# HIGH COURT OF UTTARAKHAND AT NAINITAL

**Third Bail Application No.67 of 2025**

Sonu .....Applicant

Versus

State of Uttarakhand .....Respondent

Present:-
Mr. S.R.S. Gill and Mr. Milind Raj, Advocates for the applicant.
Mr. Siddharth Bisht, AGA for the State.

**Hon'ble Ravindra Maithani, J. (Oral)**

The applicant is in judicial custody in Special Sessions Trial No. 221 of 2023 in connection with FIR/Case Crime No.839 of 2023, under Sections 363, 366, 377, 511 IPC and Sections 9/10 of the Protection of Children from Sexual Offences Act, 2012, Police Station Laksar, District Haridwar. This is the Third bail application of the applicant. His first and second bail applications have already been rejected on 05.08.2024 and 05.11.2024 respectively. He has sought his release on bail.

2. Heard learned counsel for the parties and perused the record.

3. Learned counsel for the applicant submits that, in fact, the grounds of arrest were not communicated to the applicant in writing, and it makes a ground for bail, as laid down by the Hon'ble Supreme Court in the case of Vihaan Kumar Vs. State of Haryana and Another, 2025 SCC OnLine SC 269.

4. Learned State Counsel admits that the grounds of arrest, in writing, were not communicated to the applicant.

5. In para 21 of the judgment in the case of Vihaan Kumar (supra), the Hon'ble Supreme Court observed as follows:-

> **"21.** Therefore, we conclude:
>
> a) The requirement of informing a person arrested of grounds of arrest is a mandatory requirement of Article 22(1);
>
> .....
> .....
> .....
>
> 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."

6. Recently, in the case of Mihir Rajesh Shah Vs. State of Maharashtra and another, 2025 SCC OnLine SC 2356, the Hon'ble Supreme Court has further summed up the principle in para 56 as under:-

> "**56.** In conclusion, it is held that:
>
> i) The constitutional mandate of informing the arrestee the grounds of arrest is mandatory in all offences under all statutes including offences under Penal Code, 1860 (now BNS 2023);
>
> ii) The grounds of arrest must be communicated in writing to the arrestee in the language he/she understands;
>
> iii) In case(s) where, the arresting officer/person is unable to communicate the grounds of arrest in writing on or soon after arrest, it be so done orally. The said grounds be communicated in writing within a reasonable time and in any case at least two hours prior to production of the arrestee for remand proceedings before the magistrate.
>
> iv) In case of non-compliance of the above, the arrest and subsequent remand would be rendered illegal and the person will be at liberty to be set free."

7. Having considered, this Court is of the view that it is a case fit for bail and the applicant deserves to be enlarged on bail.

8. The bail application is allowed.

9. Let the applicant be released on bail, on his executing a personal bond and furnishing two reliable sureties, each in the like amount, to the satisfaction of the court concerned.

(Ravindra Maithani, J.)
13.11.2025

Sanjay

SANJAY KANOJIA

Digitally signed by SANJAY KANOJIA
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