate the investigation, charge sheet and trial. But, at the same time, filing of chargesheet will not validate a breach of constitutional mandate under Article 22(1);

e) When an arrested person is produced before a Judicial Magistrate for remand, it is the duty of the Magistrate to ascertain whether compliance with Article 22(1) and other mandatory safeguards has been made; and

f) When a violation of Article 22(1) is established, it is the duty of the court to forthwith order the release of the accused. That will be a ground to grant bail even if statutory restrictions on the grant of bail exist. The statutory

restrictions do not affect the power of the court to grant bail when the violation of Articles 21 and 22 of the Constitution is established.

26. Thus, in view of the judgment in the case of **Vihan Kumar vs. State of Haryana and anr *supra***, statutory compliance under Section 50 as well as Article 22(1) of the Constitution is mandatory.

27. These aspects are further dealt with by the Three Judge Bench of the Hon'ble Apex Court while considering Section 19 of the Prevention of Money Laundering Act, 2002 in the case of **Vijay Madanlal Choudhary & ors vs. Union of India and ors, reported in 2022 SCC Online SC 929** wherein it is observed that, "so long as the person has been informed about grounds of his arrest that is sufficient compliance of mandate of Article 22(1) of the Constitution. Moreover, the arrested person before being produced before the Special Court within twenty-four hours or for that purposes of remand on each occasion, the Court is free to look into the

relevant records made available by the Authority about the involvement of the arrested person in the offence of money-laundering.”

28. In the case of **Ram Kishor Arora vs. Directorate of Enforcement**, reported in AIR 2024 SC 220, while considering the decisions in **Vijay Madanlal Choudhary & ors vs. Union of India and ors** *supra* and **Pankaj Bansal** *supra*, highlighting the utmost importance of doctrine of binding precedent in the administration of judicial system, it is observed that, “in view of the aforesaid proposition of law propounded by the Constitution Benches, there remains no shadow of doubt that the law laid down by the Three-Judge bench in **Vijay Madanlal Choudhary** *supra* that Section 19(1) of the PMLA has a reasonable nexus with the purposes and objects sought to be achieved by the PML Act and that the said provision is also compliance with the mandate of Article 21(1) of the Constitution of India, any observation made or any finding recorded by the Division

Bench of lesser number of Judges contrary to the said ratio laid down in **Vijay Madanlal Choudhary** *supra* would be not in consonance with the jurisprudential wisdom expounded by the Constitution Benches in cases referred above. The Three-Judge Bench in **Vijay Madanlal Choudhary** case *supra* having already examined in detail the constitutional validity of Section 19 of PMLA on the touchstone of Article 22(1) and upheld the same, it holds the field as on the date.

The Hon'ble Apex Court in **Ram Kishor Arora** *supra* in paragraph No.22 further observed that in **Vijay Madanlal Choudhary** case *supra*, it has been categorically held that so long as the person has been informed about the grounds of his arrest, that is sufficient compliance of mandate of Article 22(1) of the Constitution. It is also observed that the arrested person before being produced before the Special Court within twenty-four hours or for that purposes of remand on each occasion, the Court is free to look into the relevant records made available by the

Authority about the involvement of the arrested person in the offence of money-laundering. Therefore, in our opinion the person asserted, if he is informed or made aware orally about the grounds of arrest at the time of his arrest and is furnished a written communication about the grounds of arrest as soon as may be i.e as early as possible and within reasonably convenient and requisite time of twenty-four hours of his arrest, that would be sufficient compliance of not only Section 19 of PMLA but also of Article 22(1) of the Constitution of India.

29. While concluding, the Hon'ble Apex Court in the case of **Ram Kishor Arora** *supra* held that since the appellant was indisputably informed about the grounds of arrest and he having also put his signature and the endorsement on the said document of having been informed, there was due compliance of the provisions contained in Section 19 of PMLA and his arrest could neither be said to be violative of the said provision nor of

Article 22(1) of the Constitution of India.

30. In the light of the above observations, if the facts of the present case are taken into consideration, the notice is given to the applicant disclosing the name of the applicant, crime number, and other details which is signed by the applicant. The station diary entry shows that he was informed as to his arrest and entry was taken in the concerned register.

31. Thus, in view of the observations of the Hon'ble Apex Court in the case of **Vihan Kumar vs. State of Haryana and anr** *supra* wherein it is observed that if the police want to prove communication of the grounds of arrest only based on a diary entry, it is necessary to incorporate those grounds of arrest in the diary entry or any other document. The grounds of arrest must exist before the same are informed.

32. In view of the above observations, in the present case, the notice issued to the applicant shows the reason as to the arrest of the applicant informing the crime number,

the provisions of law, which are applied against him, and the information that his relatives are informed. He also puts his signature on the said notice.

33. In view of the requirement of informing the person arrested, which is held by the Hon'ble Apex Court in the case of **Vihan Kumar vs. State of Haryana and anr** *supra*, the same is not a formality, but a mandatory constitutional requirements. It further states that the mode of conveying information of the grounds of arrest must necessarily be meaningful so as to serve the intended purpose. The Hon'ble Apex Court further clarified that under Article 22(1) of the Constitution, there is no requirement of communicating the grounds of arrest in writing. The purpose of Article 22(1) of the Constitution is that the right of every person arrested to consult an advocate of his choice and the right to be defended by an advocate. The said purpose appears to be fulfilled as sufficient information by giving the notice to the applicant.

34. Thus, there is substantial compliance by taking entry in station diary and issuing the notice and taking entry in the register maintained as per the directions of the Hon'ble Apex Court.

35. In this view of the matter, the ground of non-compliance of Section 50 of the Code and Article 22(1) of the Constitution is not available to the present applicant and, therefore, the application deserves to be rejected and the same is **rejected**.

Application stands **disposed of**.

(URMILA JOSHI-PHALKE, J.)

!! BrWankhede !!