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CRL OP No. 2660 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27-02-2026

CORAM

THE HON'BLE MR.JUSTICE K.RAJASEKAR

CRL OP No. 2660 of 2026

Matheen Ahmed
Male, Aged 35 Years,
Son of Mr. Saleem basha,
No.14/22, Mohammed Abdulla Street,
Triplecane,
Chennai-600 005.

..Petitioner(s)

Vs

State. Rep by
Inspector of Police,
B-5, Manavala Nagar Police Station,
Thiruvallur.
Cr.No.201 of 2025

..Respondent(s)

PRAYER:Criminal Original Petition filed under Section 483 of BNSS Act, 2023, pleaded to enlarge on bail in Crime No.201 of 2025 on the file of the respondent police and to pass such other order or direction as this Honble Court may deem fit and proper in the circumstances of the case and thus render justice.

For Petitioner(s): Mr.S.Karthikeyan for Mr.K.Subburaj

For Respondent(s): Mr.A.Gopinath
Government Advocate(Crl. Side)

ORDER

The petitioner, who was arrested and remanded to judicial custody on



16.11.2025, for the alleged offence punishable under Section 8(c) r/w. 22(c), & 29(1) of NDPS Act 1985 in Crime No.201 of 2025, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 23.10.2025 at about 20.00 hours, the Sub Inspector of Police attacked with the respondent police received an information regarding transportation of Narcotic substance, which was reduced into writing and after obtaining authorization, they have intercepted A1 namely Sibiraj in this case and recovered 54 grams of Methamphetamine. The statement recorded from him revealed that there are other accused involved and based on the same, the respondent has arrested A2/Micheal Nawas Nambi, A3/Bende, A4/Mohammad Afrat, A5/Pratap, A6/petitioner herein and A7/Shuel Babu. This petitioner was arrested and statement was recorded from him on 16.11.2025, and from the petitioner herein 55 grams of Methamphetamine and 40 nos. of MDMA tablets were recovered and the petitioner was remanded to judicial custody.

3. The learned counsel appearing for the petitioner submitted that the petitioner by relying on the judgment of **MIHIR RAJESH SHAH** and **STATE OF MAHARASHTRA**, reported in [2025 INSC 1288] contended that the submitted that no grounds of arrest was served on him and it is a mandatory requirement. He further submitted that even admitted that the respondent has served arrest memo



on 16.11.2025 to the petitioner herein, and it is not complied requisite information for satisfying the grounds of arrest and he further relied on the Vihaan Kumar Vs.State of Haryana to submit that the grounds of arrest or arrest memo supplied must contain all necessary particulars for the purpose of enabling the arrestee to oppose the remand at the time of his production before the Magistrate and further it enabling him necessary information to approach the Trial Court for appropriate relief. Hence, he prays to grant bail to the petitioner.

4. The learned Government Advocate (Criminal Side) appearing for the respondent Police submitted that, there is a suppression of material fact with regard to the dismissal of the criminal revision petition filed by the petitioner herein and hence this petition itself is not maintainable.

4.1. He relied on the judgement of Apex Court in Kusha Duruka Vs. State of Odisha reported in (2024) 4 SCC 432. He further submitted that in this case the information submitted in the form of arrest memo satisfies the mandatory compliance of supplying grounds of arrest and it contains all the informations including the recovery made from the petitioner herein. Hence, he opposed to grant bail to the petitioner.

5. In reply to the learned Government Advocate's submission, the learned counsel has submitted that originally at the time of filing the bail petition, they have also filed criminal revision petition before this Court in



Crl.R.C.No.2885/2025 and subsequently it was dismissed on 02.02.2026 on the ground of criminal revision is not maintainable and these facts also been stated by filing additional grounds before this Court on 17.02.2026. Hence, there is no suppression of fact.

6. This Court has considering the submissions made on both sides and perused the records.

7. In *Vihaan Kumar vs. State of Haryana and another [2025 INSC 162]* The Apex Court has reiterated the furnishing of the grounds of arrest as a mandatory and the burden is on the person who seeks arrest to prove that they have satisfied the mandatory provision of supplying the grounds of arrest.

8. In this case, it is argued that the respondent relying on the arrest memo which reads as follows:



சுபட்சிகள்:

- အတည်ပြုရန်:

சாட்சிகள்

- ചന്ദ്രിക:

Certified to be True Copy
 [Signature]
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9. Further in **MIHIR RAJESH SHAH** [cited supra] the Apex Court has further extended the benefit of compliance of furnishing grounds of arrest to all the offences including IPC offences. Now the question arose is whether the serving the arrest memo satisfies the mandatory provisions of supplying the grounds of arrest.

10. I have carefully gone through the factual aspect involved in this case which leads to the arrest of the petitioner.

11. Admittedly in this case the petitioner was arrested based on the statement recorded from the Accused No.1. Further, there are many accused in this case who were arrested and from the petitioner also there was recovery effected.

12. The Apex Court in **Vihaan Kumar vs. State of Haryana and another [2025 INSC 162]** has held that, the Article 22(1) of the Constitution of India mandates that the information about the grounds of arrest to be provided to the arrested person in such a manner, that sufficient context of the basic facts constituting the grounds is important and communicated to the arrested person. It further reads that the burden of compliance of Article 22(1) is on the persons, who is exercising the power of arrest. Further elaborating the scope of Article 21, Article 22 and other connected provisions, the Apex Court had concluded as follows:



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“11. The view taken in the case of Pankaj Bansal¹ was reiterated by this Court in the case of Prabir Purkayastha. In paragraph nos. 28 and 29, this Court held thus:

“28. The language used in Article 22(1) and Article 22(5) of the Constitution of India regarding the communication of the grounds is exactly the identical. Neither of the constitutional provisions require that the “grounds” of “arrest” or “detention”, as the case may be, must be communicated in writing. Thus, interpretation to this important facet of the fundamental right as made by the Constitution Bench while examining the scope of Article 22(5) of the Constitution of India would ipso facto apply to Article 22(1) of the Constitution of India insofar as the requirement to communicate the grounds of arrest is concerned.

29. Hence, we have no hesitation in reiterating that the requirement to communicate the grounds of arrest or the grounds of detention in writing to a person arrested in connection with an offence or a person placed under preventive detention as provided under Articles 22(1) and 22(5) of the Constitution of India is sacrosanct and cannot be breached under any situation. Non-compliance of this constitutional requirement and statutory mandate would lead to the custody or the detention being rendered illegal, as the case may be.”

(emphasis added)

12. This Court held that the language used in Articles 22(1) and 22(5) regarding communication of the grounds is identical, and therefore, this Court held that interpretation of Article 22(5) made by the Constitution Bench in the case of *Harikisan v. State of Maharashtra*³, shall ipso facto apply to Article 22(1) of the Constitution of India insofar as the requirement to communicate the ground of arrest is concerned. We may also note here that in paragraph 21, in the case of *Prabir Purkayastha*², this Court also dealt with the effect of violation of Article 22(1) by holding that any infringement of this fundamental right would vitiate the process of arrest and remand. Paragraph 21 reads thus:



“21. The right to be informed about the grounds of arrest flows from Article 22(1) of the Constitution of India and any infringement of this fundamental right would vitiate the process of arrest and remand. Mere fact that a charge-sheet has been filed in the matter, would not validate the illegality and the unconstitutionality committed at the time of arresting the accused and the grant of initial police custody remand to the accused.”

(emphasis added)

13. In the case of Lallubhai Jogibhai Patel v. Union of India, in paragraph 20, this Court held thus:

“20. It is an admitted position that the detenu does not know English. The grounds of detention, which were served on the detenu, have been drawn up in English. It is true that Shri C.L. Antali, Police Inspector, who served the grounds of detention on the detenu, has filed an affidavit stating that he had fully explained the grounds of detention in Gujarati to the detenu. But, that is not a sufficient compliance with the mandate of Article 22(5) of the Constitution, which requires that the grounds of detention must be “communicated” to the detenu. “Communicate” is a strong word. It means that sufficient knowledge of the basic facts constituting the “grounds” should be imparted effectively and fully to the detenu in writing in a language which he understands. The whole purpose of communicating the “ground” to the detenu is to enable him to make a purposeful and effective representation. If the “grounds” are only verbally explained to the detenu and nothing in writing is left with him, in a language which he understands, then that purpose is not served, and the constitutional mandate in Article 22(5) is infringed. If any authority is needed on this point, which is so obvious from Article 22(5), reference may be made to the decisions of this Court in Harikisan v. State of Maharashtra [1962 Supp 2 SCR 918 : AIR 1962 SC 911 : (1962) 1 Cri LJ 797] and Hadibandhu Das v. District Magistrate [(1969) 1 SCR 227 : AIR 1969 SC 43 : 1969 Cri LJ 274] .”

(emphasis added)

Therefore, as far as Article 22(1) is concerned, compliance



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can be made by communicating sufficient knowledge of the basic facts constituting the grounds of arrest to the person arrested. The grounds should be effectively and fully communicated to the arrestee in the manner in which he will fully understand the same. Therefore, it follows that the grounds of arrest must be informed in a language which the arrestee understands. That is how, in the case of Pankaj Bansal, this Court held that the mode of conveying the grounds of arrest must necessarily be meaningful so as to serve the intended purpose. However, under Article 22(1), there is no requirement of communicating the grounds of arrest in writing. Article 22(1) also incorporates the right of every person arrested to consult an advocate of his choice and the right to be defended by an advocate. If the grounds of arrest are not communicated to the arrestee, as soon as may be, he will not be able to effectively exercise the right to consult an advocate. This requirement incorporated in Article 22(1) also ensures that the grounds for arresting the person without a warrant exist. Once a person is arrested, his right to liberty under Article 21 is curtailed. When such an important fundamental right is curtailed, it is necessary that the person concerned must understand on what grounds he has been arrested. That is why the mode of conveying information of the grounds must be meaningful so as to serve the objects stated above.

....

“CONCLUSIONS:

21. Therefore, we conclude:

- a) The requirement of informing a person arrested of grounds of arrest is a mandatory requirement of Article 22(1);
- b) The information of the grounds of arrest must be provided to the arrested person in such a manner that sufficient knowledge of the basic facts constituting the grounds is imparted and communicated to the arrested person effectively in the language which he understands. The mode and method of communication must be such that the object of the constitutional safeguard is achieved;
- c) When arrested accused alleges non-compliance with the requirements of Article 22(1), the burden will always be on the Investigating Officer/ Agency to prove compliance with the requirements of Article 22(1);



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d) Non-compliance with Article 22(1) will be a violation of the fundamental rights of the accused guaranteed by the said Article. Moreover, it will amount to a violation of the right to personal liberty guaranteed by Article 21 of the Constitution. Therefore, non-compliance with the requirements of Article 22(1) vitiates the arrest of the accused. Hence, further orders passed by a criminal court of remand are also vitiated. Needless to add that it will not vitiate the investigation, charge sheet and trial. But, at the same time, filing of charge sheet will not validate a breach of constitutional mandate under Article 22(1);

e) When an arrested person is produced before a Judicial Magistrate for remand, it is the duty of the Magistrate to ascertain whether compliance with Article 22(1) and other mandatory safeguards has been made; and

f) When a violation of Article 22(1) is established, it is the duty of the court to forthwith order the release of the accused. That will be a ground to grant bail even if statutory restrictions on the grant of bail exist. The statutory restrictions do not affect the power of the court to grant bail when the violation of Articles 21 and 22 of the Constitution is established.

13. In this case, on perusal of the intimation regarding the grounds of arrest issued to the petitioner herein by the officer shows that, the petitioner herein was arrested for illegal possession of Methamphetamine. Though the learned Government Advocate (Crl. Side) argued that the information regarding the grounds of arrest contains every information for the arrest of the petitioner herein. From the outside view, it might look like the arrest intimation notice gives the place of seizure, dates on which the seizure was effected and the overtacts attributed against the petitioner, etc., but the closer scrutiny of the



same reveals it does not contain basic facts, which is necessary for the petitioner to defend himself from the allegations levelled at the time of exercising his right of seeking bail. It is to be noted that the petitioner herein was arrested based on series of events and it is stated that prior to search and seizure, the prior information was received, which was recorded by the Search Officer; that after intimating to the petitioner, the search was conducted, the contraband was seized under the seizure mahazar in the presence of witnesses, statement was recorded from the accused and he was placed under arrest, etc., but none of the facts stated were served on the petitioner herein.

14. Admittedly, the investigation of this case is pending and it is alleged by the petitioner that he has been prevented from approaching the Court seeking bail and to effectively argue the cases on merits, since grounds of arrest has not been properly served on him. I am of the view that the petitioner herein demonstrated that, he suffered prejudice by denial of fair opportunity to defend himself. Since, there was no proper compliance of informing the grounds of arrest to the petitioner herein and it resulted in causing prejudice to his interest in defending the case and prevented him from filing the bail petition and effectively submit his side case on merits, it is clear violation of Article 22(1) and which resulted in custody of the petitioner rendered illegal, hence this Court is inclined to grant bail to the petitioner with certain conditions.



15. Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of **Rs.25,000/- (Rupees Twenty Five Thousand only)** with two sureties, for a like sum to the satisfaction of the *learned Principal Special Judge, Special Court for EC and NDPS Act, Chennai*, and on further conditions that:-

[a] the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

[b] the petitioner shall report before the Trial Court daily at 10.30 a.m., for a period of four weeks.

[c] the petitioner shall not abscond either during investigation or trial;

[d] the petitioner shall not tamper with the evidence or witness either during investigation or trial;

[e] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner released on bail by the learned Magistrate/Trial Court himself, as laid down by the Hon'ble Supreme Court in P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560];

[f] If the accused thereafter absconds, a fresh FIR can be registered under Section 269 B.N.S.

27-02-2026

mpa/ stn



Note:

1. Registry is directed to forthwith upload this order in the Official Website of this Court.
2. All concerned to act on this order being uploaded in Official Website of this Court without insisting on certified hard copies. To be noted, this order when uploaded in the official website of this Court will be watermarked and will also have a QR code.

To

1. The Principal Special Judge, Special Court for Ec and NDPS Act, Chennai.
2. State. Rep by
Inspector of Police,
B-5, Manavala Nagar Police Station,
Thiruvallur.
Cr.No.201 of 2025
3. The Superintendent,
Central Prison, Puzhal, Chennai.
4. The Public Prosecutor,
High Court, Madras.



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K.RAJASEKAR, J.

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