



Crl.R.C.No.2829 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS
CORAM
THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.R.C.No.2829 of 2025

1. Pavesh @ Bhavesh
2. Dhivakar

... Petitioners /A7 & A8

Vs.

The State Rep. by
The Inspector of Police,
T-4, Maduravoyal Police Station,
(Cr.No.494 of 2025)
Chennai.

... Respondent

PRAYER: Criminal Revision Petitions filed under Section 438 r/w 442 of BNSS, to call for the records and set aside the order of remand passed as against the petitioners by the Judicial Magistrate, Poonamallee in Crime No.494 of 2025 dated 13.07.2025 in the interest of justice.

For Petitioners : Mr.S.Karthikeyan
for Mr.K.Subburaj
For Respondent : Mr.R.Vinothraja
Government Advocate (Crl.Side)

ORDER

The above Criminal Revision Case has been filed by A7 & A8 challenging the order of remand dated 13.07.2025 passed as against the petitioners by the learned Judicial Magistrate, Poonamallee in Crime No.494 of 2025.



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2. It is the case of the prosecution that on 12.07.2025 at about 18.15 hours, the Sub-Inspector of Police attached to the respondent police station received a secret information about the illegal sale of LSD Stamp, Methamphetamine and Ganja; that based on the intimation, the Sub-Inspector of Police, along with his team went to the place of occurrence i.e., Maduravoyal Kammatchiamman 2nd Street Junction; that A1 was found in possession of 5.25 grams of Methamphetamine in his Royal Enfield two-wheeler, which was seized along with his bike; that thereafter, the respondents have arrested two other accused A2 and A3; that on their confession, they went to the house in which the petitioners along with the other accused were found; that A2 was found in possession of 0.81 grams of LSD besides a cash of Rs.50,000/-; that A3 was found in possession of 350 grams of Ganja; and that thereafter the petitioners/A7 & A8 were arrested and remanded to judicial custody on 13.07.2025, pursuant to the impugned remand orders. It is also the prosecution's case that no contraband was seized from the petitioners.

3. The learned counsel for the petitioners would submit that the grounds of arrest were not furnished to the petitioners in writing as



mandated in the Constitution and in Section 50 of the Cr.P.C., which is reiterated by the Hon'ble Supreme Court in several judgments and even in the latest judgment in *Mihir Rajesh shah v. State of Maharashtra and Another*, reported in **2025 SCC OnLine 2356**.

4. The learned Additional Public Prosecutor has filed counter affidavits in both the cases sworn in by the Inspector of Police, T4 Maduravoyal Police Station and would submit that the respondent Police had followed the mandatory procedures for arrest; that the petitioners were informed of the grounds of arrest and since the respondent has duly complied with the Constitutional and Statutory requirements, the learned Magistrate was justified in remanding the petitioners and therefore, the impugned orders are not liable to be set aside.

5. It is seen from the record that the FIR was registered on 13.07.2025 for the offence under Sections 8(c) r/w 20(b)(ii),(A) 22(c), 25 and 29(1) of NDPS Act. All the petitioners and the six other accused were named in the FIR. It is the case of the prosecution that A1 was intercepted at Maduravoyal Kammatchiamman Second Street Junction at Koyambedu and



was arrested at 18.30 hours and was found in possession of 5.25 grams of Methamphetamine; that on his confession it was revealed that the petitioners and the other accused were in the habit of using Narcotic drugs and were also selling the same to known persons; that thereafter the investigation team went to the house of A1 where the petitioners along with the other accused were found; and that A2 was found in possession of 0.81 grams of LSD and A3 was found in possession of 350 grams of Ganja.

6. The counter specifically does not state that the grounds of arrest was communicated to the petitioners in writing. The counter vaguely refers to informing the petitioners of the grounds of arrest. Admittedly, no contraband was seized from the petitioners. The Hon'ble Supreme Court in ***Mihir Rajesh Shah's case*** [cited supra] after referring to the earlier judgments of the Hon'ble Supreme Court had held as follows:

*“33. The mandate contained in Article 22(1) of the Constitution of India is unambiguous and clear in nature, it provides that the arrested person must be informed of the grounds of arrest as soon as they can be. It further provides that the arrested person has the right to defend himself by consulting a legal practitioner of his choice. **This constitutional mandate has been effectuated by the legislature in Section 50 of CrPC 1973 (now Section 47 of BNSS 2023) which provides that an arrested person shall be forthwith***



communicated with the grounds of his arrest.

34. The objective enshrined in Article 22(1) of the Constitution of India for furnishing grounds of arrest stems from the fundamental principle of providing opportunity to a person to allow him to defend himself from the accusations that are levelled against him leading to his arrest. ***The salutary purpose of informing the grounds of arrest is to enable the person to understand the basis of his arrest and engage legal counsel to challenge his arrest, remand or seek bail and/or avail of any other remedy as may be available to him/her under law.***

....

38. These above discussed principles embody the manifestation of the constitutional safeguard sought to be achieved in Article 22 of the Constitution of India which is that the arrested person must be well equipped with the information not only about his arrest but the reasons and grounds thereof prior to his production before the magistrate so as to enable him to effectively defend himself and oppose the police and judicial custody and even press for bail. The obligation to inform the grounds of arrest to the arrestee is thus, not just a mere procedural formality, instead it flows from the fundamental right of personal liberty which sets the further course for protection from the oppressive restrictions imposed upon the free movement in the society of an arrestee during remand.

39. A plain reading of Article 22(1) of the Constitution of India shows that the intent of the constitution makers while incorporating the provisions was not to create any exceptional circumstances, instead it reads as “No person who is arrested shall



*be detained in custody without being informed, as soon as may be, of the grounds for such arrest....”, it casts a mandatory unexceptional duty on the State to provide the arrested person with the grounds of such arrest with the objective to enable that person to be able to defend himself by consulting a legal practitioner of his choice. This mandate of Article 22 (1) is notwithstanding any exception. **This Court has made it explicit that the constitutional obligation under Article 22 is not statutespecific and it is grounded in fundamental right of life and personal liberty under Article 21 of the Constitution of India, therefore making it applicable to all offences including those under the IPC 1860 (now BNS 2023).***

40. The requirement of informing the arrested person the grounds of arrest, in the light of and under Article 22(1) of the Constitution of India, is not a mere formality but a mandatory binding constitutional safeguard which has been included in part III of the Constitution under the head of Fundamental Rights. Thus, if a person is not informed of the grounds of his arrest as soon as maybe, it would amount to the violation of his fundamental rights thereby curtailing his right to life and personal liberty under Article 21 of the Constitution of India, rendering the arrest illegal.

.....

*42. As mentioned above, it has been held while dealing with the mode of communicating the grounds of arrest so as to serve the intended purpose of the constitutional mandate that the language used in Article 22(1) and 22(5) regarding communication of the grounds is identical and therefore the interpretation of Article 22(5) shall ipso facto apply to Article 22(1). **The grounds of arrest must be furnished in writing, in order to attend the true intended***



purpose of Article 22(1). Reference at this stage may be made to the Constitution Bench Judgment of this Court in Harikisan (supra) wherein while dealing with the Article 22(5) of the Constitution of India in the context of the right of a detainee to be made aware of the grounds of arrest, it has been held that the same should be furnished in a language which he can understand and in a script which he can read, if he is a literate person”

(emphasis supplied)

7. Thus, from the above observations, it is very clear that the communication of the grounds of arrest is mandatory, and it is the constitutional right of the arrestee. The Hon'ble Supreme Court has held that the mode of communication must be in writing and in a language which can be understood by the arrestee, in order to satisfy the constitutional requirement under Article 22(1) of the Constitution of India. Therefore, the constitutional requirement to communicate the grounds of arrest, and that such communication has to be in writing, has been reiterated by the Hon'ble Supreme Court in the above said judgment.

8. In the instant case, admittedly, since the grounds of arrest have not been communicated to the petitioners in writing, the Constitutional right of the petitioners have been violated. As a *sequitur*, the arrest becomes illegal



and consequently, the remand also would not be justified. In similar circumstances when A5, A6, A9 & A10 had approached this Court challenging their remand on the ground that the ground of arrest was not communicated, this Court had set aside the remand order by an order dated 11.12.2025 in Crl.R.C.Nos.2494 & 2304 of 2025. Therefore, this Court is of the view that the arrest and the remand are illegal and consequently, are liable to be set aside. Hence, the petitioners shall be released forthwith on the following conditions:

(i) Each of the petitioners shall execute 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 Principal Special Judge, Special Court under EC & NDPS Act, Chennai.

(ii) The petitioners and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court may obtain a copy of their Aadhaar card or Bank pass Book or mobile numbers to ensure their identity; and

(iii) The petitioners shall appear before the trial Court on the first working day of every month at 10.30 a.m. until further orders and if they are not able to appear before the trial Court on any day, they shall make arrangements to file an application under Section 317 Cr.P.C. and shall appear before the trial Court



on any other day in lieu of the date of their absence, as directed by the trial Court.

9. This Court is inclined to add that the respondents may be entitled to seek fresh remand provided they comply with the conditions imposed by the Hon'ble Supreme Court in *Mihir Rajesh Shah's* case. The relevant observations are extracted hereunder:

“55. It goes without saying that if the abovesaid schedule for supplying the grounds of arrest in writing is not adhered to, the arrest will be rendered illegal entitling the release of the arrestee. On such release, an application for remand or custody, if required, will be moved along with the reasons and necessity for the same, after the supply of the grounds of arrest in writing setting forth the explanation for non-supply thereof within the above stipulated schedule. On receipt of such an application, the magistrate shall decide the same expeditiously and preferably within a week of submission thereof by adhering to the principles of natural justice.

56. In conclusion, it is held that:

- i) The constitutional mandate of informing the arrestee the grounds of arrest is mandatory in all offences under all statutes including offences under [IPC1860](#) (now BNS 2023);
- ii) The grounds of arrest must be communicated in writing to the arrestee in the language he/she understands;



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iii) In case(s) where, the arresting officer/person is unable to communicate the grounds of arrest in writing on or soon after arrest, it be so done orally.

The said grounds be communicated in writing within a reasonable time and in any case at least two hours prior to production of the arrestee for remand proceedings before the magistrate.

iv) In case of non-compliance of the above, the arrest and subsequent remand would be rendered illegal and the person will be at liberty to be set free.

10. In the result, the Criminal Revision Case stands allowed.

05.01.2026

Index : Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No

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To

1. The Principal Special Judge,
Special Court for EC & NDPS Act, Chennai.
2. The Superintendent of Prisons,
Central Prison, Puzhal.
3. The Judicial Magistrate,
Poonamallee.



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4. The Inspector of Police,
T-4, Maduravoyal Police Station,
Chennai.

5. The Public Prosecutor,
High Court, Madras.



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SUNDER MOHAN, J.

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