



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (BA) NO. 319 OR 2025

Archana w/o Manish Puttewar Vs State of Maharashtra

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. A.S. Mardikar, Senior Counsel with Mr. Digvijay Singh, counsel for applicant.

Mr. N.B. Jawade, APP for the non-applicant/State.

CORAM : **URMILA JOSHI-PHALKE, J.**
DATE OF RESERVE : **01/08/2025.**
DATE OF DECISION : **25/08/2025**

1. Present application is filed by the applicant/accused in connection with Crime No. 312/2024 registered with Police Station Manewada Ring Road, Ajni, Nagpur for the offence punishable under Sections 201, 302, 279, 120-B of the Indian Penal Code, 1860; and Sections 134, 177 of the Motor Vehicle Act, 1988.

2. The applicant came to be arrested on 06/06/2024.

3. The crime is registered on the basis of a report filed by one Manish Purushottam Puttewar stating that on 22/05/2024 at about 11 a.m., he received the information that his father (deceased) met with an accident and was admitted in Alixis Hospital, Nagpur. He immediately rushed to the hospital and

came to know that his father was declared dead. On seeing the dead body, he noticed grievous injuries on his person, and his sister informed him that while proceeding from Shiv Mandir to Balaji Nagar, one Hyundai car dashed to him, and he succumbed to the injuries. On the basis of such a report, initially the offence was registered under Sections 279 and 304A of the Indian Penal Code along with Sections 134 and 177 of the Motor Vehicles Act.

4. During the investigation, the suspicion was raised as to the cause of the death of the deceased, and therefore, the investigation was transferred to the Crime Branch. As it was revealed that the deceased was eliminated in pursuance of the conspiracy, which was hatched by the present applicant along with the other six accused, and therefore, the applicant was arraigned as an accused.

5. Heard learned Senior Counsel Mr. A.S. Mardikar for the applicant, who submitted that as far as the criminal conspiracy is concerned, there is no material to hold that the present applicant was part of the said conspiracy, and in pursuance of the said conspiracy, the other co-accused eliminated the deceased. The deceased was father-in-law of the present

applicant. The motive was allegedly shown to be that the deceased was intending to give a share to his daughter in the property, which was disliked by the present applicant, and therefore, she hatched the conspiracy to eliminate the deceased. In fact, the civil suit was already filed for the partition, which is pending.

6. Learned counsel for the applicant submitted that the entire case is rested on the circumstantial evidence, except the circumstance that the present applicant stayed at Panchmadi along with the other co-accused, there is no other circumstance on record to connect the present applicant, the prosecution also placed reliance on the CDR reports, but one of the accused, Sachin Dharmik, was working as a driver with the present applicant, and that was the reason to have a communication from the present applicant to the other co-accused.

7. Learned counsel for the applicant further submitted that there was no *Mens rea* which can be attributed to the present applicant for the commission of the crime. The property was owned by the applicant's father and not by the deceased,

and therefore, the motive suggested to eliminate the deceased is also not sustainable.

8. Learned counsel for the applicant further submitted that the co-accused got in contact with the present applicant through her brother i.e. co-accused Prashant, who is also released on bail and takes care of her properties. There are 236 calls between Sanket Bagade and the present applicant, who is also released on bail and who was working as her driver. So there is nothing incriminating as alleged by the prosecution. On the day of the incident, there were no calls between the present applicant and the other co-accused. On the day of the incident, she had been to the Chandrapur and Gadchiroli Office, and the same can be verified from the documents.

9. Learned counsel for the applicant further submitted that there is non-compliance of Section 50 of Cr.P.C. in the present crime. While arresting the applicant, the grounds of arrest were not communicated to her, and therefore, the application deserves to be allowed, as without furnishing the grounds of arrest, the arrest of the present applicant is illegal

and invalid. On the basis of the said submission, he prays that the applicant shall be released on bail.

10. The learned APP strongly opposed the said application on the ground that during investigation, it was revealed that the daughter of the deceased had filed a suit for partition of the ancestral property, claiming her right in the property. The deceased, being the father of Yogita, was assisting Yogita to get her share in the ancestral property of her deceased husband, Pravin Parlewar. During the course of investigation, the applicant, her brother Prashant, and deceased brother Praful were the legal heirs of Madhukar Parlewar. After the death of Madhukar Parlewar, the property ought to have been disbursed amongst the legal heirs of the Madhukar. However, the husband of Yogita and father-in-law, the deceased Madhukar, died in the year 2006, and as such, the applicant Archana and her brother had opposed Yogita from getting the rights in the property owned by Madhukar Parlewar. The applicant hatched the conspiracy to eliminate the deceased Purushottam Puttewar, as he was instrumental in giving legal advice and assistance to Yogita for claiming her share in the property of Madhukar, and therefore he was eliminated by the present applicant.

11. It is further submitted that during the investigation, it was revealed that CCTV footage of the shop, namely Car Gallery, dated 20/05/2024 and 21/05/2024, showed the co-accused Sarthak buying a car in the name of the accused, Neeraj Nimje. The CCTV footage dated 22/05/2024, wherein the accused Sarthak and Neeraj are seen exchanging their seats before committing the final act of murder of the deceased. Accused Sarthak was working with the present applicant as her driver, and he has brought Neeraj into the picture. The CCTV footage of Deendayal Upadhyaya Library, downloaded by Shri Vishal Mule on his mobile phone from the CCTV camera installed at the said library, also shows that the main accused, Neeraj Nimje, and Sarthak exchanged their seats in the said vehicle before the incident. The CCTV footage of Silver Bar at Sangam Talkies shows the accused, Sachin Dharmik and Neeraj Nimaje, are seen to be consuming liquor on 22/05/2024. At the instance of the co-accused Sachin Dharmik, the discovery of 140 grams of gold and Rs. 3 lakhs in cash, which was handed over to them by the present applicant for eliminating the deceased, is seized. At his instance, one iron rod used by him to assault the deceased was also seized. Sachin Drarmik is the son of a friend

of Prasahant Parlewar and other co-accused and the brother of the applicant. The CDR report shows that the applicant was in constant contact with co-accused Sarthak as well as Sachin Dharmik. They have also visited Panchamadi together, and the hotel receipt shows their association with each other. The mobile phone of the present applicant was seized at the instance of the co-accused Payal, which was given to her to dispose of the mobile by formatting the same. The mobile analysis report, which is on record, sufficiently shows that before handing over the said phone to the co-accused Payal, it was formatted and handed over to the said Payal for disposing of the same. Thus, the material, which is collected during the investigation, sufficiently shows the involvement of the present applicant in the alleged offence. In view of that, the application deserves to be rejected.

12. After hearing both sides and on perusal of the investigation papers, admittedly the applicant has placed reliance on various decisions including decision of ***Central Bureau of Investigation, Hyderabad Vs K. Narayana Rao*** reported in ***(2012) 9 SCC 512***, wherein the Hon'ble Apex Court held that the ingredients of the offence of criminal conspiracy

are that there should be an agreement between the persons who are alleged to conspire, and the said agreement should be for doing an illegal act or for doing, by illegal means, an act which by itself may not be illegal. In other words, the essence of criminal conspiracy is an agreement to do an illegal act, and such an agreement can be proved either by direct evidence or by circumstantial evidence or by both, and it is a matter of common experience that direct evidence to prove conspiracy is rarely available. Accordingly, the circumstances proved before and after the occurrence have to be considered to decide about the complicity of the accused. Even if some acts are proved to have been committed, it must be clear that they were so committed in pursuance of an agreement made between the accused persons who were parties to the alleged conspiracy. Inferences from such proved circumstances regarding the guilt may be drawn only when such circumstances are incapable of any other reasonable explanation. In other words, an offence of conspiracy cannot be deemed to have been established on mere suspicion and surmises or inferences that are not supported by cogent and acceptable evidence. Admittedly, the direct evidence would not be available as far as the conspiracy is concerned, and therefore

the prosecution has to place reliance on the circumstantial evidence. As far as the present case is concerned, the association of the present applicant with the co-accused Sarthak, who was working with her as her driver, and the other co-accused, Sachin Dharmik, appears to be there from the CDR reports. Besides the CDR report, one hotel receipt by the name Woodland Adventure Resort dated 18/02/2024 and 19/02/2024 was collected during the investigation, which shows that the present applicant stayed along with Sachin Dharmik and Sarthak Bagade at Panchmadi. The reasons assigned by the learned Senior Counsel for their association were that she had been to Pachmadi to offer the “Trisuhl” to the Lord Shankar.

13. It is pertinent to note that, generally for any religious functions, the member of the family accompanies. As far as the other co-accused, Sachin Dharmik or Sarthak Bagade, are concerned, they are not the family members of the present applicant, and therefore, the contention of the learned Senior Counsel that she went to perform religious activities and offer Trishul to the Lord Shankar is not acceptable. Besides the said receipt, there are 236 calls between the present applicant and Sarthak Bagade. There are calls between the present applicant

and Sachin Dharmik also. Even accepting that Sarthak Bagade was working as a driver with her, but no reason came forward to have a communication with the co-accused Sachin Dharmik. Besides that, one mobile phone of the present applicant, which was formatted by the present applicant, was seized at the instance of the co-accused Payal. The said mobile phone was forwarded to the expert for the analysis. The expert opinion i.e. analysis report, is before the Court, which shows that it was in a formatted condition. Thus, the statement of the co-accused at whose instance the said mobile phone of the present applicant was recovered and which was handed over to her for disposing of the same is substantiated by the said report, which shows that the mobile phone was formatted after the incident. Thus, these circumstances sufficiently show the involvement of the present applicant in the alleged incident. Now, another ground raised by the present applicant is that the grounds of arrest were not communicated to her, which is a violation of her right enshrined to her under Article 21 of the Constitution, and on that ground itself she deserves to be released on bail.

14. He further submitted that there is no compliance of Section 50-A and Article 22(1) of the Constitution, on that ground itself, she is entitled to be released on bail.

15. On going through the investigation papers, there is one general diary entry 32 dated 6/6/2024, which is to the extent that the involvement of the present applicant was revealed during the investigation, and therefore, by informing her husband, she was arrested. Her arrest panchnanma in clause No. 8 shows that the accused, after being informed of the grounds of arrest and his legal rights, was duly taken into custody. Now, the question is whether the entry taken in the general diary entry and the mention of the clause that the grounds of arrest are informed to her is sufficient compliance in view of Section 50 of the Code (Section 47 of BNSS).

16. The 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.”

17. 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.

18. Section 50 of the Code (Section 47 of the BNSS) 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.

19. As submitted by learned Senior Counsel that there is non-compliance of Section 50 as well as Article 22 of the Constitution and therefore, arrest of the applicant is invalid. Whereas the prosecution placed reliance in general diary entry

and the arrest panchanama of the accused.

20. This aspect is dealt by the Hon'ble Apex Court in the case of *Prabir Purkayastha Vs State of (NCT of Delhi) reported in (2024) 8 SCC 254* and *Vihan Kumar vs. State of Haryana and anr [2025 SCC OnLine SC 269]*. In the case of *Prabir Purkayastha* (supra) wherein the Hon'ble Apex Court by referring the relevant provisions relying upon the decision in the case of *Harikisan vs The State Of Maharashtra 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 understand 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 stands vitiated as guarantee under Article 22(5) of the Constitution was violated.

21. 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 detainee in writing in a language which he understands. The whole purpose of communicating the “ground” to the detainee is to enable him to make a purposeful and effective representation. If the ‘grounds’ are only verbally explained to the detainee 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.

22. In the case of ***Vihan Kumar*** (supra) while considering Section 50 of the Code and Article 22(1) of the Constitution held that view taken in the case of ***Pankaj Bansal*** (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*** (supra). By referring various decisions it observed “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 understand. 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.

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 charge-sheet 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.

23. In the *State of Karnataka Vs Sri Darshan Etc, in Criminal Appeal Nos. 3528-3534 of 2025 (Arising from SLP (Crl.) Nos. 516-522 of 2025) decided on 14/08/2025*, wherein also, this aspect was considered and it is held that the constitutional and statutory framework thus mandates that the arrested person must be informed of the grounds of arrest – but neither provision prescribes a specific form nor insists upon written communication in every case. Judicial precedents have clarified that substantial compliance with these requirements is sufficient, unless demonstrable prejudice is shown.

24. By referring the decision in *Vihan Kumar* referred (supra) and *Kasireddy Upender Reddy v. State of Andhra Pradesh reported in 2025 INSC 768*, it was observed that when arrest is made pursuant a warrant, reading of the warrant amounts to sufficient compliance. Both these post- *Pankaj Bansal* decisions clarify that written, individualised grounds are not an inflexible requirement in all circumstances. While concluding this issue, the Hon'ble Apex Court held that arrest memos and remand records clearly reflect that the respondents were aware of the reasons for their arrest. They were legally represented from the outset and applied for 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 due to the alleged procedural lapse. In the absence of demonstrable prejudice, such as irregularity is, at best, a curable defect and cannot, by itself, warrant release on bail. As reiterated above, the High Court treated it as a determinative factor while overlooking the gravity of the charge under Section 302 IPC and the existence of a prima facie case. Its reliance on *Pankaj Bansal* and *Prabir Purkayastha* is misplaced, as those decisions turned on materially different

facts and statutory contexts. The approach adopted here is inconsistent with the settled principle that procedural lapses in furnishing grounds of arrest, absent prejudice, do not *ipso facto* render custody illegal or entitle the accused on bail.

25. Here in the present case also, it is not demonstrated that how the prejudice is caused to the accused due to the non-supply of the grounds of arrest. It further reveals that the applicant was legally represented and applied for bail after arrest, which shows that he was aware about the grounds of arrest, and no material was placed on record to establish that any prejudice was caused due to the alleged procedural lapses.

26. In the case of ***Vihan Kumar*** (supra), the challenge was also based on the failure to communicate the grounds of arrest to the applicant. Admittedly, in the present case, the applicant has not raised any ground as to the non-communication of grounds of arrest to her, either at the time of her first remand, or at the time of filing of the application for grant of bail. Subsequently, this ground has been raised for the first time in the present application.

27. In view of the above discussions, the applicant has

not demonstrated that any prejudice was caused to her. Moreover, immediately after arrest, she was produced before the Judicial Magistrate First Class, where she engaged counsel and was represented by counsel. Thereafter, she applied for the bail also. Thus, as observed by the Hon'ble Apex Court in the case of *State of Karnataka Vs Sri Darshan Etc.* (supra), no prejudice was caused to her, and therefore, on that ground also, the application deserves to be rejected.

28. As already observed, insofar as the merits of the matter is concerned, there is sufficient material on record to demonstrate the applicant's involvement in the alleged offence. The ground that the grounds of arrest were not communicated to her is also not sustainable, as the applicant has failed to establish what prejudice was caused to her due to the non-supply of the grounds.

In view of the above, the criminal application deserves to be rejected. Accordingly, I proceed to pass the following order.

The criminal application stands **rejected**.

[URMILA JOSHI-PHALKE, J.]