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Crl.O.P.No.17015 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27-02-2026

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THE HONOURABLE MR JUSTICE K. RAJASEKAR

CRL OP NO.17015 of 2025

K. Syed Ibrahim Kajamohaidheen

... Petitioner/ Accused

Vs

Union of India,
Rep. By, The Intelligence Officer,
NCB, Chennai.
(R.R. No.41 of 2024)

... Respondent/ Complainant

Prayer: Criminal Original Petition filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, to grant bail to the petitioner/ accused in C.C.No.329 of 2025 on the file of the learned I Additional Special Judge, Special Court under EC & NDPS Act, Chennai.

For Petitioner : Mr. John Sathyan, Senior Advocate
For Mr. R. Sebastin Raj

For Respondent(s) : Mr. N.P. Kumar
Special Public Prosecutor



ORDER

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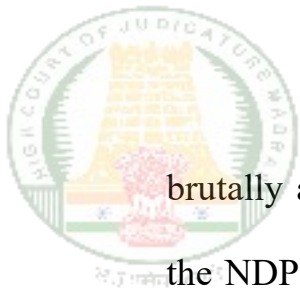
The petitioner, who was arrested and remanded to judicial custody on 28.07.2024 for the offences under Sections 8(c) r/w Sections 22(c), 23(c), 28 and 29 of Narcotic Drugs and Psychotropic Substances Act, 1985 in C.C.No.329 of 2025 on the file of the learned I Additional Special Judge, Special Court under EC & NDPS Act, Chennai, seeks bail. This is the second bail application of the petitioner and the earlier bail application of the petitioner in Crl.O.P.No.27953 of 2024 was dismissed as withdrawn, vide order dated 20.03.2025.

2. The case of the prosecution is that on 24.07.2024 based on a specific information, the respondent team went near Kalaignar Centenary Bus terminus- Kilambakkam, Chennai and intercepted one Bysul Rahuman (A1); that after complying all the mandatory provisions under the NDPS Act, search and seizure was effected and found that A1 was in illegal possession of 5.970 kilograms of Methamphetamine; that thereafter, summons under Section 67 of the NDPS Act was issued and his statement was recorded, which reveals that he along with the petitioner herein (A2) had procured the above contraband from one K.M. Mansoor; that thereafter, summon was issued to the petitioner herein and his statement was recorded under Section 67 of NDPS Act; that thereafter, arrest memo was issued to the petitioner and subsequently, the petitioner was arrested and remanded to judicial custody; that thereafter, K.M. Mansoor was



summoned and the statement recorded from him reveals that he had arranged the said contraband to A1 and the petitioner herein for transporting the same to Sri Lanka via Rameswaram and also leads to further seizure of 0.954 kilograms of Amphetamine from his rented godown located at No.72, Sri Lakshmi Nagar, Sirungavur Village, Vilangattupakkam, Madhavaram, Chennai. Hence, this case.

3. The learned counsel appearing for the petitioner submitted that, the petitioner has been falsely implicated in this case only based on the confession of A1; that no contraband was seized from the petitioner herein and without any legally acceptable evidence to prove that the petitioner is having nexus with A1; that the petitioner, A1 and A3 are hailing from same place; that the petitioner had only insisted A1 to collect dry fish from his native and to provide the same and accordingly, the petitioner had collected the dry fish from A1 and on the request of A1, the petitioner had dropped A1 to the place of A3, apart from this the petitioner was not aware of any of the transactions between A1 and A3; that the respondent had taken the petitioner into their custody on 25.07.2024 and he was only remanded to judicial custody on 27.07.2024, after the lapse of more than 72 hours from the time of such custody, hence there is a clear violation of his fundamental rights under Article 22(2) of the Constitution of India, as well as the mandatory provisions of Section 58 of BNSS; that the respondent had



brutally attacked the petitioner and recorded his statement under Section 67 of the NDPS Act, the same is not admissible and further A3 in this case was died due to the inhuman act of the respondent herein; that the petitioner was not provided with grounds for his arrest during the time of remand, as mandated under Section 47 of BNSS, which is also a violation of fundamental rights under Article 21 of the Constitution of India; that the petitioner is in judicial custody since 28.07.2024; and that the petitioner is ready to abide by any condition that may be imposed by this Court and sought for bail to the petitioner. He also relied on the judgment of the Apex Court in *Vihaan Kumar vs. State of Haryana and another [2025 INSC 162]* in support of his contention.

4. The learned Special Public Prosecutor appearing for the respondent while opposing the bail to the petitioner reiterated the prosecution case and submitted that, the petitioner herein conspired with other accused and involved in illicit trafficking of 5.970 kilograms of Methamphetamine; that no custody was taken as alleged by the petitioner on 25.07.2024, only after serving of summons and recording the statement of the petitioner under Section 67 of the NDPS Act for two days, after informing the petitioner and his wife over phone regarding the grounds of his arrest, the petitioner was arrested on 27.07.2024 and remanded to Judicial Magistrate on the same day after due perusal of the remand application which included the medical fitness certificate of the



petitioner, hence there is no violation of the fundamental rights under Article 21 of the Constitution of India; that the injuries sustained by the petitioner herein is only due to act of the petitioner, while he attempted to escape from the NCB Officials, when they approached him to serve the summon; that the contraband seized in this case is a commercial quantity and the CDR and mobile location details proves that the petitioner is having nexus with A2 and A3, hence the petitioner has to satisfy the twin conditions under Section 37 of NDPS Act; that the investigation of this case was completed and final report filed C.C.No.329 of 2025 on the file of the learned I Additional Special Judge, Special Court under EC & NDPS Act, Chennai; that the trial is yet to be concluded.

5. I have considered the submissions made on both sides and perused the materials available on record.

6. Though the petitioner had raised various contentions, one of the main contention raised by the petitioner is that, he was not served with the grounds of arrest, which directly concern with the right of the petitioner alleging that there is violation of Article 22(1) and 22(5) of Constitution of India as contemplated in *Vihaan Kumar's case*.

7. 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:

“11. The view taken in the case of Pankaj Bansal 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)



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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 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*



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requirements of Article 22(1);

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.

8. In this case, the earlier bail application of the petitioner in Crl.O.P.No.27953 of 2024 was dismissed as withdrawn and in this subsequent bail application, it is argued that the petitioner was served with the arrest memo and by relying the arrest memo, it is contended that, grounds of arrest was not sufficiently explained to the petitioner, which is extracted hereunder:



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Government of India
Ministry of Home Affairs
(Department of Internal Security)
Narcotics Control Bureau
Chennai Zonal Unit
No. 49, FD-2, II Main Road, III Avenue,
TNHB Lay Out, Ayyappakkam,
Ambattur, Chennai-600 677.
Ph. - 044-2682 2182, Fax - 2682 1481.

NCB F. No. 48/1/19/2024/NCB/MDS Date: 27.07.2024

ARREST MEMO

Whereas, I have reason to believe that Syed Ibrahim Kajamohaidheen, S/O Kajamohaidheen, M / Aged 52 Years, DOB: 07/04/1972, Resident of No 228, Devipattinam Road, Velipattanam, Ramanathapuram, Tamil Nadu- 623504, under Sec. 8(c) r/w sec 22(c), 23(c), 28 & 29 of the NDPS act 1985 as amended and punishable under sec 22(c), 23(c), 28 & 29 of the same Act, in as much as you have procured, possessed, and entered into criminal conspiracy for the illicit trafficking of seized 5.970 Kgs of white colour crystalline substance believed to be Amphetamine which was seized at Kalaignar Centenary Bus terminus-Kilambakkam, Chennai on 24.07.2024.

I, therefore, place you under arrest at 2300 hours on this day, 27.07.2024 at NCB Chennai, under the provisions of the above said Act.

Ravindra Singh
27/7/24

RAVINDRA SINGH
JR. INTELLIGENCE OFFICER
NARCOTICS CONTROL BUREAU
CHENNAI ZONAL UNIT

To,
Syed Ibrahim Kajamohaidheen,
S/O Kajamohaidheen,
M / Aged 52 Years,
DOB: 07/04/1972,
Resident of No 228, Devipattinam Road,
Velipattanam, Ramanathapuram,
Tamil Nadu- 623504.

Principal Special Court
CHENNAI - SEC 124
Under EC & NDPS Act

JUDICIAL MAGISTRATE COURT
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9. The above arrest memo recorded by the officer shows that, the petitioner herein had entered into criminal conspiracy for illicit trafficking of seized 5.970 kilograms of white colour crystalline substance believed to be Amphetamine, which came to be seized at Kalaignar Centenary Bus terminus-kilambakkam, Chennai, hence the petitioner has been arrested.



10. The purpose for serving or intimating grounds of arrest has been elaborately reiterated in the judgment of Apex Court in *Vihaan Kumar's case* cited supra and now the question arises, whether this arrest memo/ grounds of arrest stated herein served the intended purpose of providing knowledge of the facts of the case for which the petitioner was arrested and whether, was he in a position to plead and prove before the Trial Court that, there are reasons to believe that he or she is not guilty of the offence or not?

11. Though the learned Special Public Prosecutor argued that the information regarding the grounds of arrest in the arrest memo contains every information for the arrest of the petitioner herein. From the outside view, it might look like the arrest memo 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, the way in which the contrabands was seized from the co-accused, the statement recorded from the co-accused and the involvement of the petitioner herein in the aforesaid offence, but none of the facts stated in the arrest memo served on the petitioner herein.



12. Admittedly, complaint was filed only in the month of April 2025 and it is stated that the earlier bail application of the petitioner herein was dismissed as withdrawn and it is alleged that the petitioner has been prevented from approaching this Court, since grounds of arrest has not been properly served on him, thereby the petitioner has been prejudiced. Further, copies of the complaint was served on the petitioner herein only on 12.09.2025 (i.e.,) during pendency of this bail petition. I am of the view that, the arrest memo served, is in short form though gives some facts, however for the purpose of enabling the petitioner to raise the grounds for getting bail, the entire facts required to be furnished to the petitioner in compliance of Article 22(1), so as to satisfy his right to seek relief of bail and other reliefs.

13. I am of the view that, as held by the Apex Court in ***Vihaan Kumar's case***, there was no proper compliance of informing the grounds of arrest to the petitioner herein and there is violation of Article 22(1), hence the custody of the petitioner is rendered illegal on account of failure to communicate the grounds of arrest to the petitioner herein, hence this Court is inclined to grant bail to the petitioner with certain conditions.

14. 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 each, for a like sum to the satisfaction of the learned I Additional Special Judge, Special Court for Exclusive Trial of Cases under NDPS Act at Chennai and on further conditions that:

[a] the sureties shall affix their photographs and Left Thumb Impression in the Application for Surety ship [Judicial Form No.46 annexed to 'The Criminal Rules of Practice, 2019']. The learned Magistrate shall obtain a copy of any one of the identity proofs to ensure their identity;

[b] **the petitioner shall report before the Trial Court concerned daily at 10:30 a.m., until further orders;**

[c] On breach of any of the aforementioned conditions, the learned Magistrate/Trial Court is entitled to pass appropriate orders against the petitioner in accordance with law as if the aforementioned 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)13 SCC 283];**

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

27.02.2026

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 I Additional Special Judge,
Special Court for Exclusive Trial of Cases under NDPS Act, Chennai.
2. The Intelligence Officer,
NCB, Chennai.
(R.R. No.41 of 2024)
3. The Superintendent,
Central Prison, Puzhal.
4. The Public Prosecutor,
High Court of Madras.



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K. RAJASEKAR, J.

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