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

+ W.P.(CRL) 2243/2025 and CRL.M.A. 20841/2025

SH. MOHIT

.....Petitioner

Through: Mr. S.C. Buttan, Mr. Ojasvi Annadi,
Mr. Shambhu and Mr. Gurpreet Singh
Gulati, Advocates.

versus

THE STATE GOVT. OF
NCT OF DELHI AND ORS.

.....Respondents

Through: Mr. Yasir Rauf Ansari, ASC
(Criminal) with Mr. Alok Sharma,
Advocate.

CORAM:

HON'BLE MR. JUSTICE ARUN MONGA

ORDER

02.09.2025

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1. Petition herein seeks direction for release of the petitioner with immediate effect on the ground that the arrest of the petitioner and further his detention is illegal and in violation to the specific provisions of Article 21 and 22 of the Constitution of India.
2. Briefly stated, the facts of the present case is that on 25.08.2024, information was received by SI Omkant Yadav vide GD No. 53A P.S. Hauz Qazi, upon which, he along with Ct. Rishikesh reached Lok Nayak Hospital and obtained MLC of victim. Subsequently, statement of the victim was recorded where it was stated that the petitioner, Yash, and Ajay demanded ₹1,100 as *Janmashtami chanda*. When he offered to pay ₹500 the next day, they threatened to kill him and set him on fire. Victim further stated that Yash told the petitioner to bring petrol from his motorcycle, Ajay handed



over a matchbox, and the petitioner poured petrol into a glass, sprinkled it on the victim, and set him ablaze. Subsequently, FIR No. 241/2024 was registered on 26.08.2024. On the same day, the petitioner was arrested during the investigation. Four days later, the victim died during treatment.

3. Learned counsel for the petitioner argues that the petitioner's arrest on 26.08.2024 was illegal as the grounds of arrest were never communicated to him, his relatives, or the Magistrate, contrary to Articles 21 and 22 of the Constitution, Section 50 Cr.P.C. (Sec. 47 BNSS), and the binding law laid down in *Vihaan Kumar v. State of Haryana* and *Prabir Purkayastha v. State (NCT of Delhi)*. The Magistrate granted police custody remand without examining compliance with constitutional safeguards or asking the police about the grounds of arrest, thereby violating the petitioner's rights under Articles 21 and 22. At no stage were the grounds of arrest furnished in writing to the petitioner or his family, nor reflected in contemporaneous records like the remand application, arrest memo, charge sheet, or witnesses' statements, and the arrest memo contained only formal details, not the legal grounds of arrest, as clarified by the Supreme Court. The Investigating Officer subsequently interpolated the case diary with false entries claiming grounds of arrest were served, amounting to perjury and misrepresentation before the Court. Despite repeated pleas, the Magistrate and Trial Court ignored the petitioner's objections and the binding Supreme Court precedents, and mechanically remanded him to judicial custody. The petitioner has been in custody since 26.08.2024 without being informed of the grounds of arrest, making his continued detention unconstitutional, illegal, and void. The petitioner prays for immediate release from custody, as his arrest and detention stand vitiated in law.



4. Having seen the contents of the petition and after hearing preliminary arguments, it transpires that the same very grounds as raised herein were the grounds for seeking bail before the learned Sessions Court and notwithstanding the bail application of the petitioner was dismissed vide an order dated 30.05.2025. The order is reproduced hereinbelow:-

*“3. It is argued that the applicant is in J.C. since 26.08.2024. It is further argued that the applicant has been falsely implicated in this case, charge-sheet has already been filed. It is further argued that. It is further argued that the applicant has not been communicated the grounds of arrest and it is the violation of fundamental rights of applicant under Article 21 and 22 of the Constitution of India. Ld. Counsel for the applicant has relied upon the judgments in case titled as **Pankaj Bansal vs. Union of India**, [2023] 12 SCR 714 :2023 INSC 866, **Prabir Purkayastha vs. State**, [2024] 6 SCR 666 : 2024 INSC 414 and **Vihan Kumar vs. State of Haryana**, Special Leave Petition (Crl.) No.13320/2024 to support his arguments.*

4. Application has been opposed by the Id. Addl. PP for State on the ground that the allegations against the applicant are serious in nature. It is further submitted that the accused persons have murdered a person by burning him alive, who succumbed due to his injuries. It is further submitted that the deceased had clearly stated in his statement that the accused Yash @ Kaku instigated the applicant and other co-accused Ajay @ Ajju provided matchbox to the applicant who ultimately on the instigation of the co-accused, burnt the complainant. It is further submitted that the applicant was present at the spot and has burnt the complainant which is clearly seen in the CCTV footage. It is further submitted that there is possibility that the applicant may influence the persons acquainted with the facts of the present case. It is further argued argued that the grounds of arrest were communicated to the applicant verbally as well as in writing, therefore, there is no illegal arrest. It is further argued that the applicant may



jump the bail, if released on bail. It is prayed that bail application of the applicant may be dismissed.

5. *Arguments already heard. Record perused.*

6. *Ld. Counsel for applicant has raised the contention that the applicant has not been supplied with the grounds of arrest in writing and therefore, his arrest is vitiated and he is entitled to bail in accordance with the precedents. This Court has gone through the precedents in this regard. There is no doubt on the law that the requirements of serving grounds of arrest in writing to an arrestee is compulsory and unquestionable regardless of whether the arrest has been made under PMLA or UAPA or under any other criminal statute. The ratio of the precedents would apply to the arrest under any criminal offence from the date of pronouncement of the judgment in **Pankaj Bansal case (Supra)** i.e. 03.10.2023. It is also clear that the burden to prove the compliance of requirements of Article 22 of the Constitution that the arrestee was supplied with the grounds of arrest in writing, always rests upon the investigating agency.*

7. *When the violation of Article 22 of the Constitution is alleged with respect to the grounds of arrest, there can be two possible contentions raised :*

(a) *That the arrested person was not informed of the grounds of arrest, or*

(b) *Purported information of grounds of arrest does not contain any ground of arrest.*

8. *In the present case, the former has been alleged i.e. the applicant was not informed about the grounds of arrest in writing. The burden to prove whether the grounds of arrest in writing were provided to the applicant is upon the investigating agency. The IO has submitted that the grounds of arrest were duly informed and were given to the applicant in writing. The IO invited the attention of this Court to the police file where one document with the heading “grounds of arrest” has been mentioned and the grounds are duly mentioned which was given to the accused on the date of arrest i.e. on 26.08.2024. It also*



bears the signature of the applicant on the left hand bottom side.

9. *Thus, it appears that the applicant was supplied with the grounds of arrest in writing and hence, the contention of the Id. Counsel for the applicant is hereby rejected. Accordingly, the application filed by the applicant is hereby dismissed.*

10. *Copy of this order be given dasti to Id. Counsel for applicant/accused.*

11. *A hard as well as soft copy be also sent to the concerned Jail Superintendent immediately for information and necessary action.”*

3. A perusal of the order shows that, with regard to the allegation that the grounds of arrest were not supplied, the learned Judge has observed that they were duly communicated, and thus found the allegation unsubstantiated. Instead of challenging that order or availing further remedies, the present petition has been filed seeking a declaration that the petitioner's arrest and custody are illegal on the ground that the arrest grounds were not conveyed to him.

4. However, whether or not such grounds were actually conveyed cannot be established merely through a self-serving affidavit in a writ petition. This issue is a matter for trial and, at best, may be urged as a ground for bail, but not for quashing the arrest memo.

5. I, therefore, find no reason to interfere.

6. The petition is dismissed.

7. The petitioner is at liberty to seek appropriate remedy qua his bail dismissal order, *ibid*, in accordance with law.

ARUN MONGA, J

SEPTEMBER 2, 2025/kd