



2025:DHC:6757



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Reserved on: 17th July, 2025

Pronounced on: 12th August, 2025

+ W.P.(CRL) 1921/2025 & CRL.M.A. 18036/2025

DIVESH RAWAT

.....Petitioner

Through: Mr. Chirag Madan, Ms. Ravleen Sabharwal, Mr. Sai Krishna Kumar, Mr. Rahul Agarwal, Mr. Ronit Bose, Mr. Akash Kamal & Ms. Rachael Tuli, Advs.

Versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Sanjeev Bhandari, ASC (Crl.) for the State with Mr. Arijit Sharma & Ms. Sakshi Jha, Advs.
SI Parmod Kumar, P.S. Crime Branch, NDR.
Mr. Anurag Ahluwalia, Sr. Adv. with Ms. A. Pratap Singh Ruddy, Ms. Rudrali Patil, Ms. Usha Jamwal, Ms. Harshita Chaturvedi & Ms. Rushika, Advs. for the complainant.

**CORAM:
HON'BLE MR. JUSTICE AMIT SHARMA**



JUDGMENT

AMIT SHARMA, J.

1. The present petition under Article 226 of the Constitution of India read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023,¹ has been filed on behalf of the petitioner, *inter alia*, seeking declaration of his arrest on 15.06.2025 in FIR No. 29/2025, under Sections 318(4)/316(2)/61(2) of the Bharatiya Nyaya Sanhita, 2023,² registered at P.S. Crime Branch as *non-est* and illegal and setting aside of remand orders passed by learned Judicial Magistrate First Class in connection with the aforesaid FIR, post the arrest of the present petitioner.

2. The petitioner has relied upon the following list of dates and events leading to the filing of the present petition: -

- **On 29.01.2025**, the aforesaid FIR No. 29/2025, under Sections 318(4)/316(2)/61(2) of the BNS, 2023, was registered at P.S. Crime Branch;
- **On 31.01.2025**, a Complaint under Section 223 of the BNSS along with Section 175(3) of the BNSS was filed by Petitioner against Sharat Bhattatiripad and Pankaj Tyagi, seeking directions to the police to

¹ For short, 'BNSS'

² For short, 'BNS'



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investigate into offences committed by the Complainant in the aforesaid FIR, Sharat Bhattatiripad, and Pankaj Tyagi;

- **On 06.02.2025**, at around 06:36 PM while petitioner's father was at his home, two people in civil dress, carrying a gun, came to his residence and claimed to be police officials. The said officials forcefully entered the premises of the petitioner and served a copy of the notice under Section 35(3) of the BNSS for joining the investigation at 6 PM on the same day and the petitioner's father was taken to the police station and his statement was recorded. Furthermore, the petitioner's father was served another notice under Section 35(3) BNSS to be present for the investigation on 07.02.2025 at 11 AM;
- **On 07.02.2025**, the petitioner filed an application under Section 175(3) of the BNSS, seeking a court-monitored investigation, presence of a lawyer during course of the investigation and the preservation of the CCTV footage dated 06.02.2025 of PS Crime Branch and the learned CJM was pleased to issue notice to the Investigating Officer to file a reply to the said application;
- **From 08.02.2025 to 13.02.2025**, Investigating Officer deliberately did not file a reply before the court and sought adjournment;
- **On 17.02.2025**, Investigating Officer filed a reply to the Application without serving a copy to the Petitioner and the said reply has no



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allegation pertaining to the Petitioner whatsoever, in relation to his role in the alleged offence;

- **On 21.02.2025**, Investigating Officer seized the laptop of petitioner without providing a seizure memo;
- **On 22.02.2025**, notice under Section 94 of the BNSS is served upon the petitioner for production of documents pertaining to his mother;
- **On 25.02.2025**, petitioner's father filed writ petition, W.P. (CRL.) 672/2025, seeking quashing of FIR No.29/2025, dated 29.01.2025, under Sections 318(4)/316(2)/61(2) of the BNS, registered at PS: Crime Branch (Delhi);
- **On 27.02.2025**, the Hon'ble Court was pleased to issue notice in the aforesaid petition, W.P. (Crl.) 672/2025;
- **On 28.02.2025**, Investigation Officer refused to receive documents from the Petitioner;
- **On 03.03.2025**, learned JMFC directed the registration of an FIR at PS Connaught Place, under Sections 120, 127, 135, 351(3) read with Section 3(5) BNS, against the Complainant, Sharat Bhattatiripad, and Pankaj Tyagi;



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- **On 04.03.2025**, the Petitioner and his father filed another petition, W.P.(CRL.) 778/2025, for transfer of the investigation pertaining to FIR No. 29/2025 dated 29.01.2025, under Sections 318(4)/316(2)/61(2) of the BNS, registered at PS: Crime Branch (Delhi);
- **On 06.03.2025**, the Hon'ble Court was pleased to issue notice in the petition, W.P. (CRL.) 778/2025, seeking transfer of investigation and further directed the Investigating Officer to ensure that the notices to join investigation were given in writing 24 hours in advance;
- **On 29.03.2025**, Investigating Officer filed a fresh status report before the learned CJM conceding to the prayers of the father of the Petitioner;
- **On 14.06.2025**, notice under Section 35(3) BNSS was served to the Petitioner to join investigation on 15.06.2025 at 11 AM at Crime Branch, NDR, RK Puram;
- **On 15.06.2025**, the Petitioner arrived at PS Crime Branch and was detained from 11 AM and was formally arrested at 23:44 hours;
- **On 16.06.2025**, the Petitioner was produced before the learned Duty JMFC, and *vide* order of the even date, learned duty JMFC remanded the petitioner to 2 days of police custody;



- **On 18.06.2025**, the Petitioner was again produced before the learned Duty JMFC, and *vide* order of the even date, learned Duty JMFC remanded the Petitioner to another 2 days of police custody;
- **On 20.06.2025**, the Investigating Officer sought further remand of the petitioner; however, the said application was dismissed and the petitioner was sent to judicial custody vide order of the said date;
- Hence, the present petition.

3. The petition has been filed on the following grounds: -

- a) **The petitioner produced before the learned Duty JMFC after more than 24 hours of his arrest:** Learned counsel for the petitioner submits that on 14.06.2025, petitioner was served with a notice under Section 35(3) of the BNSS to join investigation on 15.06.2025 at 11:00 AM. It is submitted that it is not in dispute that the petitioner had arrived at P.S. Crime Branch on 15.06.2025 at about 11:00 AM. It is however, submitted that he was detained thereafter and was only arrested and produced before learned Duty JMFC on 16.06.2025 at 03:30 PM, which is more than 24 hours, after he was detained. It is submitted that the physical custody of the petitioner was taken over by Crime Branch at about 11:00 AM on 15.06.2025 and has been produced as pointed out hereinbefore learned Duty JMFC on 16.06.2025 at 03:30 PM and thus, the arrest is illegal in terms of Section 58 of the BNSS and Article



22(2) of the Constitution of India. Reliance has been placed on para 6 of **Directorate of Enforcement v. Subhash Sharma**³, to urge that period of 24 hours have to be calculated from the time when physical custody of the accused is taken over by the Investigating Authority. It is further submitted that the arrest memo placed on record shows the arrest of the petitioner on 15.06.2025 at 23:44 hours.

b) The petitioner was not served the grounds of arrest: Learned counsel for the petitioner submits as per the case of the respondent, he was formally arrested at 11:44 PM on 15.06.2025 and as per the arrest memo, the grounds of arrest were given separately. However, grounds of arrest and reasons of arrest were supplied to the petitioner only on 16.06.2025 in Court just before his remand hearing. It is further submitted that the copy of the grounds of arrest supplied to the petitioner was an unsigned copy and does not even bear the signature of the petitioner or his family members. Similarly, it is argued that the time of supply of grounds of arrest has not been mentioned in the said document. It was additionally urged that the time as claimed by the respondent in the status report filed in the present case has surfaced for the first time and there is no such record in the remand applications or in the remand orders dated 16.06.2025, 18.06.2025 and 20.06.2025. Reliance has been placed on **Marfing Tamang v. State**⁴, to urge that supplying of grounds of arrest just before remand hearing cannot said to be in compliance of Section 50 of the CrPC and must be supplied

³ 2025 SCC OnLine SC 240

⁴ 2025 SCC OnLine Del 548



forthwith, i.e., simultaneously or immediately upon the arrest of a person.

c) Family of the petitioner has not been supplied with the grounds of arrest: Learned counsel for the petitioner argued that the grounds of arrest has not been supplied to the family of the petitioner and no signature of the petitioner or any of the family members are there on grounds of arrest that has been filed by the respondent before this Court. Reliance was placed on **Vihaan Kumar v. State of Haryana**⁵, on supplementary opinion in para-2, that the grounds of arrest have to be supplied to the family of the accused as well to enable them to secure release of the detained person at the earliest. It was submitted that the grounds of arrest were not supplied to the family of the petitioner and an unsigned copy was only given to the petitioner one hour before the remand hearing, and thus, the same is in complete violation of the principles laid down in **Vihaan Kumar (supra)** and Section 48 of the BNSS.

4. *Per contra*, learned Additional Standing Counsel (Crl.) for the State has placed on record a status report, wherein it is stated that the present petitioner has been accused of luring and inducing the complainant in the present FIR to invest his hard-earned money and saving amounting to Rs.1,24,63,699/- by way of conspiracy and making forged documents or electronic record. It is the case of the prosecution that the petitioner had represented himself to be

⁵ 2025 SCC OnLine SC 269



engaged in the business of trading in stocks/shares, futures and options and financial activities with the aim of yielding high returns from investment through his sole proprietorship concern namely, DD Enterprises. It is further recorded in the status report that there are other complainants, apart from the complainant in present FIR, who have also filed written complaints to the Investigating Officer against the petitioner.

5. As per the status report, the petitioner was served with the notice under Section 35(3) of the BNSS to appear at Officer of Crime Branch, NDR, on 15.06.2025 at about 11:00 AM. In pursuance of the said notice, the petitioner joined the investigation with his father in the present case. The petitioner, as per the respondent/State, was interrogated thoroughly and since he did not cooperate with the investigation, he was subsequently arrested. Various other incriminating evidence have been placed on record by way of status report. However, since the grounds taken by the petitioner are legal in nature, this Court does not need to examine the same. It is further stated in the status report that during course of interrogation, the petitioner was allowed to go with his father for lunch and had returned to office after one and a half hour after lunch. As per the status report, the grounds of arrest in the present case were conveyed to his father, who was present in the office of the Crime Branch and he has signed on the arrest memo. As per the status report, the Investigating Officer took the receipt from the petitioner on the copy of grounds of arrest. It was contended that the copy of the same which was supplied to the petitioner was unsigned and the signed copy was kept with the Investigating Officer as an acknowledgement of receipt and intimation. It is



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further recorded that, thereafter, the petitioner was produced before the learned Duty JMFC on 16.06.2025 and the Investigating Officer was given 2 days' police custody remand after hearing the learned counsel for the petitioner. Subsequently, further two days' remand was also obtained *vide* order 18.02.2025 and on 20.06.2025, the petitioner was produced before the learned JMFC seeking further 3 day's police custody remand, however, the said application was rejected and the petitioner was sent to judicial custody on 27.06.2025.

6. During course of hearing, learned Additional Standing Counsel (Crl.) was put a query with regard to the averments in the status report that the petitioner had gone out with his father for lunch and thereafter an additional affidavit dated 07.07.2025 was filed by Sub-Insp. Pramod Kumar, P.S. Crime Branch, New Delhi. In the said affidavit, it is recorded as under: -

“2. In compliance of the Notice U/s 35 (3) BNSS dated 14.06.2025, the Petitioner namely Divesh Rawat came to the Office of NDR Crime Branch with his father Dharmender Singh Rawat at 11 :00 AM on 15.06.2025.

3. That the Petitioner joined the investigation in the IO room of NDR Crime Branch and his father Dharmender Singh Rawat went out from the office of Crime Branch.

4. At about or around 1 :30 PM, the petitioner sought to have lunch and thus went out for lunch as his father Dharminder Singh Rawat was also waiting outside Office NDR Crime Branch.

5. At 02:22 PM, the deponent made a phone call from his mobile No.9582639912 to the father of the Petitioner namely Dharminder Singh Rawat on his Mobile No. 9818128127 asking about their whereabouts



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and when petitioner would come back from lunch. The father of the Petitioner stated that they are outside for lunch and will be coming back soon.

6. The Petitioner Divesh Rawat alongwith his father Dharmender Singh Rawat came back to the Office NDR Crime Branch at about 02:30PM.

7. That the father of the Petitioner namely Dharmender Singh Rawat made a phone call at 02:38PM from his Mobile No. 9818 128127 to the Deponent's Mobile No.9582639912 stating that they have reached the Office NDR Crime Branch. Thus the petitioner joined the investigation immediately upon reaching the Office NDR Crime Branch.

8. It would be pertinent to mention that the petitioner [His Mobile No. 8448579969] and his father Shri Dharminder Singh Rawat [his Mobile No. 9818128127] were in contact with each other on 15.06.2025, Dharminder Singh Rawat was waiting/sitting outside Office NDR Crime Branch. The call details are as follows :-

S.NO.	TIME OF CALL	CALL DURATION
1.	11:25:31 Hours	09 Seconds
2.	13:13:26 Hours	17 Seconds
3.	14:34:35 Hours	SMS
4.	14:38:08 Hours	10 Seconds
5.	14:39:09 Hours	09 Seconds
6.	16:23:19 Hours	25 Seconds
7.	18:45:04 Hours	56 Seconds
8.	18:47:01 Hours	45 Seconds



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9.	20:22:17 Hours	14 Seconds
10.	20:55:03 Hours	71 Seconds
11.	21:30:21 Hours	07 Seconds
12.	21:53:06 Hours	11 Seconds
13.	22:19:53 Hours	71 Seconds
14.	22:37:51 Hours	38 Seconds

9. Thus, at 11 :44 PM on 15.06.2025, the Petitioner was arrested and was produced before Ld. Duty JMFC at about or around 02:30PM on 16.06.2025.”

7. On the basis aforesaid affidavit, it is argued by learned Additional Standing Counsel that there was no physical restraint on the petitioner while he was at P.S. Crime Branch and after interrogation, he was arrested at the time given on arrest memo and produced within 24 hours before learned JMFC on 16.06.2025 at 02:30 PM. It is also submitted that, in the arrest memo, it is recorded that the grounds of arrest have been separately given and there is also an acknowledgement by the father of the petitioner with regard to receiving the said arrest memo along with the documents. The arrest memo dated 15.06.2025 placed on record is reproduced hereinunder: -



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Case F.I.R./D.D No. 29/25 Dated 29/01/25 U/S 318(4)/316(2)/61(2) BNS
(प्र० सू० रि० सं०/ दै० दै० सं०) दिनांक धारा अंतर्गत
P.S./थाना Crime Branch Dist./ज़िला NDR Delhi/ददल्ली

ARREST MEMO

(as per section 35 of the Bhartiya Nagarik Suraksha Sanhita, 2023)

As per direction of Hon'ble Supreme Court of India. (भारत के माननीय सर्वोच्च न्यायालय के निर्देशानुसार)

1.Name with Alias and Parentage of the Arrestee. गिरफ्तार व्यक्ति का नाम, उल्लेख और उसके माता-पिता का नाम	Divesh Rawat S/o Dharmender Singh Rawat Mother - Darsheer Rawat
2. Mobile No./WhatsApp Mobile No./Email Address	8448579969, adivesh07@gmail.com
3.Present Address of the Arrestee. वर्तमान निवास का पता	M-3, III rd Floor, New Market Nagar, New Delhi
4.Permanent Address of the Arrestee. निवास स्थान का स्थायी पता	Same
5.FIR No./D.D.No & Sec. of Law. प्रसूत नं./दैनं सं./और प्रावधान	29/25 U/S 318(4)/316(2)/61(2) BNS
6.Place of Arrest गिरफ्तारी का स्थान	Office, NDR, Crime Branch, R.K. Puram New Delhi
7.Date & Time of Arrest गिरफ्तारी की तारीख और समय	15/06/25 at 23:44 hrs
8.Name, Address, e-mail ID & Tel. No. Whomsoever to convey the Arrest information. गिरफ्तारी की जानकारी को सूचना दी गई है/सूचना का नाम, पता, ईमेल आईडी और फोन नंबर	 Dharmender Singh Rawat (Father)



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9. Name, Rank & No. of the officer who making arrest. निम्नलिखित बले बने गिरफ्तारी संख्या, पद और लिंग	S-I Parbhad Kumar No-D-5365
10. Reasons/Grounds of arrest निम्नलिखित कारण	Also given Separately
a. Prevent Accused person from committing any further offence.	L
b. For proper investigation of the offence	L
c. To prevent the Accused person from causing the evidence of the offence to disappear or tampering with such evidence in any manner.	L
d. To prevent such person from making any inducement threat or promise to any person acquainted the facts of the case so as to dissuade him from disclosing such facts to the court or to the Police officer.	L
e. As unless such person is arrested, his presence in the court when ever required cannot be ensured.	Address of the accused yet to be verified. L

Signature of Arrestee/गिरफ्तार व्यक्ति के हस्ताक्षर

Witnesses/गवाह:

1. ASI Omble no. 522/CR
PS-Crime Branch, NOR

2.

3.

Signature of the I.O./निवेदन अधिकारी के हस्ताक्षर

P.S./थाना Crime Branch, NOR

Date/दिनांक 15/06/25

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8. The grounds of the arrest filed along with the status report along with the signature of the petitioner are reproduced as under: -

Case FIR No. 29/2025 dated 29.01.2025 u/s 318(4)/316(2)/61(2) BNS PS
Crime Branch, New Delhi

Ground of arrest of accused Divesh Rawat S/O Dharmender Singh Rawat
R/O M-3, 3rd Floor, New Multan Nagar, New Delhi Age-27 Yrs.

1. You, Divesh Rawat are actively involved in the money trail of investors and are recipient of the money of the multiple investors.
2. You, Divesh Rawat yourselves induced people to part with their money and never intended to pay back.
3. You, accused, Divesh Rawat are the author of alleged agreements given by you to the investors in which you are assuring them to give a certain amount in return to them with the intention to cheat them.
4. You have committed significant financial loss to large number of individuals with the intention to cheat them, warranting your arrest due to the gravity of the offence affecting public trust.
5. In whatsapp chats you are inducing the investors to invest more money.
6. You were not co-operating into the investigation.
7. Official address of your alleged firm DD Enterprises was not verified.
8. Your alleged firm DD Enterprises is not registered with concerned registrar.
9. You have sold property in your name in March, 2025. You are residing at some other address and not informed the investigation agency since then.
10. On analyses of bank statements a lot of misappropriation of funds was found, hence it is to be further verified.
11. You have not any valid licence from SEBI and still inducing investors and taking money from people at large and investing their money in share market.
12. You have transferred the public money in your personal accounts which has to be invested in share market.

Reviewed only
[Signature]



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13. You have sent one video of invested portfolio having amount 11,85,99,125/- to Mr. Pankaj Tyagi to induce more investors,

Receiver

Receiver only

DAS

Divesh Rawat

16/06/25

[Signature]

SI Parmod Kumar

PS Crime Branch, NDR

Dt. 16.06.2025



9. In view of the aforesaid factual context, it is urged that there is no illegality in the arrest of the petitioner as he was produced within 24 hours of his arrest and the grounds of arrest were also provided to the petitioner and his family members.

10. Learned Senior Counsel appearing on behalf of the complainant submits that there has been no violation of any constitutional right of the petitioner. Reliance was placed upon **Roshan Beevi & Ors. v. Joint Secretary to Government of Tamil Nadu & Ors.**⁶, particularly on the following paras: -

“3. The relevant portion of the judgment in *Kaisar Otmar's case* (1981 Cri LJ (NOC) 208) which led to this reference to this Full Bench, reads thus:—

“Our legal system does not require that an arrest should be attended with any ritual of even that it should be ostentatious. It is not necessary that a man in order to get arrested should be taken prisoner; nor does the law regard as arrest only the ceremonial hand-cuff or menacle. An authority is said to arrest another man if it prevents the latter from willing his movements and moving according to his will. Under enlightened modern conditions it seldom becomes necessary for any police officer or other authority empowered to make arrests to actually seize or even touch a person's body with a view to his restraint. Utterance of a guttural word or sound, a gesture of the index finger or hand, the sway of the head or even the flicker of an eye are enough to convey the meaning to the person concerned that he has lost his liberty.”

⁶ 1983 SCC OnLine Mad. 163



5. In order to answer the reference, the following questions are framed for consideration:

- (1) When is a person said to be under arrest?
- (2) Are the terms 'custody' and 'arrest' synonymous?
- (3) Are the customs officials vested with powers under the Customs Act, 1962 to detain any person for any period and at any place for the purpose of an inquiry, interrogation or investigation?
- (4) Will the detention of a person by the customs officers for the purpose of inquiry, interrogation or investigation, amount to an 'arrest' of the said person?
- (5) Is detention of a person by the customs officers for the purpose of inquiry or interrogation or investigation beyond 24 hours without producing him before a Magistrate, violative of Article 22 of the Constitution of India?

16. From the various definitions which we have extracted above, it is clear that the word 'arrest', when used in its ordinary and natural sense, means the apprehension or restraint or the deprivation of one's personal liberty. The question whether the person is under arrest or not, depends not on the legality of the arrest, but on whether he has been deprived of his personal liberty to go where he pleases. When used in the legal sense in the procedure connected with criminal offences, an arrest consists in the taking into custody of another person under authority empowered by law, for the purpose of holding or detaining him to answer a criminal charge or of preventing, the commission of a criminal offence. The essential elements to constitute an arrest in the above sense are that there must be an intent to arrest under the authority, accompanied by a seizure or detention of the person in the manner known to law, which so understood by the person arrested. In this connection, a debatable question that arises for our consideration is whether the mere taking into custody of a person by an authority empowered to arrest would amount to 'arrest' of that person and whether the terms 'arrest' and 'custody' are synonymous."



11. Reliance was further placed on **Gautam Thapar v. Directorate of Enforcement**,⁷ particularly on the following paras: -

“15. A bare perusal of Section 17(1) and Section 18(1) would show under Section 17(1) the officer authorised in its behalf, has only an information in his possession whereupon he has a reason to believe that any person has committed any act of money laundering etc. Then such person can be searched and his properties/documents can be seized; per Section 18(1) which gives power to search such person if there are reasons to believe he has secreted about his person or anything under his possession, ownership or control, any record or proceeds of crime which may be useful for or relevant to any proceedings under this Act. It is only thereafter per Section 19(1) of the Act, if the officer has collected sufficient material then on the basis of material in his possession with a reason to believe such person has been guilty of an offence punishable under this Act, the officer may arrest such person and shall inform him of grounds for his arrest.

16. Thus the arrest is only under Section 19(1) of the Act after the formalities under Section 17(1) and Section 18(1) are complete viz. the search and seizure is made and the officer has in his possession the material to proceed further. Once the person is arrested under Section 19(1) he needs to be produced before the Special Court within twenty four hours per Section 19(3) of the Act. Section 19(3) rather clarifies it is only after the arrest is made under Section 19(1), the person needs to be produced within twenty four hours before the Court.

17. Admittedly, in this petition there is no challenge to this scheme of the Act hence the petitioner cannot allege his arrest made by following the above procedure is illegal. Admittedly per facts, the officers on the basis of information per Section 17(1) had entered the building at 8.30 AM; conducted search per Section 18(1) till 3

⁷ 2021 SCC OnLine Del 4599



PM and recorded statements till 7.55 PM and then arrested him per Section 19(1) of the Act. The petitioner was thus produced within 24 hours before the court from the time of his arrest under Section 19(1) of the Act, per Section 19(3) of the Act. Hence the petition has no merit. It stands dismissed. Pending application, if any, also stands disposed of.”

12. The reliance was placed on the aforesaid judgments to argue that it is the physical custody which is the requirement of producing the accused within 24 hours and in the present case, as pointed out by the respondent/State in the status report, the petitioner was never in any physical custody before his arrest at the Crime Branch when he joined investigation.

13. In addition, reliance was placed on a judgment of Hon’ble Andhra Pradesh High Court at Amravati in **Kesireddy Upender Reddy v. The State of Andra Pradesh and Ors.**⁸, particularly on the following paras: -

“13. In *Vihaan Kumar v. State of Haryana* case, neither the detainee nor his relatives or family members had been served with any document. In such circumstances, as can be seen from the same passage, the Hon’ble Supreme Court had held that in the absence of service of the remand report, mere inclusion of grounds of arrest in the remand report would not be sufficient compliance of Article 22 of the Constitution of India or Section 47 of BNSS. In the present case, the Special Judge had recorded that the remand report had been served on the detainee and the copy of the remand report, containing the signature of the detainee, produced by the respondents would also fortify this position. Sri. P. Sudhakar Reddy contends that papers were served on the detenu after the hearing in

⁸ 2025 SCC OnLine AP 1989



the remand application and as such, there is no compliance of Article 22 of the Constitution of India. This contention does not appear to be correct inasmuch as the Special Judge had recorded, in the remand order, that the remand report had been served on the detainee. In these circumstances, this Court does not find any reason to interfere with the order of remand.”

14. Reliance was placed upon the aforesaid judgment to show that in the present case as well the learned Duty JMFC had recorded that the remand report was served on the accused/petitioner and as pointed out by the respondent/State, the grounds of arrest have already been informed, therefore, there is no violation of principle laid down by **Vihaan Kumar (supra)**. It is pointed out that the aforesaid judgment was carried in appeal by the petitioner therein before the Hon’ble Supreme Court way of Special Leave Petition and the said petition was dismissed by observing that the requirements in terms of para 21(b) as laid down in **Vihaan Kumar (supra)** have been fulfilled⁹.

15. In rejoinder, learned counsel for the petitioner has placed on record written synopsis and submitted that the affidavit dated 07.07.2025 filed by the Investigating Officer should be discarded as the same is contradictory and has suppressed the material facts. It was submitted that stand taken by the Investigating Officer that the petitioner was never under continuous restraint of the Crime Branch was never taken during the process of remand proceedings before the learned JMFC either on 16.06.2025 or 20.06.2025. In these circumstances, the claim that the petitioner had gone out for lunch is an

⁹ 2025 SCC OnLine SC 1228



afterthought by the investigating authorities to coverup their lapse. It is further argued that the respondent cannot take benefit of their own violation of not having footage of CCTV camera installed in the police Station which is in complete violation of judgment of **Paramvir Singh Saini v. Baljit Singh and others**¹⁰, (paras 15-19). It is also argued that as per the affidavit filed by the Investigating Officer, the petitioner was in contact with his father on 14 occasions. However, in the status report filed earlier, it is stated that during personal search no article was found during the personal search of the present petitioner. It was also urged that the mobile number mentioned in the said affidavit does not belong to the petitioner and was, in fact, of his mother. It is, thus, argued that there is no explanation forthcoming as to why if the mobile phone is with the petitioner the same has not been seized during his personal search. It was submitted that the Investigating Officer has not explained as to why he called the father of the petitioner, when he knew that the petitioner was carrying a phone as per his own version. It is further argued that without any footage and log book entry, the Investigating Officer in the affidavit has stated that the petitioner and his father came at 02:30 PM and further at 02:38 PM, father has simultaneously called the Investigating Officer as well his son, which is unbelievable and raises serious doubts about the affidavit in question. It is further submitted that the Investigating Officer in his affidavit has not stated or given any location of mobile number mentioned therein as well as his own number, however, to deceive and mislead this Court, a status report dated 10.07.2025 was filed by Insp. Rampal stating that the location of the petitioner and his father was Government Land, MBTS Location, Near Govt. Qtr. No. N179 to N362 and Opposite to CPWD Gate No. 02, Sector-09,

¹⁰ (2021) 1 SCC 184



R.K. Puram, Post Office-Sec-09, Police Station R.K. Puram, New Delhi, but it neither has a location of the Investigating Officer nor it has been stated as to how far the said location is from Crime Branch. It is further argued that, even if, the version of the Investigating Officer is believed to be true that the petitioner was in touch with his father on the phone, he was still under restraint and his personal liberty was curtailed from 11:00 AM on 15.06.2025.

16. Reliance was further placed upon a judgment of Division Bench of Hon'ble Bombay High Court in **Hanumant Jagganath Nazirkar v. State of Maharashtra**¹¹.

17. It was submitted that reliance placed by learned Senior Counsel for the complainant on the judgments of **Roshan Beevi (supra)** and **Gautam Thapar (supra)** is misplaced as in **Roshan Beevi (supra)**, the matter is of COFEPOSA Act, 1974, under which the Custom Officers are not police officers and similarly, judgment in **Gautam Thapar (supra)** relates to PMLA provisions. So far as the grounds of arrest are concerned, it is argued that the documents annexed with the status report is also manipulated as the grounds of arrest were given to the petitioner before the hearing of remand did not bear petitioner's signatures. Thus, the documents annexed with the status report has been created as an afterthought. It was also argued that non-supply of grounds of arrest to the relative have again taken by various High Courts as

¹¹ 2025: BHC-AS:26329-DB



a violation of the fundamental rights and reliance was placed on the following judgments: -

1. **Smt. Sujata W/o Vilas Mahajan v. State of Maharashtra, thr. PSO PS Awadhoot Wadi, Yavatmal, Tahsil and District Yavatmal¹²;**
2. **Lalit Phukon v. State of Assam¹³;**
3. **Riyajul Sarkar v. State of Assam & Anr.¹⁴;**
4. **Sapidul Islam Alias SK v. State of Assam¹⁵;**
5. **Gias Uddin v. State of Assam¹⁶;**
6. **Nachimuddin SK v. State of Assam¹⁷;**
7. **Gagan v. State (NCT of Delhi)¹⁸;**
8. **Ajit Atmaram Apraj v. State of Maharashtra & Ors.¹⁹;**
9. **Paramvir Singh Saini v. Baljit Singh²⁰;**

18. It is further argued that the grounds of arrest are different than the grounds of arrest given in the remand application, and therefore, the same vitiates the requirements of grounds of arrest.

19. Heard learned counsels for the parties and perused the records.

¹² 2025:BHC-NAG:6601

¹³ 2025:GAU-AS:5408

¹⁴ 2025:GAU-AS:4957

¹⁵ 2025:GAU-AS:5854

¹⁶ 2025:GAU-AS:5694

¹⁷ 2025:GAU-AS:5711

¹⁸ 2025 SCC OnLine Del 1299

¹⁹ Order Dated 02.06.2025 passed in SLP (Criminal) No. 8704/2025

²⁰ (2021) 1 SCC 184



20. The relevant facts and sequence of events necessary for adjudication of the present petition are under: -

- a.** The present FIR No. 29/2025 was registered on 29.01.2025, under Sections 318(4)/316(2)/61(2) of the BNS, 2023, at P.S. Crime Branch.
- b.** After registration of the FIR, it is the case of the petitioner himself that he had moved an application under Section 175(3) of the BNSS on 07.02.2025 seeking Court Monitored investigation before the Court of competent jurisdiction. Reply dated 29.03.2025 to the said application was filed by the respondent/State, which is reproduced hereinunder: -

“Most respectfully, it is submitted that on 16.01.2025 a complaint of Sh. Sharat Bhattatiripad R/O 18, Link Road, Ground Floor Rear, Jangpura Extension, Jangpura, New Delhi was received at Crime Branch, NDR vide Dy. No. 01/C dated 16.01.2025. In his complaint the complainant alleged that one Mr. Divesh Rawat by way of criminal conspiracy, making of false documents forgery, forged documents or electronic record and using it as genuine etc. lured and induced him to invest his hard earned money and savings and took 1,24,63,699/- INR from complainant and his family. He further alleged that the alleged Mr. Divesh Rawat had approached him in year 2020 through a common acquaintance Mr. Pankaj Tyagi representing to be engaged in the business of trading in stocks/shares, future and options and financial activities purportedly investing in various financial securities etc. with an aim of yielding high returns from investments through his sole proprietorship concern DD Enterprises with his father also playing an active role in the day-to-day activities of D.D. Enterprises. The alleged Divesh Rawat initially promised assured regular returns @ 3-4 % per month upon investment and showed to have been regularly investing in the stock market and other securities from his



own demat account and other platforms, yielding him high returns on investment. The alleged allured the complainant, his wife Mrs. Sonal Kalra and aunt of his wife namely Ms. Usha Wadhwa and several other respectable and high worth citizens to transfer their money as funds towards investment to 'the current bank account of DD Enterprises bearing no. 50200041640864 maintained in HDFC Bank Ltd. purportedly to be invested in share market, securities and financial instruments and getting assured returns on the corpus and an assured repayment of total principal. The alleged person promised the complainant to pay 3 % returns per annum on every 5th day of the month.

In September, 2021 alleged Divesh Rawat approached to the complainant and requested to refer more investors for investment. In furtherance of the same the complainant referred few other investors for which the accused persons assured the complainant an additional return.

The alleged Mr. Divesh Rawat as proprietor of DD Enterprises has entered into written agreements and understanding with some of the said other referred investments assuring them an assured returns of 3.5% per month. The complainant further alleged that the alleged persons stopped responding early in December, 2024. In December 2024, after several requests, Mr. Divesh Rawat showed an alleged portfolio in the name of complainant and represented that the funds transferred and invested by the complainant have been allocated in different investments and are shown in the said portfolio. The complainant further alleged that, he had never signed any document in favour of Mr. Divesh Rawat or D.D. Enterprises and even after several requests Mr. Divesh Rawat did not share the details of the platform used for the said alleged investments or the login credentials for the same. He further alleged that the said portfolio/page/electronic document shown by Mr. Divesh Rawat was a forged, manipulated, fabricated and bogus illustrative portfolio illegally manufactured to mislead and play fraud.

The complainant further alleged that the alleged persons lastly paid him an amount of Rs. 60,000/- towards assured returns on investment and then started avoiding communication. On 30th December, 2024 the accused persons specifically through accused Mr. Dharmender Singh Rawat approached to complainant for a



meeting. On 31/12/24 the said meeting was conducted and the alleged Mr. Dharmendra Singh Rawat falsely stated that they do not have any funds as huge overnight losses have been suffered by them. But on confrontation the alleged persons did not give any satisfactory reply and threatened him to implicate in false and frivolous litigations, complaints etc. The complainant requested to take legal action on his complaint.

Thereafter, approval to register a case under relevant sections of law was obtained from senior officers and present case was got registered. There are several bank accounts involved in the matter. Investigation is underway. On 06.02.2025 SI Parmod Kumar along with staff reached the address of the alleged persons, where alleged Divesh Rawat was not present. Alleged Dharmender Singh Rawat was found present and a Notice u/s 35(3) of BNSS was served on him to join the investigation. Thereafter, accused Dharmender Singh Rawat voluntarily came at Office, NDR Crime Branch and join the investigation. Thereafter, two notices one for alleged Dharmender Singh Rawat and second for his son and main accused of the case Mr. Divesh Rawat were served on him to join investigation on 07.02.2025.

Thereafter on 07.02.2025 both of the accused came at Office NDR, Crime Branch and join the investigation. During course of investigation, the mobile phone of accused Divesh Rawat was seized. Laptop of alleged Divesh Rawat was also taken into police possession through seizure memo. Copy of Adhar Card and PAN card of alleged were obtained to trace connected accounts. Statements of bank account No. 50200041640864 (in the name of D.D. Enterprises) was obtained and same is being analysed.

During investigation many other victim/investors are also come forward and submitting their written complaint alleging same allegations against both of the alleged persons. Those victim/investors are namely; 1. Sanghmitra Bhushan, 2. Mrs. Brijaben Yogesh Bhai Parekh, 3. Manju Paikray & Pranjal Paikray, 4. Tanmay Das, 5. Atul Tyagi, 6. Abhinav Shukla, 7. Varun Sharma, 8. Vridhi Jain, 9. Preeti Jain, 10. Rahul Makin, 11. Pankaj Tyagi, 12. Madhuri Jagdish Dubey, 13. Piyush Raghuvanshi. All of them are on the way to give their written statement. Many bank accounts of accused and complainant are involved into investment



and their thorough analyses is required to ascertain money trail. Investigation is in its initial stage. Point wise reply of the prayer made by the accused Dharmender Singh Rawat:

- a) **Ld. Court may monitor the present case if deems it fit for monitoring, at this stage of investigation.**
- b) **The undersigned has no objection if the accused is permitted to be accompanied by a lawyer of his choice from a distance. However, the lawyer joins the investigation with accused, may hamper into the investigation.**
- c) **Ld. Court may pass any directions as per law at this point if deem fit for videography during interrogation.**
- d) **The copy of FIR can be given to the accused as -per prescribed law when he demand for it.**
- e) **There is no CCTV camera installed at Office, NDR, Crime Branch, RK Puram, New Delhi.**

It is pertinent to mention here that accused Divesh Rawat in counter blast of the present case has also filed a complaint against the present complainant Mr. Sharat Bhattatiripad and one of his associated and victim in the present case Mr. Pankaj Tyagi @ Panky with Police Station Connaught Place and a Case FIR No. 40/2025 dated 05.03.2025 u/s 120/127/135/351(3)/3(5) BNS PS Connaught Place has been registered.”

(emphasis supplied)

- c. It is also the case of the petitioner that during the subsequent period, two writ petitions, W.P.(CRL)s Nos. 672/2025 and 778/2025, came to be filed one seeking quashing of the aforesaid FIR and other seeking transfer of investigation, respectively.
- d. On 14.06.2025, notice under Section 35(3) of the BNSS was served on the petitioner to join the investigation on 15.06.2025 at 11:00 AM at Crime Branch, NDR, R.K. Puram.



- e. On 15.06.2025, the petitioner arrived at the said police station at about 11:00 AM and on the same day, he was arrested at 23:44 hours. The petitioner, in fact, has put on record a photograph evidencing his presence outside the Officer of Crime Branch, NDR, RK Puram.
- f. On 16.06.2025, the petitioner was produced before the learned Duty JMFC.
- g. On 16.06.2025, the Investigating Officer moved the remand application before the said Court, which is reproduced as under: -

“Most respectfully, it is submitted that on 16.01.2025 a complaint of Sh. Sharat Bhattatiripad R/O 18, Link Road, Grqund Floor Rear, Jangpura Extension, Jangpura, New Delhi was received at Crime Branch, NDR vide Dy. No. 01/C dated 16.01.2025. In his complaint the complainant alleged that one Mr. Divesh Rawat by way of criminal conspiracy, making of false documents forgery, forged documents or electronic record · and using it as genuine etc. lured and induced him to invest his hard earned money and savings and took 1,24,63,699/- INR from complainant and his family members.

The alleged accused allured the complainant, his wife Mrs. Sonal Kalra and aunt of his wife namely Ms. Usha Wadhwa and several other investors to invest their money into the venture of accused Divesh Rawat. Time to time the accused used to induce the complainant to bring more investors to invest further money in this venture and promised further profits.

The alleged Mr. Divesh Rawat as sole proprietor of DD Enterprises has entered into written agreements and understanding with some of the investors and assured profit approx. 3-4% per month on their invested amount. The accused has sent video of a portfolio in November 2024, showing total corpus Rs. 11,85,99,125/- only to induce · more investors during interrogation the accused has revealed that at that time he was not in possession of such huge funds.



Thereafter, approval to register a case under relevant sections of law was obtained from senior officers and present case got registered. There are several bank accounts involved in the matter. During course of investigation account statement of alleged accused and the investors were obtained. Apart from the complainants 13 victims has come forward who have filed their written complaints, in which 5 have written agreement with the accused. The said agreements were sent on whatsapp by accused to the victims/investors. Apart from these 13 complaint 6 other investors have also sent mail to the undersigned and they are on way to file their complaints. During course of investigation the complainant has provided whatsapp chats records with the accused person. In those whatsapp chats the accused is inducing the complainant to bring more investors. Upon investigation the official address of the alleged firm DD Enterprises was not verified. DD Enterprises is never registered with concerned registrar office. During course of investigation it was learnt that the property no. 7 C & D, Block A-2B, Ekta Apartment, Paschim Vihar, New Delhi was registered on the name of accused and his sister Monica Rawat. They bought the said property in July, 2024. Thereafter, the present case registered in January 2025 and the accused has sold his property to one Satyender Singh Chauhan and his family shifted to other address on rent without informing the investigating officer. The accused has also changed his permanent mobile number. Several bank accounts and demat accounts were found in the name of accused Divesh Rawat. In these account there is very minimal amount after registration of the present case. It seems that he has diverted the funds in some other account. Many other accounts are found in the name of accused person.

On 15.06.2025 accused has joined the investigation on compliance of notice u/s 35(3) BNSS. During course of interrogation he was deviating the facts and not cooperating into the investigation. Therefore, he was arrested in the present case as his custodial interrogation is required to unearth the whole conspiracy. His five days police custody remand is required on the following grounds:

1. To establish money trails of all the investors.
2. To confront the accused person with the complainant and investors.
3. To verify any moveable or immovable property registered on the name of accused persons.
4. To recover original agreements with the investors.
5. To ascertain the transactions of the demat account shown in alleged video sent by the accused to Mr. Pankaj Tyagi.



6. To ascertain the total amount of fraud committed by accused.
 7. To ascertain the total money invested by all the victims.
 8. To verify the transactions. made by the accused using the proceeds of crime.
 9. To ascertain the other co-accused involved with accused Divesh Rawat in current case.
- Therefore; it is requested to grant five days police custody remand of accused on above mentioned points.”

h. After hearing the parties, the learned Duty JMFC passed the following order on 16.06.2025 remanding the petitioner to 2 days of police custody. The said order reads as under: -

“FIR No. 29/25

U/s 318(4)/316(2)/61(2)BNS

PS Crime Branch

State Vs. Divesh Rawat & Ors.

16.06.2025

Present: Ld. APP for the State.
IO/SI Pramod Kumar in person.
Accused produced after fresh arrest.
Sh. Avshreya Pratap Singh Rudy, Ms. Rupali Patil, Mr. Shantanu, Ms. Usha Jamnal, Id. counsel for complainant.
Sh. Chirag Madan, Mukul Sharma & Ms. Anushka Thakur, Ld. counsels for accused.

1. Fresh MLC perused. No injury is found on the person of the accused. Same is confirmed by the accused. Grounds of arrest of accused appears to be justified.

2. IO has moved an application for grant of police custody of 05 days of the accused persons. IO submits that there is allegations of cheating of total amount of Rs. 14 Crores approximately involving multi investors. Further he submits that in the instant FIR there is an allegation of Rs. 1,24,66,699/- against the accused. IO submits that the PC of the accused is required mainly on the following grounds:

- To establish money trails of all the investors.
- To confront the accused person with the complainant & investors.



- To verify any movable or immovable property registered on the name of accused persons.
- To recover original agreements with the investors.
- To verify the transactions made by the accused using the proceeds of crime.
- To ascertain the other co-accused involved with accused Divesh Rawat in current case.

3. Per contra, Ld. counsel for the accused submits that the arrest of the accused is illegal as he has been produced beyond 24 hours. Further he submits that no CCTV Camera is installed at Crime Branch NDR Sector 8 R.K.Puram. Ld. counsel for the accused further submits that he has already cooperated with the investigating authorities and joined the investigation several times. Further he submits that the entire case is based upon documentary evidence and hence, no PC remand is required.

4. Arguments heard at length. I have carefully perused the record of the present case i.e. the arrest memo, the documents pertaining to grounds of arrest, reasons of arrest and the other annexed documents.

5. Keeping in view the grounds put forth seeking PC and the fact that the police interrogation is an integral part of the police investigation and present accused is prima facie involved in a serious offence, PC remand of accused is warranted. In view of the same, application of IO is allowed and he is granted 02 days Police Custody of the accused Divesh Rawat.

6. Accused persons be got medically examined as per guidelines of *Hon'ble Supreme Court of India* during police custody. Dasti copy of order be given to IO as prayed for.

7. Accused persons be produced before the concerned court / Duty MM on 18.06.2025.

Copy of this order be given dasti."

(emphasis supplied)

- i. On completion of two days' police custody remand, the petitioner was again produced before learned JMFC on 18.06.2025 and an application



seeking further remand of the petitioner for 5 days was moved by the Investigating Officer; and *vide* order dated 18.06.2025, further two days' police remand was granted.

- j. Subsequently, after completion of 2 days PC remand, the petitioner was again produced before the learned JMFC on 20.06.2025 and an application seeking further 5 days police remand was further preferred, however, the same was declined and the petitioner was sent to the judicial custody.

21. This Court would deal with the contentions raised by learned counsel for the petitioner chronologically. The first contention raised on behalf of the petitioner is with respect to delay in his production before the learned JMFC after arrest beyond 24 hours. The additional affidavit dated 07.07.2025 filed Pramod Kumar, Sub-Inspector of Police, Crime Branch, shows that the petitioner was in constant touch with his father who was with him at the police station. It has also been contended on behalf of the respondent/State that the petitioner had gone out with his father for lunch and had come back to Office of Crime Branch at 02:30 PM. Learned counsel for the petitioner has argued that the mobile phone which was being used by the latter was not seized during his arrest. It is pertinent to note that the mobile phone of the petitioner had already been seized by the Investigating Officer prior to his joining investigation on 15.06.2025. The phone which the petitioner was using apparently belonged to his mother, and therefore, the Investigating Officer would not have seized it. It is also pertinent to note that the petitioner's father was outside the police station, all the while he was being



interrogated. As already pointed out hereinbefore, the petitioner and his father had been actually availing their legal remedies with respect to the investigation in the present FIR. There is no averment in the petition that the petitioner was taken anywhere from Police Station to any other place accompanied by the Investigating Officer. Simple denial that the additional affidavit filed by the respondent/State is incorrect will not be sufficient to doubt the correctness of the same. The timeline of the calls between the petitioner and his father showing that they were in contact with each other on 15.06.2025 in the affidavit is from 11:25:31 hours on 15.06.2025 to 22:37:51 hours on 15.06.2025. Petitioner was arrested at 23:44 hours on 15.06.2025. If the petitioner's movement had been restrained any time before that, he could have informed his father *via* phone which the petitioner was using to be in touch with him. The frequency of calls will also suggest that both the petitioner and his father were in constant touch with each other continuously.

22. In **Subhash Sharma (*supra*)**, the Hon'ble Supreme Court was dealing with a case of an accused/appellant who was apprehended at the airport on the basis of a lookout circular issued by ED and therefore it was held that the period of detention of the appellant therein from the moment he was detained would be counted for calculating 24 hours for the purposes of his production before Magistrate.



23. In **Hanumant Jagganath Nazirkar (supra)**, learned Division Bench of Hon'ble Bombay High Court while holding the detention of the petitioner therein as illegal had observed as under: -

“31. In our view, there can be no doubt that the Petitioner's free movement and liberty were restrained on 25 October 2024 at 1:00 p.m. when he was taken into custody at Shivajinagar Metro Station, Pune and produced before the Shivajinagar Police Station. Even otherwise, the police authorities took the Petitioner from Pune to Baramati and reached Baramati on 25 October 2024 at 5:07 p.m. At least from 5:07 p.m. on 25 October 2024, the Petitioner can be said to have been arrested.

32. The general diary detail annexed at page 83 of the present Writ Petition records that on 25 October 2024, at Shivajinagar Police Station at 13:11 hours, the Petitioner was taken into custody. The phrase used in the general diary details of Shivajinagar Police Station is "ताब्यात" which would mean custody or control of the Petitioner. Similarly, on reaching Baramati on 25 October 2024 at 17:07 hours, Baramati Police Station in their general diary details recorded that the Petitioner was taken into custody or control since the phrase "ताब्यात" is mentioned even in the general diary details at Baramati. Therefore, the time of arrest would begin from 25 October 2024 at 1:00 p.m. or at least from 5:07 p.m. on 25 October 2024. The phrase "ताब्यात" in English would mean "custody" has been resolved by the Co-ordinate Bench of this Court in the case of **Hemang Jadhavji Shah Vs. State of Maharashtra & Ors.**⁶”

In the present case, the petitioner had arrived at Office of Crime Branch, NDR, RK Puram at 11:00 AM on 15.06.2025 and after his arrest on 15.06.2025 at 23:44 hours he was produced before learned Duty JMFC on 16.06.2025 at 02:30 PM. Thus, as per the petitioner, he was detained by the Investigating Officer at 11:00 AM on 15.06.2025 and was produced on 16.06.2025 at 02:30 PM which is three hours more than stipulated period of 24 hours. As per the additional affidavit dated 07.07.2025 filed by Sub-



Inspector Pramod Kumar, Crime Branch, the petitioner had gone out for lunch with his father at 01:30 PM and came back at around 02:30 PM on 15.06.2025. Apart from a general denial during the course of arguments, the petitioner and his father have not refuted the said contention on affidavit or otherwise.

24. As already noted hereinbefore, the petitioner before his arrest at 23:44 hours on 15.06.2025 was not under any physical constraint and was, in fact, in possession of his mobile phone. The Investigating Officer in the present case was aware about the Court monitored investigation. In view of the above facts and circumstances, this Court is of the considered opinion that there has been no delay in producing the petitioner before learned Duty JMFC.

25. Secondly, it is the case of the petitioner that the grounds of arrest were provided to the latter in the Court along with the remand application dated 16.06.2025 and not at the time when he was arrested, *i.e.*, 15.06.2025 at 23:44 hours or around the said time. It is also the case of the petitioner that the arrest memo was provided on 18.06.2025 to the learned counsel of the petitioner (grounds q and r of the petition). Similarly, the grounds of arrest were not supplied to the family members of the petitioner.

26. On the other hand, it was contended on behalf of the respondent/State that the grounds of arrest were provided to the petitioner simultaneously, and



the same were duly acknowledged by him and has placed on record a signed copy of the same along with the status report dated 29.06.2025. It is also the case of the respondent that the arrest memo also records that the grounds of arrest were also separately given and the said memo has been duly signed by the father of the petitioner, who was, admittedly, present with him at the said time in the police station. A perusal of the remand order dated 16.06.2025, as reproduced hereinbefore, records that the only objection taken by learned counsel for the petitioner, at that time, was that he was being produced after 24 hours. It is stated in the present petition that the grounds of arrest and reasons of arrest along with the remand application were handed over to the petitioner at the time of the Court hearing on remand application; however, no such objection or contention was raised before the learned JMFC on the said day. Neither it was urged that the grounds of arrest were not supplied to the father of the petitioner, who was present at the time of his arrest. Perusal of the record, as noted hereinbefore, shows that the petitioner himself had moved an application before the Court of competent jurisdiction for Court monitored investigation and in response to the said application, the Investigating Officer had filed a reply informing the material unearthed during investigation *qua* the present petitioner. The reply also states that the petitioner can be accompanied by any lawyer at the time when he comes for interrogation. Thus, as can be seen from the above, the petitioner was fully conscious of his rights and the fact that this objection of not providing of grounds of arrest and reasons of arrest at the time of his arrest was not taken when the remand orders dated 16.06.2025 and 18.06.2025 were passed by learned JMFC cannot be overlooked. The arrest memo dated 15.06.2025 records that the grounds of arrest have been given separately to the petitioner. The arrest memo also



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records that the father of the petitioner was informed, who was present at the time of the arrest of the petitioner. The grounds of arrest as annexed with the status report dated 29.06.2025 filed in the present petition bears the signatures of the petitioner with date, *i.e.*, 16.06.2025.

27. It is the case of the petitioner himself that the grounds of arrest and reasons of arrest were handed over to him at the time of hearing of the remand application on 16.06.2025. As per the case of the respondent/State, there is a signed document which has been placed on record which reflect that the grounds of arrest were supplied to the petitioner on 16.06.2025 itself. The same document, however, which is unsigned has been placed on record by the petitioner, which as per him, was given at the time when the remand application was heard before the learned Duty JMFC on 16.06.2025. But even during the hearing of 2nd remand application on 18.06.2025, no objection as to whether grounds of arrest have been supplied or not were raised before the concerned Court. This Court is conscious of the fact that in case there is non-compliance of the mandatory provision and even if no objection is taken, the same can be raised at a subsequent stage. However, in the facts of the present case, when the respondent has come to record to show that the grounds of arrest was provided to the petitioner at the relevant point of time then such grounds not being raised on 16.06.2025 and 18.06.2025 before learned JMFC assumes significance.



28. In **Prabir Purkayastha** (*supra*) relied upon by the petitioner, the Hon'ble Supreme Court had observed and held as under: -

“**45.** We are of the firm opinion that once this Court has 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 the land binding on all the courts in the country by virtue of Article 141 of the Constitution of India.

46. Now, coming to the aspect as to whether the grounds of arrest were actually conveyed to the appellant in writing before he was remanded to the custody of the investigating officer.

47. We have carefully perused the arrest memo (Annexure P-7) and find that the same nowhere conveys the grounds on which the accused was being arrested. The arrest memo is simply a pro forma indicating the formal “reasons” for which the accused was being arrested.

48. It may be reiterated at the cost of repetition 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 for 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.



49. From the detailed analysis made above, there is no hesitation in the mind of the court to reach to a conclusion that the copy of the remand application in the purported exercise of communication of the grounds of arrest in writing was not provided to the appellant-accused or his counsel before passing of the order of remand dated 4-10-2023 which vitiates the arrest and subsequent remand of the appellant.

50. As a result, the appellant is entitled to a direction for release from custody by applying the ratio of the judgment rendered by this Court in *Pankaj Bansal* [*Pankaj Bansal v. Union of India*, (2024) 7 SCC 576].”

In the aforesaid judgment, the Hon'ble Supreme Court has observed that the grounds of arrest which were set out in the remand application was transmitted to the Advocate of the petitioner therein, after the remand had been granted by the remand Judge. In the said case, the remand application that had set out the grounds of arrest was supplied after grant of remand order, which is not the case in the present factual context.

29. In **Vihaan Kumar** (*supra*), there was a complete non-compliance by the arresting authority in providing the grounds of arrest to the petitioner therein. The relevant observations of the Hon'ble Supreme Court in **Vihaan Kumar** (*supra*) reads as under: -

“Factual adjudication

27. In Ground A of the writ petition filed before the High Court, a specific factual contention has been raised to the following effect:

“A. Because the arrest of the petitioner dated 10-6-2024 is patently illegal inasmuch the petitioner was not provided with the grounds or reasons of arrest.



*

*

*”

Even the same contention is raised in Ground B very specifically and a further contention is raised due to non-compliance with the requirement of informing the appellant of the grounds of arrest, the appellant's arrest is rendered illegal. The same is the ground specifically taken in Ground E also. Thus, the appellant repeatedly pleaded violation of Article 22(1) by explicitly contending that he was not informed of the grounds of arrest.

28. A status report/reply was filed by Shri Abhimanyu, Assistant Commissioner of Police before the High Court in response to the petition. The grounds taken in the writ petition regarding failure to communicate the grounds of arrest are not dealt with in the reply at all. It is merely mentioned that the appellant's wife was informed about the arrest. Thus, it is not even pleaded before the High Court that grounds of arrest were communicated or informed to the appellant.

29. It is pertinent to note the stand Shri Abhimanyu took while filing a reply to the present special leave petition. He has described in detail how the appellant was arrested. Most pertinently in Para 11, he stated thus:

“***

The petitioner, thereafter, gave his phone to IO to make call at the mobile number of his wife. The IO called from the phone of the petitioner and his wife immediately responded the phone call. *Thus, when informing petitioner's wife about petitioner's arrest, the grounds of arrest were also explained to her in detail as per the provisions of Section 50-ACrPC.* Further, when petitioner's wife came to meet the petitioner, she was again explained the grounds of arrest in detail and shown the relevant documents.

***”

(emphasis supplied)

30. Thus, the stand taken by Shri Abhimanyu is that the grounds of arrest were explained to the appellant's wife in detail, and when she again came to meet the appellant, she was informed and explained the grounds of arrest. Thus, the stand taken shows that grounds of arrest were not informed to the appellant but to his wife. The contention that the appellant's wife was informed about the grounds of arrest is an afterthought, as no such contention has been raised in the reply filed before the High Court. Communication of the grounds of arrest to the



wife of the arrestee is no compliance with the mandate of Article 22(1). As the ground of non-compliance with Article 22(1) has been specifically pleaded in this appeal, this was the second opportunity available to the first respondent to plead and prove that grounds of arrest were informed to the appellant. However, it has not been done, and his contention is that the grounds of arrest were communicated to the appellant's wife.

31. A contention has been raised in the written argument that the grounds of arrest were incorporated in the remand report. This contention has been raised for the first time in written submissions before this Court. This is not pleaded in the reply filed before the High Court and this Court. The police submit a remand report before the learned Magistrate for seeking remand without serving a copy thereof to the arrestee. The reason is that the police cannot divulge the details of the investigation to the accused till the final report is filed. Mentioning the grounds of arrest in the remand report is no compliance with the requirement of informing the arrestee of the grounds of arrest.

32. The stand taken before the High Court was that the appellant's wife was informed about the arrest. Information about the arrest is completely different from the grounds of arrest. The grounds of arrest are different from the arrest memo. The arrest memo incorporates the name of the arrested person, his permanent address, present address, particulars of FIR and section applied, place of arrest, date and time of arrest, the name of the officer arresting the accused and name, address and phone number of the person to whom information about arrest has been given. We have perused the arrest memo in the present case. The same contains only the information stated above and not the grounds of arrest. The information about the arrest is completely different from the information about the grounds of arrest. Mere information of arrest will not amount to furnishing grounds of arrest.

33. Reliance was placed in this regard on the case diary entry of 10-6-2024 at 6.10 p.m., which records that the appellant was arrested after informing him of the grounds of arrest. This was not pleaded before the High Court as well as in this Court in the reply of the first respondent. This is an afterthought. Considering the stand taken in the reply filed before the High Court and this Court, only on the basis of a vague entry in the police diary, we cannot accept that compliance with Article 22(1)



can be inferred. No contemporaneous documents have been put on record wherein the grounds of arrest have been noted. Therefore, reliance placed on the diary entries is completely irrelevant.

34. Therefore, in the facts of the case, we have no hesitation in holding that the arrest of the appellant was rendered illegal on account of failure to communicate the grounds of arrest to the appellant as mandated by Article 22(1) of the Constitution.”

30. In the facts of the present case, it is not in dispute that the petitioner who had already filed an application seeking Court monitored investigation had come to the Office of Crime Branch, NDR, RK Puram, on 15.06.2025 in pursuance of the notice issued under Section 35(3) of the BNSS. It is also not in dispute that the petitioner was accompanied by his father at that time and his father was with him till his arrest on the said date, *i.e.*, 15.06.2025 at 23:44 hours. It is also not in dispute that the copy of the remand application along with grounds of arrest and reasons of arrest were supplied duly to the learned counsel for the petitioner at the time of hearing of the remand application on 16.06.2025. Learned JMFC while passing the first remand order dated 16.06.2025 had observed as under: -

“4. Arguments heard at length. I have carfeully perused the record of the present case *i.e.* the arrest memo, the documents pertaining to grounds of arrest, reasons of arrest and the other annexed documents.”

31. The issue is that whether the grounds of arrest were supplied to the petitioner and his family member at the time of his arrest. The case of the respondent is that the same were supplied immediately after the arrest and



same were duly acknowledged by the petitioner by putting his signatures thereon which has now been placed on record along with the status report filed in the present petition. It is also matter of record that the aforesaid observation by the learned JMFC also shows that the arrest memo, the documents pertaining to grounds of arrest, reasons of arrest and the other documents were also annexed with the remand paper. Thus, the contention of learned counsel for the petitioner that the arrest memo was supplied on 18.06.2025 is also not tenable. This Court has no reason to disbelieve the observation made by the learned JMFC on 16.06.2025 wherein, it is records that the arrest memo, reasons of arrest and documents were annexed with the remand application. As already noted hereinbefore, it is not the case of the petitioner that he had no legal assistance. The facts as narrated by the petitioner himself shows that throughout the investigation of the present FIR, the petitioner was availing of his legal remedies as and when he deemed it appropriate. Thus, not raising the plea of non-supply of grounds of arrest at the time of remand proceeding on 16.06.2025 and 18.06.2025 assumes significance and cannot be ignored to conclude that there was non-compliance of the same.

32. Learned counsel for the petitioner relied upon judgments with respect to the grounds of arrest must be supplied to the family, friends, or person nominated by the person arrested. In **Sujata (supra)**, the issue raised was in respect of the timing of arrest in terms of Section 46(4) of the CrPC and whether it was made before or after sunset as the accused/applicant therein was a female. There were various documents, *i.e.*, arrest memo, pre-arrest



medical report and requisition issued to the Medical Officer, contrary to each other on record showing different timings of arrest. Another ground taken therein was that the grounds of arrest were not communicated to the relatives of the applicant therein. It was in these circumstances, the arrest in **Sujata (supra)** was declared illegal. However, in the present case, the timing of the arrest has been shown to be at 23:44 hours on 15.06.2025 and also that the grounds of arrest were duly communicated to the present petitioner when his father was present at Police Station at the time of his arrest.

33. In **Lalit Phukon (supra)**, the grounds of arrest were not communicated to the friends, relatives, or family members of the accused/petitioner therein. However, in the present case, they were duly communicated to the petitioner who was accompanied by his father and was present at the police station while the petitioner was being interrogated and subsequently arrested.

34. In **Gagan (supra)**, the arrest memo therein did not have column for 'grounds of arrest' and it was not the case of prosecution therein that 'grounds of arrest' were separately served to the applicant therein at the time of his arrest. However, in the present case, in the arrest memo, it has been mentioned that the present petitioner was served separately with the grounds of arrest. Likewise, the other cases relied on by learned counsel for the petitioner in this regard are distinguishable on facts.



35. Thus, in view of the above, this Court is of the considered opinion that there has been no violation of the principle laid down in **Vihaan Kumar (supra)** by the respondent/State insofar as the supply of grounds of arrest to the petitioner and his family member is concerned.

36. Learned counsel for the petitioner also contended that the grounds of arrest in remand application are different from the ones provided at the time of arrest. In this context, it will be relevant to examine the observations of Hon'ble Supreme Court in **Kasireddy Upender Reddy (supra)** which reads thus: -

“27. The object underlying the provision that the grounds of arrest should be communicated to the person arrested has been very succinctly explained in Vihaan Kumar (supra). On learning about the grounds for arrest, the person concerned will be in a position to make an application before the appropriate Court for bail, or move the High Court for a writ of habeas corpus. Further, the information will enable the arrested person to prepare his defence in time for the purposes of his trial. For these reasons, it has been 30 provided by the Constitution that, the ground for the arrest must be communicated to the person arrested as soon as possible.

28. For the purposes of Clause (1) of Article 22, it is not necessary for the authorities to furnish full details of the offence. However, the information should be sufficient to enable the arrested person to understand why he has been arrested. The grounds to be communicated to the arrested person should be somewhat similar to the charge framed by the Court for the trial of a case.



36. If a person is arrested on a warrant, the grounds for reasons for the arrest is the warrant itself; if the warrant is read over to him, that is sufficient compliance with the requirement that he should be informed of the grounds for his arrest. If he is arrested without a warrant, he must be told why he has been arrested. If he is arrested for committing an offence, he must be told that he has committed a certain offence for which he would be placed on trial. In order to inform him that he has committed a certain offence, he must be told of the acts done by him which amounts to the offence. He must be informed of the precise acts done by him for which he would be tried; informing him merely of the law applicable to such acts would not be enough. (See: Vimal Kishore Mehrotra (supra))”

Perusal of the application seeking remand and grounds of arrest shows that apart from the grounds of arrest, the said application further specifies the reasons for seeking police remand of the petitioner. In the grounds of arrest as well as the remand application, the petitioner has been informed of the act alleged *qua* him for the commission of offences for which he was being arrested.

37. In view of the aforesaid discussion and in facts and circumstances of the present case, the present petition is dismissed and disposed of accordingly.

38. Needless to state that, nothing mentioned hereinabove, is an opinion on the merits of the case or on the pending trial against the present Petitioner and any observations made herein are only for the purpose of the present petition.



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39. Pending application(s), if any, also stand disposed of.
40. Copy of the judgment be sent to the concerned Jail Superintendent for necessary information and compliance.
41. Judgment be uploaded on the website of this Court *forthwith*.

AMIT SHARMA, J.

AUGUST 12, 2025/bsr/ns