IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.2204 of 2026

CNR No. BRHC011063872026

Arising Out of PS. Case No.-27 Year-2026 Thana- Chitragupta Nagar District- Khagaria

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Shashi Bhushan Prasad Singh Son of Ramtapeshwar Singh Permanent R/o Village - Berain, P.O.- Berai, P.S.- Hathauri, District - Muzaffarpur, Bihar - 843129, and presently at Adhivakta Nagar, Ballia, Uttar Pradesh

... ... Petitioner

Versus

1. The State of Bihar Through Its Pr. Secretary, Home Department, Govt. of Bihar, Patna. Bihar
2. Director General of Police, Govt. of Bihar, Patna Bihar
3. Inspector General, Prisons, Home Department, Govt. of Bihar, Patna Bihar
4. Deputy Superintendent of Police-Cum- Sub-Divisional Police Officer- 01, Sadar Khagaria, District - Khagaria, Bihar
5. Station House Officer, Police Station Chitragupt Nagar, District - Khagaria, Bihar Bihar
6. Investigating Officer, Police Station Chitragupt Nagar, District - Khagaria, Bihar Bihar
7. Nand Kumar Singh Son of Kedar Prasad Singh R/o Lohiyanagar, Ward No. 28, P.S.- Lohiyanagar, District - Begusarai, Bihar

... ... Respondents

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Appearance :

For the Petitioner/s	:	Mr.Abhijit Anand, Advocate Mr. Aditya Singh, advocate
For the State	:	Mr.S.D. Sanjay, Advocate General Mr. Sanjeev Kumar Mishra, GP-21 Mr. Shashwat Agrawal, AC to AG Ms. Shravya Pathak, AC to AG
For the Informant	:	Mr. Vindhya Keshri Kumar, Sr. Advocate Mr. Ram Shankar Pathak, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
and
HONOURABLE MR. JUSTICE RANA VIKRAM SINGH

ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

Date : 30-10-2026

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Heard learned counsel for the petitioner, learned Advocate General assisted by Mr. Shashwat Agarwal, learned AC to AG for the State of Bihar and Mr. Vindhya Keshri Kumar, learned Senior Counsel assisted by Mr. Ram Shankar Pathak, learned counsel for the informant.

2. This writ application has been preferred seeking the following reliefs:-

> "(I) Issue a writ in the nature of Habeas Corpus or any other appropriate writ, order or direction, directing the Respondents, particularly the Respondent No. 3 to produce the Petitioner's son Divya Prakash before this Hon'ble Court, either physically or through Video-Conferencing, and to justify the legality of his arrest and continued detention;
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> (II) Issue a writ in the nature of Certiorari or any other appropriate writ, order or direction, quashing and setting aside the impugned illegal arrest of the Petitioner's son Divya Prakash dated 05.06.2026 made by the Investigating Officer/Respondent No. 6 in connection with F.I.R. No. 27/2026 dated 14.02.2026 registered at P.S. Chitragupt Nagar, District- Khagaria under Section 108/3(5) of BNS, along with the illegal arrest memo dated 05.06.2026, and declaring the same to be illegal, unconstitutional and void ab initio being in violation of Articles 21 and 22(1) of the Constitution of India and Sections 36, 47 and 48 of BNSS;
>
> (III) Issue a writ in the nature of Certiorari or any other appropriate writ, order or direction, quashing and setting aside the impugned illegal Judicial remand order dated 06.06.2026 passed by the Ld. Chief Judicial Magistrate, Khagaria, Bihar remanding the Petitioner's son Divya Prakash to Judicial custody till 20.06.2026, the impugned order dated 20.06.2026 extending the Judicial remand till 04.07.2026, and all

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subsequent and consequential orders of remand/extension of Judicial custody, being consequential to and founded upon the illegal arrest;

(IV) Issue a writ, order or direction to the Respondents to forthwith release the Petitioner's son Divya Prakash from the illegal Judicial custody in District Jail, Khagaria, Bihar;

(V) Issue a writ, order or direction to the Respondent No. 1/State of Bihar to pay compensation to the Petitioner's son Divya Prakash @ Rs. 50,000/-(Rupees Fifty Thousand only) per day for his illegal arrest and illegal custody from 05.06.2026 till the date of his actual release (amounting to Rs. 58,00,000/- (Rupees Fifty eight Lakh only) for 116 days as on 28.09.2026 and continuing), within a period of four weeks, with interest at such rate as this Hon'ble Court deems fit for the period of delay, with liberty to the State to recover the same from the salaries of the Respondent No. 4, 5 and 6 and such other officials as may be found responsible, after conducting inquiry and fixing their liability;

(VI) Issue an appropriate writ, order or direction, thereby penalty of Rs. 25,000/- per day be imposed on the Ld. CJM, Khagaria, Bihar for continued illegal and unconstitutional Judicial remand of the Petitioner's son Divya Prakash aged about 43 years, (Male), S/o Shashi Bhushan Prasad Singh, R/o Village- Shahabazpur Salem, PS-Ahiyapur, District-Muzaffarpur, Bihar- 842004 vide the impugned Judicial remand order dated 06.06.2026, extended on 20.06.2026, etc. passed by the Ld. CJM, Khagaria, Bihar and the same should be recovered personally from the salaries and remuneration of the Ld. CJM, Khagaria, Bihar;

(VI) Issue an appropriate writ, order or direction, thereby direction be passed to the concerned authorities for department inquiry and action against the Ld. CJM, Khagaria, Bihar for continued illegal and unconstitutional Judicial remand of the Petitioner's son Divya Prakash aged about 43 years, (Male), S/o Shashi Bhushan Prasad Singh, R/o Village-Shahabazpur

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Salem, PS-Ahiyapur, District-Muzaffarpur, Bihar- 842004, vide the impugned Judicial remand order dated 06.06.2026, extended on 20.06.2026, etc.;

(VII) Issue a writ, order or direction to the Respondent No. 2/Director General of Police, Bihar to initiate departmental proceedings against the Respondent No. 4, 5 and 6 and all other erring officials for the illegal arrest of the Petitioner's son Divya Prakash, for preparation of a false arrest memo as to the place and time of arrest, etc, for non-communication of the grounds of arrest and for non-preservation of the CCTV footage, and to place the outcome thereof before this Hon'ble Court within a time bound manner;

(VIII) Issue a writ, order or direction to the Respondents to produce before this Hon'ble Court the complete CCTV footage of the premises of the District Court, Khagaria and of P.S. Chitragupt Nagar, District-Khagaria of 05.06.2026 from 3:30 PM to 7:00 PM, the CDR and tower location of Mobile No. 6200096793 and all other mobile numbers of the Case IO of 05.06.2026 from 3:00 PM to 7:00 PM, and the General Diary/Station Diary entries of P.S. Chitragupt Nagar of 05.06.2026;

(IX) Call for the records of F.I.R. No. 27/2026, including the case diary, the arrest memo, the inspection memo, the arrest intimation, the remand papers and the order-sheets of the Ld. CJM, etc. Khagaria dated 06.06.2026 and 20.06.2026, etc.;

(X) Pass any such other or further order(s) as this Hon'ble Court may deem fit, proper and necessary in the facts and circumstances of the present case and in the interest of justice.

A. INTERIM RELIEF

During the pendency of the instant Writ Petition, kindly grant the following interim relief(s):-

(I) Grant an ad-interim ex-parte order directing the Respondents to release the Petitioner's son Divya Prakash forthwith from the illegal Judicial custody in District Jail, Khagaria, on such terms as this Hon'ble Court may deem fit,

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including on personal bond, pending the final disposal of the instant Writ Petition;(II) Direct the Respondents to produce the Petitioner's son Divya Prakash before this Hon'ble Court, either physically or through Video-Conferencing;

(II) Direct the Respondent No. 2, 4, 5, 6 to forthwith secure and preserve the CCTV footage, CDR, tower location data and Station Diary entries mentioned in prayer (VII) above, and to file the same before this Hon'ble Court;

(IV) Direct the Respondent No. 4, 5 and 6 to file their personal affidavits disclosing (a) the exact place and time of arrest of the Petitioner's son Divya Prakash on 05.06.2026, (b) whether written grounds of arrest were served upon him and upon any family member, and if so, when and to whom, and (c) the name and particulars of the person to whom information with regard to such arrest with reasons and the place where the arrested person/Petitioner's son is being held was given immediately after arrest on 05.06.2026 between 3:45 PM to 5:00 PM under Section 48 BNSS;

(V) Pass any other order(s) which this Hon'ble Court deems fit and proper in the interest of justice.

Case of the Petitioner

3. The facts of the case are not much in dispute. The petitioner as well as his son Divya Prakash (the detenue) are facing prosecution in FIR No. 27 of 2026 registered with the Chitragupt Nagar Police Station in the district of Khagaria, State of Bihar under Section 108/3(5) of the Bhartiya Nyay Sanhita (in short “BNS”).

4. The facts as revealed from the pleadings available on the record would show that Divya Prakash (the detenue) had filed an application seeking anticipatory bail bearing Criminal Miscellaneous No. 38639 of 2026 in this Court. While the said

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anticipatory bail was pending consideration, he was arrested at Khagariya nearby or from within the premise of the Civil Court, Khagariya on 05.06.2026, on the strength of a non-bailable warrant of arrest issued by the learned Magistrate. As per the plea taken by the learned Advocate General, the petitioner’s son, Divya Prakash was evading his arrest, therefore a non-bailable warrant of arrest was issued and later on process under Section 82 Code of Criminal Procedure (in short 'Cr.P.C.') was also taken out.

5. After his arrest, he was served with the arrest memo (Annexure ‘P/4’). He was produced before the learned Jurisdictional Magistrate where his lawyer appeared through video conferencing mode and opposed the remand. The learned Magistrate has vide order dated 06.06.2026 (Annexure 'P/6') passed the order of remand.

6. The petitioner’s son, thereafter, filed regular bail application in the court of learned Sessions Judge, Khagaria, which was rejected. He moved this Court in Criminal Miscellaneous Case No. 69733 of 2026 for grant of regular bail which was taken up for consideration on 29.09.2026. A learned Single Judge of this Court was pleased to call for the Case Diary. On the very next date, i.e. on 30.09.2026, the petitioner filed this writ of Habeas Corpus at about 13:31:36. Prior to filing of the bail

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application, the petitioner's son had filed Cr. WJC No. 1063 of 2026 for quashing of the FIR. He had also filed Cr.WJC No. 1182 of 2026 for proper investigation of the case. On the very next day i.e. on 01.10.2026, in the morning at 10:30 AM, Mr. Abhijeet Anand, learned Advocate for the petitioner appeared through online mode, made a mention for listing of the Habeas Corpus case. This Court having found that the writ was filed only on 30th of September, orally asked him first to remove the defects and then mention the matter but it appears that immediately thereafter on the very next available working day, the petitioner moved the Hon'ble Supreme Court and informed the Hon'ble Supreme Court that the High Court has rejected the prayer for listing of the Case. In Special Leave to Appeal (CRL.) No(s). 19292/2026, vide order dated 12.10.2026, the Hon'ble Supreme Court directed that the Habeas Corpus petition of the petitioner pending before the High Court shall be listed before appropriate Bench on 27.10.2026 subject to removal of defects, if any.

7. In the aforementioned background, the matter was listed before this Court on 15.10.2026. The Stamp Reporter pointed out certain defects which were yet not removed. On that day, this Court passed the order recording some relevant and significant aspects of the matter. However, at this stage, the Court

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is not reiterating some of those facts and issues which are not directly falling for consideration in order to decide this case. Fact remains that the matter was listed once again yesterday when this Court found that the defects were not yet removed. This Court again adjourned the matter vide order dated 28.10.2026. Today, this case has come up and the Court has been informed that the defects have been removed.

8. The solitary question which arises for consideration in this writ application is as to whether the order granting remand of the accused is required to be interfered with, by this Court on the ground of non-service of the written grounds of arrest upon the petitioner's son at the time of his arrest on 05.06.2026.

9. Learned counsel for the petitioner has relied upon the judgments of the Hon'ble Supreme Court in the case of **Mihir Rajesh Shah versus State of Maharashtra** reported in **(2026) 1 SCC 500, Pankaj Bansal versus Union of India** reported in **(2024) 7 SCC 576** and **Dr. Rajinder Rajan versus Union of India and another** reported in **2026 SCC OnLine SC 802.**

10. One of the contentions of the learned counsel for the petitioner is, that even if a non-bailable warrant was issued against the detenue that alone would not serve the purpose unless it is shown that the warrant of arrest was duly read out to the accused

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at the time of his arrest. In this connection, he has relied upon the judgment of the Hon'ble Supreme Court in case of **Kasireddy Upender Reddy Vs. State of Andhra Pradesh** reported in **(2026) 8 SCC 275** (Paragraph '38').

11. Learned counsel for the petitioner has submitted that the writ application as framed is well maintainable and in the light of the judgments of the Hon'ble Supreme Court, the petitioner's son would deserve his release on bail on the ground of non-furnishing of the written grounds of his arrest.

Submissions on behalf of the State

12. On the other hand, learned Advocate General representing the State as well as learned Senior Counsel representing the informant have vehemently opposed the writ application. Learned Advocate General submits that the facts of the present case would clearly show that the petitioner was well aware of the accusations against him, he was in possession of a copy of the First Information Report in which he was named accused, he was also aware of the issuance of non-bailable warrant and in fact he had filed an application for recall of the warrant of arrest. It is also pointed out that the petitioner's son had filed an application seeking pre-arrest bail before this Court in Criminal Miscellaneous No.38639 of 2026 which was pending consideration, therefore on the face of these materials, the

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petitioner cannot be allowed to argue that the grounds of arrest were not known to the petitioner's son. Placing reliance upon the judgments of the Hon'ble Supreme Court in the case of **State of Karnataka vs. Sri Darshan** reported in **2025 SCC OnLine SC 1702 : (2026) 8 SCC 223** and **State of Rajasthan Vs. Jhabra Ram** reported in **2026 INSC 1169**, the learned Advocate General has submitted that the ratio of judgments of the Hon'ble Supreme Court in cases of **Sri Darshan** (supra) and **Jhabra Ram** (supra) would be applicable in the facts of this case.

13. It is also submitted that this Court has taken into consideration the various judgments of the Hon'ble Supreme Court on the issue of compliances with the requirement of Article 22 of the Constitution of India, in case of **Sarfaraz @ Muzaffar Ahmad Wani vs. Union of India through NIA, New Delhi (Criminal Appeal (DB) No. 1478 of 2025)**. In it's judgment dated 06.10.2026, this Court has taken note of the judgment in case of **Sri Darshan** (supra) and only after recording that the case of **Sarfaraz @ Muzaffar Ahmad Wani** (supra) was clearly distinguishable from that of **Sri Darshan's** case, this Court allowed the said writ petition.

14. Learned Advocate General has further informed at this stage that after the charge-sheet was filed and cognizance has

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been taken, the records have been committed to the court of session. It is pointed out from paragraph '30' of the writ petition that the petitioner admits filing of chargesheet dated 11.07.2026, order taking cognizance passed on 18.07.2026 by learned Chief Judicial Magistrate, Khagaria and registration of Sessions Trial No. 508/2026 in the court of learned District and Sessions Judge, Khagaria.

Submissions on behalf of the Informant

15. Mr. Vindhya Keshri Kumar, learned Senior Counsel for the informant submits that, in fact the records would show that the petitioner has filed multiple litigations one after another. It is submitted that in this case, though the petitioner's son was arrested on 5th June, 2026, he did not move this Court during the summer vacation when the Bench was already available. He first chose to file a regular bail application before the learned Sessions Judge and after rejection of the same, he moved this Court for regular bail and after about 3½ (three and half) months from the date of his arrest, only when the learned Single Judge of this Court called for the Case Diary on 29th September, 2026, on the next day, a writ of Habeas Corpus was filed.

16. Learned Senior Counsel has gone to the extent of submitting that in fact the manner in which the learned counsel for the petitioner moved the Hon'ble Supreme Court giving a wrong

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impression that the writ of Habeas Corpus was not listed and his prayer for listing was rejected by this Court requires to be considered against his conduct. With reference to this Court's order dated 15.10.2026 and 28.10.2026, learned Senior Counsel submits that this Court has taken note of the conduct of learned counsel for the petitioner and has kept it open for consideration. On merit, it is submitted that in the recent judgment in case of **Jhabra Ram** (supra), the Hon'ble Supreme Court has once again carefully examined the materials placed on the record in the said case together with the constitutional and statutory requirements. After taking note of the same, the Hon'ble Supreme Court evaluated the effect of the alleged procedural defects in the light of the earlier judgment of the Hon'ble Supreme Court in **Sri Darshan** (Supra). By applying the principle of prejudice-oriented test, the Hon'ble Supreme Court further went into the judgments in the case of **Kasireddy Upender Reddy** (supra) and held that the requirement of communicating grounds of arrest is designed to served a substantive purpose rather than a mere formalistic routine.

17. Attention of this Court has been drawn towards paragraph '19' and '22' of the judgment of the Hon'ble Supreme Court in case of **Jhabra Ram** (Supra). It is submitted that in the

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facts of the present case, the writ application deserves dismissal with cost.

Consideration

18. Having heard learned counsel for the petitioner, learned Advocate General for the State and learned Senior Counsel for the informant as also on perusal of the pleadings, this Court is of the considered opinion that the facts of this case would lead to an irresistible conclusion on the part of this Court that in this case the petitioner's son was fully aware of the accusation against him. He is a named accused in the police case. The petitioner's son had filed an application for anticipatory bail in this Court being Cr. Misc. No. 38639 of 2026 which was pending consideration before this Court on the date of arrest. On 05.06.2026, when the petitioner's son was arrested at Khagaria and he was produced before the learned jurisdictional Magistrate, his Advocate had appeared through video conferencing mode and opposed the remand. The remand order (Annexure 'P/6') speaks for itself. Although, certain allegations have been made in the matter of recording of the remand order, however, we find no substance in such allegations on the face of the fact that the remand order is well written order and there is no denial of the fact that the

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Advocate of the petitioner's son had appeared through online mode to oppose the remand.

19. This Court, therefore, finds that the petitioner's son was fully aware of the accusation against him. He had also filed an application seeking cancellation of the non-bailable warrant of arrest issued against him.

20. In the aforementioned background of the facts when we go through the various judgments of the Hon'ble Supreme Court, it is found that in the case of **Mihir Rajesh Shah** (supra), the Hon'ble Supreme Court held in paragraph nos. '50', '51' and '52' as under:-

> **"50.** Further, the above judgment has been reiterated and followed by this Court in *Lallubhai Jogibhai Patel* v. *Union of India*[19] wherein it has been reaffirmed that grounds of detention must be communicated to the detenu in writing in a language which he understands.
>
> **51.** On perusal of the above two judgments, it turns out that mere communication of the grounds in a language not understood by the person arrested does not fulfil the constitutional mandate under Article 22 of the Constitution of India. The failure to supply such grounds in a language understood by the arrestee renders the constitutional safeguards illusory and infringes the personal liberty of the person as guaranteed under Articles 21 and

19. (1981) 2 SCC 427 : 1981 SCC (Cri) 463 : (1982) 52 Comp Cas 543

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> 22 of the Constitution of India. The objective of the constitutional mandate is to place the person in a position to comprehend the basis of the allegations levelled against him and it can only be realised when the grounds are furnished in a language understood by the person, thereby enabling him to exercise his rights effectively.
>
> **52.** From the catena of decisions discussed above, the legal position which emerges is that the constitutional mandate provided in Article 22(1) of the Constitution of India is not a mere procedural formality but a constitutional safeguard in the form of fundamental rights. The intent and purpose of the constitutional mandate is to prepare the arrested person to defend himself. If the provisions of Article 22(1) are read in a restrictive manner, its intended purpose of securing personal liberty would not be achieved rather curtailed and put to disuse."

21. In the case of **Dr. Rajinder Rajan** (supra), the Hon'ble Supreme Court once again held in the following words:-

> **"20.** It is no longer res integra that supplying the grounds of arrest to the accused in writing before the arrest or, in a given case, under exceptional circumstances, immediately thereafter, is the mandate of the Constitutional guarantees provided under Article 22(1) read with Article 21 of the Constitution of India. The

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> ratio of the judgment in *Mihir Rajesh Shah*[3] conclusively holds that any deviation from the above principle would lead to the arrest of the accused being declared illegal entitling such accused to be released forthwith."

22. In the case of **Sri Darshan** (supra), the Hon'ble Supreme Court rejected the contention of learned counsel for the respondents-accused that the arrest was illegal as the grounds of arrest were not furnished immediately in writing, thereby violating Article 22 (1) of the Constitution and Section 50 CrPC (now Section 47 of the Nagarik Suraksha Sanhita, 2023). The Hon'ble Court held that in absence of demonstrable prejudice such an irregularity is, at best, a curable defect and cannot by itself warrant bail.

23. This Court had occasion to take note of the various judgments of the Hon'ble Supreme Court on this issue in the case of **Sarfaraz @ Muzaffar Ahmad Wani** (supra). The entire discussions have been summed up in paragraph '36' of the judgment in the case of **Sarfaraz @ Muzaffar Ahmad Wani** (supra) which we reproduce hereunder for a ready reference:-

> "**36.** The upshots of the aforementioned discussions would lead to conclude this Court as under:-

3. (2026) 1 SCC 500 : (2026) 1 SCC (Cri) 1

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(i) The constitutional mandate and the statutory mandate as contained under Article 22 of the Constitution of India and Section 50 of the CrPC leave no room for doubt that it would be necessary for the investigating agency/arresting authority, that a copy of the written grounds of arrest is furnished to the arrested person as a matter of course and without exception. This has been held by the Hon'ble Supreme Court in the case of **Pankaj Bansal versus Union of India** reported in **(2024) 7 SCC 576:**

(ii) If the arrest memo is simply a proforma indicating that the grounds of arrest has been conveyed, it would not be a compliance with the judgments of the Hon'ble Supreme Court in the case of **Ahmed Mansoor** (supra) and **Dr. Rajindra Rajan** (supra): and

(iii) Templates of the arrest memo containing the statement to the effect that the arresting officer explained the grounds of arrest to the accused before the arrest, is no compliance with the mandate of Article 22 of the constitution of India read with section 50 and 50A of the Code of Criminal Procedure (Now Sections 47 and 48 of the BNSS); and

(iv) The judgment in **Sri Darshan's case** (supra) was rendered by the Hon'ble Supreme Court with a clear finding that the arrest memos and remand orders reflected that the respondents were aware of the reasons for their arrest. They were legally

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> represented from the outset and applied for bail shortly after arrest, evidencing an immediate and informed understanding of the accusations. In such circumstance, the Hon'ble Supreme Court took a view that no material has been placed on record to establish that any prejudice was caused due to the alleged procedural lapse. In the present case, the facts are entirely different, therefore, the decision of the Hon'ble Supreme Court in **Sri Darshan's case** (supra) is to be read as explained in the case of **Ahmed Mansoor** (supra) in paragraph '8' of the judgment."

24. We have further noticed that, in it's recent judgment in the case of **Jhabra Ram** (supra), the Hon'ble Supreme Court has taken note of the prejudice-oriented test as has been laid down in **Sri Darshan's** (supra) case. We reproduce paragraph '19' of the judgment in **Jhabra Ram** as under:-

> "**19.** In evaluating the effect of alleged procedural defects in communicating grounds of arrest, this Court in State of Karnataka v. Sri Darshan (supra) definitively established that the governing principle is the prejudice-oriented test. The Court categorically observed as follows:
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> > "32.5. While Section 50 CrPC 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

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illegal, unless it results in demonstrable prejudice or denial of a fair opportunity to defend.

32.6. The High Court, however, relied heavily on the alleged procedural lapse as a determinative factor while overlooking the gravity of the offence under Section 302 IPC and the existence of a prima facie case. It noted, inter alia, that there was no mention in the remand orders about service of memo of grounds of arrest (SCC OnLine Kar para 45), the arrest memos were allegedly template-based and not personalised (SCC OnLine Kar para 50), and eyewitnesses had not stated that they were present at the time of arrest or had signed the memos (SCC OnLine Kar para 48). Relying on Pankaj Bansal v. Union of India [Pankaj Bansal v. Union of India, (2024) 7 SCC 576 : (2024) 3 SCC (Cri) 450] and Prabir Purkayastha v. State (NCT of Delhi) [Prabir Purkayastha v. State (NCT of Delhi), (2024) 8 SCC 254 : (2024) 3 SCC (Cri) 573], it concluded (SCC OnLine Kar paras 43, 49-50) that from 3-10-2023 onwards, failure to serve detailed, written, and individualised grounds of arrest immediately after arrest was a violation entitling the accused to bail.

32.7. 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,

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> 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 [Pankaj Bansal v. Union of India, (2024) 7 SCC 576 : (2024) 3 SCC (Cri) 450] and Prabir Purkayastha [Prabir Purkayastha v. State (NCT of Delhi), (2024) 8 SCC 254 : (2024) 3 SCC (Cri) 573] 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."

25. This Court further finds that in the case of **Jhabra Ram** (supra), the Hon'ble Supreme Court has discussed its judgment in the case of **Kasireddy Upender Reddy** (supra). In this connection, the discussions made in paragraphs '20', '21' and '22' of the judgment would be significant to take note of :-

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"**20.** In examining the constitutional object underlying Article 22(1)[37] of the Constitution and Section 47[38] of the BNSS, this Court in *Kasireddy Upender Reddy* (Supra) reiterated that the requirement of communicating grounds of arrest is designed to serve a substantive purpose rather than a mere formalistic routine. The Court observed as follows:

"32. 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 [Vihaan Kumar v. State of Haryana, (2025) 5 SCC 799]. 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 provided by the Constitution that, the ground for the arrest must be communicated to the person arrested as soon as possible.

33. 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."

21. Applying these principles to the present facts, the record clearly reflects that the respondent was fully cognizant of the grounds for his apprehension and was effectively represented by counsel at the stage of remand. The substantive mandate of Article 22(1) thus stands meaningfully fulfilled, with no demonstrable prejudice having been suffered.

22. As affirmed in Kasireddy Upender Reddy (supra) and State of Karnataka (supra), the constitutional framework requires that the arrestee be informed of the grounds of arrest but does not insist upon written communication as an indispensable formality irrespective of the attendant circumstances. In the absence of demonstrable prejudice or denial of an opportunity to defend, an alleged procedural defect in the mode of service cannot ipso facto invalidate detention or entitle an accused to regular bail, more so in cases involving grave allegations of espionage affecting national security and sovereign integrity."

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37. Protection against arrest and detention in certain cases.

38. Person arrested to be informed of grounds of arrest and of right to bail.

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26. At this stage, we are reminded of the judgment of the Hon'ble Supreme Court in the case of **Bharat Petroleum Corpn. Ltd. and Another Vs. N.R. Vairamani and Another** reported in **(2004) 8 SCC 579** (para 9) in which the Hon'ble Supreme Court has observed as under:-

> "**9.** Courts should not place reliance on decisions without discussing as to how the factual situation fits in with the fact situation of the decision on which reliance is placed. Observations of courts are neither to be read as Euclid's theorems nor as provisions of a statute and that too taken out of their context. These observations must be read in the context in which they appear to have been stated. Judgments of courts are not to be construed as statutes. To interpret words, phrases and provisions of a statute, it may become necessary for judges to embark into lengthy discussions but the discussion is meant to explain and not to define. Judges interpret statutes, they do not interpret judgments. They interpret words of statutes; their words are not to be interpreted as statutes. In *London Graving Dock Co. Ltd.* v. *Horton*[2] (AC at p. 761) Lord MacDermott observed : (All ER p. 14 C-D)
>
> "The matter cannot, of course, be settled merely by treating the ipsissima verba of Willes, J., as though they were part of an Act of Parliament and applying the rules of interpretation appropriate thereto. This is not to detract from the great weight to be given to the language actually used by that most distinguished judge,…""

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27. Having considered the facts of the present case in the light of the judgments of the Hon'ble Supreme Court, we are of the considered opinion that once the prejudice-oriented test is applied in the present case, this writ application is liable to fail. As has been noticed hereinabove, the petitioner's son was fully aware of the ground of his arrest and it is not one of those cases in which he was taken by surprise and that he was not in possession of any information/materials to oppose the remand. The fact is that his lawyer had appeared through video conferencing and opposed the remand order.

28. In our order dated 15.10.2026 and 28.10.2026, we have noted how this case has progressed and time of this Court has been wasted. We have also taken note of the conduct and manner in which the case has been conducted. At one stage, we were of the considered opinion that this aspect of the matter was required to be discussed and appropriate order is required to be passed but considering that sometimes in legal profession, the lawyers engaged by a party go on making submissions under some excitements without understanding the effect of the same and as we have been informed by learned counsel for the petitioner himself that he was mostly dealing in service matters and perhaps for that reason he could not take an appropriate view at the time of

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filing of the present writ application, we have decided to drop this aspect of the matter and not to pass any order as regards the conduct etc.

29. Vide order dated 28.10.2026, this Court had imposed a cost of Rs.5,000/- upon the petitioner which was required to be deposited within two weeks from the said order. If the receipt showing deposit of cost is not filed in the Registry within two weeks from the said date, steps shall be taken for recovery of the same in accordance with law.

30. This writ application, therefore, fails. It is dismissed accordingly.

(Rajeev Ranjan Prasad, J)

(Rana Vikram Singh, J)

arvind/-

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