



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

**CRIMINAL APPLICATION (BA) NO.499/2025**

**Golu @ Ganesh s/o Anantrao More**

**..VS..**

**State of Maharashtra, thr.PSO Rajura PS, District Chandrapur and  
anr**

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

Court's or Judge's Order

**Shri S.P.Bhandarkar, Counsel for the Applicant.**  
**Shri Amit Madiwale, Additional Public Prosecutor for the State.**  
**Ms.Kirti Wankhede, Counsel Appointed for NA No.2.**

**CORAM : URMILA JOSHI-PHALKE, J.**  
**CLOSED ON : 12/08/2025**  
**PRONOUNCED ON : 22/08/2025**

1. By this application under Section 483 of the BNSS, the applicant seeks regular bail in connection with Crime No.745/2024 registered with the non-applicant/police station for offences under Sections 376(3) and 376(2)(n) of the IPC and under Sections 4 and 6 of the Protection of Children from Sexual Offences Act, 2012.

2. The applicant came to be arrested on

16.12.2024 and since then he is in jail.

3. The crime is registered on the basis of a report lodged victim girl who is aged about 13 years. As per her report, at the relevant time, she was studying in 8<sup>th</sup> Std. and was knowing the applicant as he was visiting her house. When she was in 7<sup>th</sup> Std., she was attending tuition classes of the applicant. During July 2024 to September 2024, when she attended the tuition classes, she was subjected for forceful sexual assault by the applicant which resulted into her pregnancy and she delivered a female child. On the basis of the said report, the police registered the crime against the applicant.

4. Heard learned counsel Shri S.P.Bhandarkar for the applicant, learned Additional Public Prosecutor Shri Amit Madiwale for the State, and learned counsel Ms.Kirti Wankhede appointed for the victim.

5. Learned counsel for the applicant submitted that since 16.12.2024 the applicant is in judicial custody. Now,

the investigation is already completed and chargesheet is already filed. The grounds of arrest are not communicated to the applicant. There is no compliance of Section 50(1) of the CrPC as well as Article 22(1) of the Constitution of India. He submitted that the applicant is implicated falsely in the alleged crime. As the investigation is completed, further incarceration of the applicant is not required.

6. In support of his contentions, learned counsel for the applicant placed reliance on following decisions:

**(1) Vijay Chand Dubey vs. State of Maharashtra and anr, reported in 2025 SCC OnLine Bom 329;**

**(2) Bail Application No.1036/2015 (Sunil Mahadev Patil vs. The State of Maharashtra) decided by the Supreme Court on 3.8.2015;**

**(3) Criminal Application BA No.718/2023 (Nitin Damodar Dhaberao vs. State of Maharashtra and anr) decided by this court on 5.1.2024; and**

**(4) Criminal Application BA No.429/2024 (Dattatray Shrikrushna Shejole vs. The State of Mah) decided by this court on 6.8.2024.**

7. *Per contra*, learned Additional Public Prosecutor for the State submitted that 13 years old girl was subjected for forceful sexual assault by the applicant. The statement of the victim is substantiated by the DNA Report which shows that the applicant and the victim are concluded to be biological parents of the female baby delivered by the victim girl. Thus, involvement of the applicant reveals from the investigation papers. Considering the fact that a very tendered age girl was subjected for sexual assault and burdened with the motherhood due the act of the applicant, the application deserves to be rejected.

8. After hearing both the sides and perusing the investigation papers, as far as involvement of the applicant is concerned, the same is on the basis of statement of the victim girl who specifically stated that she was attending tuition classes of the applicant when she was in 7<sup>th</sup> Std.. In November 2024, she was subjected for the forceful sexual assault by the applicant which resulted into her pregnancy

and she delivered a female child. She disclosed this fact to her parents and, thereafter, FIR came to be lodged. At the relevant time, the victim girl was 13 years of age and the applicant was 22 years of age. It is nowhere case of the applicant that out of love affair, the physical relationship was developed.

9. Thus, the material on record sufficiently shows involvement of the applicant in the crime. The decisions on which learned counsel for the applicant relied upon, are as to the aspect of the physical relationship out of the love affair which was considered and the applicants therein were released on bail.

10. Insofar as the present case is concerned, neither it is case of the prosecution nor it is case of the defence of the accused that out of love affair physical relationship was developed between him and the victim girl. The statement of the victim girl was substantiated by the DNA Report which shows that the victim girl and the applicant appear

to be biological parents of the female child delivered by the victim girl.

11. Another ground raised in the application was, the grounds of arrest are not communicated to the applicant. In support of the contention, learned counsel for the applicant placed reliance on the decisions in the cases of **Pankaj Bansal vs. Union of India**, reported in (2024)7 SCC 576; **Prabir Purkayastha vs. State (NCT of Delhi)**, reported in (2024)8 SCC 254; **Marfing Tamang vs. State**, reported in 2025 SCC OnLine Del 548; **Bharat Pukhraj Chaudhary vs. State of Mah.**, reported in 2024 SCC OnLine Bom 3515; **Mohd.Khalid Mukhtar Ahmed Shaikh vs. State of Maharashtra**, reported in 2025 SCC OnLine Bom 249, and **Rajesh vs. State of Maharashtra**, reported in 2019 SCC OnLine Bom 1288.

12. Learned Additional Public Prosecutor for the State submitted that as far as grounds of arrest are concerned, the general diary entry bearing No.33 dated

16.12.2024 shows that the applicant was intimated as to his grounds of his arrest. He was produced before the Special Judge and the order passed while remanding the applicant in judicial custody shows that on the first day, the applicant was represented by the counsel. Thus, the applicant is represented by the counsel and, therefore, no prejudice has been caused to the applicant. As such, the contentions of learned counsel for the applicant as to violation of Article 22(1) of the Constitution is not available to the applicant and, therefore, the application deserves to be rejected.

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

14. Thus, the police can arrest a persons after

satisfying himself when an offence punishable with imprisonment for more than 7 years is alleged. The police officer can arrest the persons subject to conditions mentioned in Section 35 (1)(b) of the BNSS are satisfied.

15. Article 22(1) of the Constitution of India 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”.

16. Thus, clause (1) of Article 22 of the Constitution states that no person arrested be detained in custody without being informed as to grounds of such arrest.

17. Section 50 of the CrPC (47 of the BNSS), which deals with a person arrested is to be informed as to grounds

of the arrest and rights to be released on bail, are reproduced as under:

**“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”.

18. Thus, Sections 41 and 50 of the CrPC and Article 22(1) of the Constitution are relevant provisions.

19. Learned counsel for the applicant placed reliance on catena of decisions *supra*, which are recently considered by the Hon’ble Apex Court in the case of **Criminal Appeal Nos.3528-3534/2025 (State of Karnataka vs. Sri Darshan Etc.) decided 14.8.2025** and held as under:

**“20.1.2.** Article 22(1) of the Constitution mandates that “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”. Similarly, Section 50(1) Cr.P.C. requires that “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.

**20.1.3.** 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 or insists upon written communication in every case. Judicial precedents have clarified that substantial compliance with these requirements is sufficient, unless demonstrable prejudice is shown.

**20.1.4.** In **Vihaan Kumar v. State of Haryana**, it was reiterated that Article 22(1) is satisfied if the accused is made aware of the arrest grounds in substance, even if not conveyed in writing. Similarly, in **Kasireddy Upender Reddy vs. State of Andhra Pradesh**, it was observed that when arrest is made pursuant a warrant, reading out 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.

**20.1.5.** While Section 50 Cr.P.C is mandatory, the consistent judicial approach has been to adopt a prejudice-oriented test when examining alleged procedural lapses. The mere absence of written grounds does not ipso facto render the arrest illegal, unless it results in demonstrable prejudice or denial of a fair opportunity to defend.

**20.1.7.** In the present case, the 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 to bail.

20. The Hon'ble Apex Court in the case of **Vihan**

**Kumar vs. State of Haryana and anr, Special Leave Petition (Cri.) No.13320/2024 decided on 7.2.2025**, by referring its earlier decisions in the cases of **Pankaj Bansal vs. Union of India and ors, reported in 2023 SCC OnLine SC 1244** and **Prabir Purkayastha vs. State (NCT of Delhi), reported in (2024)8 SCC 254** culled out following conclusions:

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.

21. In view of the requirement of informing the persons arrested, which is constitutional mandate, the

object behind the provisions is also required to be looked into.

22. As observed by the Hon'ble Apex Court, in the case of **State of Karnataka vs. Sri Darshan** *supra*, constitutional and statutory framework mandates that the arrested person must be informed of the grounds of arrest, but neither provision prescribes a specific form or insists upon written communication in every case. The substantial compliance with these requirements is sufficient.

23. In the present case also, the arrest memo and remand records clearly reflect that the applicant was aware about the reasons of his arrest. From the first day of remand, he was legally represented before the court and, thereafter, also he applied for bail shortly after the arrest, which shows that he was informed about his accusations. There is no nothing on record to establish that any prejudice was caused due to the non-information of the grounds of arrest or the alleged procedural lapse. The

applicant nowhere demonstrates that any prejudice is caused to him. Non-supply of grounds of arrest such as irregularity, as per the observations of the Hon'ble Apex Court, is, at best, a curable defect and cannot, by itself, warrant release on bail and, therefore, the contention of learned counsel for the applicant to release the applicant on bail on the said ground is not sustainable. In addition to that, the general diary entry shows that the father of the applicant was informed as to his arrest and guidelines issued by the Hon'ble Apex Court are followed.

24. Thus, object behind the said provision is that because of his detention, he may not be deprived from having access to the legal process.

25. In the present case, as no prejudice is caused to the applicant, as from the first day of his arrest, he was represented by a counsel and purpose behind Section 50 of the CrPC and Article 22(1) of the Constitution, that the arrested persons would be able to immediately take prompt

action to secure the release of the arrested person, as permissible under the law and have easy access, the legal process was followed.

26. In view of the above discussion, as no prejudice is demonstrated by the applicant and he was aware as to accusations against him, the said ground is not available to the applicant. As such, the application deserves to be rejected and the same is **rejected**.

Application stands **disposed of**.

27. Fees of learned counsel Ms.Kirti Wankhede appointed for the non-applicant No.2 be quantified and the same be paid to her as per rules.

**(URMILA JOSHI-PHALKE, J.)**

!! BrWankhede !!