IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

115

2026:PHHC:052515

CRM-M-71999-2025 (O&M)
Date of decision: 06.04.2026.

ANIL KUMAR GUPTA

...Petitioner(s)

VERSUS

STATE OF PUNJAB

...Respondent(s)

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present :- Mr. I.S. Kooner, Advocate, and
Mr. Jaiveer Singh, Advocate,
for the petitioner.

Dr. (Ms.) Savi Nagpal, AAG, Punjab.

VINOD S. BHARDWAJ, J. (Oral)

CRM-13460-2026

Application is allowed as prayed for subject to all just exceptions.

Annexures A-1 is taken on record.

The Registry is directed to tag the same at an appropriate place.

<u>Main case</u>

This is the first petition filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, for grant of regular bail to the petitioner in case bearing FIR No.34 dated 02.02.2025, under Section(s) 22 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985, and Section(s) 238 and 341(4) of the Bharatiya Nyaya Sanhita, 2023 (Section(s) 336(3) of the BNS, 2023 added later on), registered at Police Station Special Task Force (STF), District Mohali.

2 The above FIR was registered on the basis of a secret information received by ASI Suraj Kumar during patrolling, to the effect that two individuals, namely Hukam Chand son of Amrit Lal and Jarnail Ram son of Jitta Ram, residents of District Kaithal, Haryana, were engaged in the illicit trade of intoxicating tablets and were transporting a large consignment thereof on a motorcycle bearing registration No. HR-32-K-8866 from Village Urlana towards Village Sadharanpur. Finding the information to be credible and reliable, the police party, led by the said officer, immediately laid a naka at the indicated location near 4-ways Main Road, Village Bakraha. The accused persons were later apprehended on the spot along with the said motorcycle, while being in possession of the contraband. Intimation to this effect was sent to the superior officer and a ruqa was also prepared and dispatched to Police Station A.N.T.F., Sector 79, Sohana, for registration of the case. On the basis thereof, the present FIR came to be registered.

3 On being questioned, the co-accused failed to tender any satisfactory explanation. The contraband recovered at the spot were found contained in boxes bearing the inscription of the petitioner's company, namely

'ADDOM Pharmaceuticals Private Limited' and on the basis thereof, the investigating agency reached out to the said company and initiated an investigation with regard to the origin and dispatch of the recovered medicines. During the course of investigation, the petitioner, being the Director of the aforesaid company, was associated and he was required to produce the entire relevant records, including bills, GST returns, E-way transport documents and other supporting material. It was thereafter informed by the petitioner herein that the said medicines had been sold to two firms, namely Satguru Medicos and C.S. Pharmaceuticals, located in Uttar Pradesh and Uttarakhand respectively and that the same have found a way into the State of Punjab in District Patiala without his knowledge. During further investigation, it was revealed that Satguru Medicos, Sangam Medicos, and C.S. Pharmaceuticals Enterprises were, in fact, being operated by one Sangam Kumar, who is also the petitioner in CRM-M-52551-2025. The total quantity of contraband was 234390 tablets of Alprazolam.

4 Learned counsel appearing on behalf of the petitioner contends that the role attributed to the petitioner is confined merely to the supply of medicines to the co-accused. He submits that all requisite documentation, including E-way bills and other relevant records etc. had already been furnished to the investigating agency, hence, the petitioner cannot be held criminally liable for any diversion or siphoning of the medicines at the hands of the consignee, at a later stage. It is further submitted that the consignments in question were received by authorized representatives on behalf of the concerned chemists/pharmacists in the States of Uttarakhand and Uttar Pradesh and that in the absence of any material establishing involvement of

the petitioner in the alleged offence, no prima facie case is made out against him. Learned Senior Counsel also contends that the arrest of the petitioner is vitiated in law, inasmuch as the grounds of arrest were not furnished to him prior to being taken into custody. He further submits that the Supreme Court, in the matter of ***Priti Kumari Vs. State of Punjab, passed in SLP (Crl.) 21253 of 2025 decided on 08.01.2026*** granted pre-arrest bail to Preeti Kumari, the wife of the present petitioner. Further reliance is placed on ***Dr. Rajinder Rajan v. Union of India and another, passed in SLP (Crl.) No.3326 of 2026 decided on 01.04.2026*** to contend that non-supply of the grounds of arrest prior to taking an accused into custody constitutes a serious infraction, entitling the accused to the grant of bail. It is vehemently argued that the petitioner has been conducting his business strictly in accordance with the provisions of the Drugs and Cosmetics Act and the rules framed thereunder and that any subsequent misuse or diversion of the consignment dispatched by the company should not be attributed to the petitioner.

5 State counsel, on the other hand, refers to the status report filed on behalf of respondent-State by way of an affidavit of Sanjeev Goyal, PPS, Deputy Superintendent of Police, Anti-Narcotics Task Force, Patiala Range, Patiala. It is submitted that the instant FIR had been registered after huge recovery of contraband was effected from the co-accused Hukam Chand @ Honey and Jarnail Ram. It is further contended that the boxes in which the contraband was being transported bore the name of the petitioner's company, ADDOM Pharmaceuticals Private Limited. She further submits that, during the course of investigation, both backward and forward linkages were thoroughly examined by the investigating agency and in this process, one

Lakhmir Singh @ Sinder @ Lakha was nominated as an accused under Section 29 of the NDPS Act vide DDR No. 26 dated 04.02.2025. While Sangam Kumar also was nominated as an accused vide DDR No. 24 dated 05.02.2025. Later one Radhika was also nominated as a co-accused along with the present petitioner. It is, however, not disputed that Preeti Kumari, wife of the petitioner herein, has been granted the concession of anticipatory bail by the Hon'ble Supreme Court.

6 State counsel contends that disclosure statements of the co-accused, namely Hukum Chand @ Honey and Jarnail Ram, were recorded, wherein they had disclosed that the said consignment had been procured by them with an intent to further sell the same to customers within the State of Punjab and that a substantial quantity of medicines/intoxicants had been concealed by them in plastic sacks beneath grass, in front of Dera Burj Wala on the Ulrana–Sadharanpur brick-kiln road. Pursuant to the said disclosure, recovery of 7 plastic sacks containing intoxicating tablets was effected. The details of the recovery are as under: -

> *"I. Upon opening the 1st sack, 32 boxes of 'SUPERDOM-100 Hydrochloride were effected containing 50 strips, each strips having 10 tablets i.e. 32 boxes x 50 strips x 10 tablets = 16000 tablets were recovered (in total).*
>
> *11. Upon opening the 2nd sack, 32 boxes of 'SUPERDOM-100 SR containing chemical composition 'Tramadol Hydrochloride were effected containing 50 strips, each strips having 10 tablets i.e. 32 boxes x 50 strips x 10 tablets = 16000 tablets were recovered (in total)*
>
> *III. Upon opening the 3rd sack, 32 boxes of 'SUPERDOM-100*

SR containing chemical composition "Tramadol Hydrochloride were effected containing 50 strips, each strips having 10 tablets i.e. 32 boxes x 50 strips x 10 tablets = 16000 tablets were recovered (in total)

IV. Upon opening the 4th sack, 32 boxes of 'SUPERDOM-100 SR containing chemical composition 'Tramadol Hydrochloride were effected containing 50 strips, each strips having 10 tablets i.e. 32 boxes x 50 strips x 10 tablets = 16000 tablets were recovered (in total)

V. Upon opening the 5th sack, 32 boxes of 'SUPERDOM-100 SR containing chemical composition 'Tramadol Hydrochloride were effected containing 50 strips, each strips having 10 tablets i.e. 32 boxes x 50 strips x 10 tablets = 16000 tablets were recovered (in total)

VI. Upon opening the 6th sack, 08 boxes of 'SUPERDOM-100 SR containing chemical composition 'Tramadol Hydrochloride were effected containing 50 strips, each strips having 10 tablets i.e. 08 ooxes x 50 strips x 10 tablets = 4000 tablets were recovered (in total)

VII. Upon opening the 7th sack, 68 boxes of 'QUILER 0.5' containing chemical composition 'Alprazolem Tablets 'SUPERDOM-100 SR' containing chemical composition 'Tramadol Hydrochloride were effected containing 60 strips, each strips having 10 tablets i.e. 68 boxes x 60 strips x 10 tablets = 40,800 tablets were recovered (in total).

Thus, as detailed above, the recovery of 1,24,800 intoxicating tablets was made from the place disclosed by the co-accused, other than the recovery made on the spot (i.e. 83,200).”

7 It was further revealed by co-accused Hukam Chand @ Honey that more contraband had been concealed by them in canal situated at village Arno under the grass. The following recovery was accordingly effected: -

> *"Total 44 boxes were recovered of Alprazolem Tablets out of which 43 Boxes having 60 strips, each strips contains 10 tablets i.e. 43 boxes x 60 strips x 10 tablets = 25,800 tablets (in total) and 01 box having 59 strips, each strips having 10 tablets i.e. 1 box x 59 strips x 10 tablets = 590 tablets (in total)*
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> *Thus, the third recovery which was made persuant to the statement of the co-accused was of 26,390 tablets as stated above, other than the previous recoveries already mentioned."*

8 Accordingly, a total recovery of 234390 intoxicating tablets was effected from the co-accused Hukam Chand @ Honey and Jarnail Ram. The investigation further revealed the modus operandi adopted by the accused persons whereby the tablets were procured through the use of an online platform under the name *India Mart*. ADDOM Pharmaceuticals Private Limited was the company that was randomly supplying the contraband. In furtherance of the said illegal activity, a cartel was formed by inducting one Radhika and one Zoya along with certain other persons. They all agreed to participate in and carry on the said trade. It was revealed during the investigation that the supply was sourced from ADDOM Pharmaceuticals Private Limited with the involvement of its employees, including the present petitioner and that the same was thereafter transported, in a clandestine manner, into the State of Punjab. It is further submitted that ADDOM Pharmaceuticals Private Limited was not authorised to sell the said tablets

within the State of Punjab, hence, the consignments were received in the names of fictitious concerns created by Sangam Kumar in his own name and in the name of Lakhmir Singh @ Sinder@ Lakha, who was an employee of the said Sangam Kumar. It is contended that the registered documents, mobile phones, identity proofs, SIM cards, bank accounts and cheque books pertaining to such entities had been procured, retained and operated by Sangam Kumar, who was, in fact, supervising and managing the operation after sourcing of the contraband through ADDOM Pharmaceuticals Private Limited, for further sale in the State of Punjab.

9 As per practice adopted by them, the purchases in question were made through ADDOM Pharmaceuticals Private Limited at Panchkula, via its Sales Executive Radhika Bhardwaj (co-accused of the petitioner herein). The said co-accused was fully aware that the medicines were intended for sale within the States of Punjab and Haryana and that such supply was facilitated in lieu of substantial commission to be paid to her. It is further the case of the prosecution that the present petitioner, being the owner/Director of ADDOM Pharmaceuticals Private Limited, which is based in Bombay, sourced the medicines manufactured at a unit in Ahmedabad and thereafter transported through a covering trail of maze of documentation devised to cover the tracks and to facilitate the movement of the said medicines under fictitious legitimacy. Hence, the petitioner was arrested on 25.06.2025 in accordance with law and was questioned/interrogated by the Investigating Agency. During interrogation, the petitioner admitted that his accountant, Vijay Yadav, had apprised him that C.S. Enterprises was a bogus firm and was not reflected on the online portal. Notwithstanding such fore-warning and suspicion having

been brought to his notice, the petitioner still directed the accountant to continue dispatching consignments to the said entity. The aforesaid conduct establishes that the petitioner was aware of the clandestine nature of the activities undertaken through C.S. Enterprises. It is contended since a serious doubt had been conveyed by the accountant regarding the existence of a vendor, a prudent supplier would have exercised due diligence. The petitioner's conscious and deliberate disregard of such information is indicative of malicious intent and the desire to secure unlawful gains by being an active backstage player in the entire game. It is further asserted that continuous and uninterrupted supply of the contraband was dependent upon and facilitated through the petitioner herein. The role of the petitioner as summed up by the investigating agency reads thus: -

> *"ROLE OF THE PRESENT PETITIONER:-*
>
> *That the present petitioner is the director/owner of the company namely ADDOM Pharmaceuticals Pvt. Ltd. and the present petitioner was dealing with the fake/bogus firm namely C.S. Enterprises which was run/managed by the co-accused Sangam Kumar. During the questioning as already stated above in detail the present petitioner has himself admitted the fact that his accountant had told him that the firm namely C.S. Enterprises seemed to be a bogus firm as there is no firm with such name in the online portal. That it is evident that being the managing director/owner of the firm the present petitioner was aware about the sale of the huge quantity of intoxicant tablets to the fake firm namely C.S. Enterprises and the huge orders in regard to the intoxicant tablets/medicines were duly taken by the co-accused Radhika Bhardwaj who was the sale executive/employee of the company of the present petitioner. It is pertinent to mention here that the invoices issued by the company of the present petitioner*

to the fake firm namely C.S. Enterprises which facilitated the drug market in the State of Punjab and were recovered from the possession of the present petitioner.

That it is pertinent to mention here that due to the illicit selling of intoxicant tablet in the name of his company Addorn Pharmaceutical Pvt. Ltd., the petitioner has earned huge profit in shape of drug money and as already stated above it is clear that the present petitioner was actively involved in the peddling/selling of intoxicant tablets to the fake firm.

From the above-stated facts, it is evident that the preserit petitioner has played an active and deliberate role, in connivance with the other co-accused persons, in the commission of the offence."

10 State counsel contends that grounds of arrest have seemingly not been supplied to the petitioner in writing, however, the due reasons as to why he is being sought to be arrested had been communicated to him and the petitioner was apprised of the material against him, including the disclosure statements of the co-accused wherein his name had been specifically mentioned as well as the statements of witnesses recorded during the course of investigation. She further contends that the case of the petitioner would not entitle him to obtain any benefit by treating his case at par with the co-accused, for the following reasons: -

(i) That Vijay Yadav, the Accountant of the petitioner, had specifically informed the petitioner that C.S. Enterprises was a bogus firm. Despite such knowledge, the petitioner continued to direct and facilitate the supply of medicines to the said entity, which was being diverted into the State.

(ii) That there is no material to suggest that the petitioner, Anil

Kumar Gupta, disclosed or communicated such information regarding the dubious nature of C.S. Enterprises to co-accused Preeti or that she was aware and yet continued with the supplies.

(iii) That the continued supply of medicines to a known bogus firm, despite being aware of the same, was continued at the direction of the petitioner himself. In such circumstances, the petitioner cannot plead ignorance or absence of culpable intent and that the case of the petitioner stands on a distinct footing and is clearly distinguishable from that of co-accused Preeti, who has been granted the concession of anticipatory bail.

11 I have heard the learned counsel appearing for the respective parties and have gone through the documents appended along with the present petition.

12 Upon consideration of the arguments advanced on behalf of the respective parties, it undisputedly emerges that a substantial quantity of narcotic drugs/tablets, totaling to 2,34,390 tablets, was recovered from the co-accused, which had been sourced through 'ADDOM Pharmaceuticals Private Limited', a company owned, supervised and operated by the petitioner, Anil Kumar Gupta. It is further not in dispute that the said company was not authorised to sell these tablets in the States of Punjab, Haryana and Jammu and Kashmir. The material on record also indicates that the petitioner had only four vendors in Uttarakhand and one in Uttar Pradesh, namely C.S.

Enterprises. It is also reflected that C.S. Enterprises was an entity got registered by Sangam Kumar, who is also the proprietor of Satguru Enterprises and Sangam Medicos, though the said entity was formally registered in the name of Lakhmir @ Shhinder, an employee of Sangam Kumar. The investigation further reveals that the contraband, namely Alprazolam and Tramadol, was sourced through the employees of the petitioner herein through his office at Panchkula and the concerned employee(s) was fully aware that the said contraband was being pushed into the States of Punjab and Haryana. It has also come on record that the said facts had been brought to the notice of the petitioner; however, despite the same, no steps were taken by him to verify the antecedents of C.S. Enterprises for continuing the supplies. It is also noticed that the invoices appended by the petitioner along with the miscellaneous application pertain to supplies made to entities which were, in fact, front firms and involved in channeling the contraband into the States of Punjab and Haryana.

13 This Court had, at an earlier stage, sought specific information from the State of Punjab as well as from the petitioner, upon noticing that the plea as projected on behalf of the petitioner did not inspire confidence and warranted closer judicial scrutiny. It was prima facie observed that the States of Uttarakhand and Himachal Pradesh, as also District Sonipat in the State of Haryana, are established pharmaceutical clusters where above medicines are not only manufactured in abundance but are also readily accessible through lawful channels. In such a background, this Court found it bizarre and commercially inexplicable that the co-accused would yet source the said medicines from the petitioner, whose principal place of business is situated in

Bombay and sourcing from manufacturing facility in Ahmedabad. The procurement of medicines from such geographically distant locations, involving multiple stages of transportation, would inevitably result in escalation of costs, freight, handling, logistical overheads etc. No cogent or plausible explanation has been offered by the petitioner as to the economic or business justification for adopting such a circuitous and cost-intensive supply chain, particularly when identical or similar products were readily available in closer proximity. The absence of any commercial rationale coupled with the unusual pattern of procurement, gives rise to a reasonable inference that the transactions in question were not guided by legitimate business considerations but were structured in a manner suggestive of an ulterior purpose. Such circumstances, at this stage, cast a serious doubt on the bona fides of the petitioner's conduct and the genuineness of the transactions sought to be portrayed as lawful. It was in this regard that this Court deemed it appropriate to pass the order dated 11.03.2026, seeking further clarification and material.

14 The subsequent investigation, at this stage, prima facie discloses that the activities in question were not isolated acts of individual accused, but were carried out in a concerted, coordinated and premeditated manner by all the accused persons, acting in active connivance with each other. The material collected during investigation reflects the existence of a structured and well-knit network, wherein each participant appears to have performed a designated role in furtherance of the common design. The analysis of CDRs, location data and other documentary material has revealed a consistent pattern of communication and proximity amongst the accused persons, thereby

indicating their close interlinkage and active participation in the execution of the illegal enterprise. The frequency and timing of such communications as well as the movement of consignments and other attendant circumstances, lend prima facie support to the prosecution's case of a coordinated operation. The material further suggests that a conscious and deliberate effort was undertaken by the accused to obscure and camouflage the true nature of the transactions. This was sought to be achieved by creating a complex and multi-layered web of documentation, involving the use of multiple entities, intermediaries and transactional records, which, on the face of it, appear regular and compliant. However, upon closer scrutiny, such documentation appears to have been structured as a device to lend a facade of legitimacy to what is otherwise an illicit activity. The cumulative effect of the aforesaid material, at this stage, points towards a carefully orchestrated scheme designed to evade detection and regulatory oversight, thus, reinforcing the prima facie inference of an organised and systematic involvement of the accused persons in the offence.

15 The standard governing the grant of bail, particularly in cases of the present nature, is not one of mere prima facie doubt, but one which requires the Court to be satisfied that there exist "reasonable grounds for believing" that the accused is not guilty of the offence alleged. This threshold is qualitatively higher than the formation of a tentative opinion and mandates the existence of substantial and probable cause, based on the material available on record, to conclude that the accused is not involved in the commission of the offence. While interpreting the expression "reasonable grounds for believing", a two-Judge Bench of the Supreme Court in ***Union of***

India v. Shiv Shanker Kesari reported as ***(2007) 7 SCC 798*** held that: -

> *"5. Section 37 of the Act reads as follows:*
>
> *37. Offences to be cognizable and non-bailable.—(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974),—*
>
> *(a) every offence punishable under this Act shall be cognizable;*
>
> *(b) no person accused of an offence punishable for a term of imprisonment of five years or more under this Act shall be released on bail or on his own bond unless—*
>
> *(i) the Public Prosecutor has been given an opportunity to oppose the application for such release, and*
>
> *(ii) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.*
>
> *(2) The limitations on granting of bail specified in Clause (b) of sub-section (1) are in addition to the limitations under the Code of Criminal Procedure, 1973 (2 of 1974), or any other law for the time being in force on granting of bail."*
>
> *6. As the provision itself provides that no person shall be granted bail unless the two conditions are satisfied. They are; the satisfaction of the court that there are reasonable grounds for believing that the accused is not guilty and that he is not likely to commit any offence while on bail. Both the conditions have to be satisfied. If either of these two conditions is not satisfied, the bar operates and the accused cannot be released on bail.*
>
> *7. The expression used in Section 37(1)(b)(ii) is "reasonable grounds". The expression means something more than prima facie grounds. It connotes substantial probable causes for believing that the accused is not guilty of the offence charged and this reasonable belief contemplated in turn points to existence of*

such facts and circumstances as are sufficient in themselves to justify recording of satisfaction that the accused is not guilty of the offence charged.

8. The word "reasonable" has in law the prima facie meaning of reasonable in regard to those circumstances of which the actor, called on to act reasonably, knows or ought to know. It is difficult to give an exact definition of the word "reasonable".
"7. … In Stroud's Judicial Dictionary, 4th Edn., p. 2258 states that it would be unreasonable to expect an exact definition of the word 'reasonable'. Reason varies in its conclusions according to the idiosyncrasy of the individual, and the times and circumstances in which he thinks. The reasoning which built up the old scholastic logic sounds now like the jingling of a child's toy."
(See Municipal Corpn. of Delhi v. Jagan Nath Ashok Kumar [(1987) 4 SCC 497] (SCC p. 504, para 7) and Gujarat Water Supply and Sewerage Board v. Unique Erectors (Gujarat) (P) Ltd. [(1989) 1 SCC 532]

9. "9. … It is often said that 'an attempt to give a specific meaning to the word "reasonable" is trying to count what is not number and measure what is not space'. The author of Words and Phrases (Permanent Edn.) has quoted from Nice & Schreiber, In re [123 F 987 at p. 988] to give a plausible meaning for the said word. He says
'the expression "reasonable" is a relative term, and the facts of the particular controversy must be considered before the question as to what constitutes reasonable can be determined'.
It is not meant to be expedient or convenient but certainly something more than that." [Ed. : As observed in Rena Drego v. Lalchand Soni, (1998) 3 SCC 341, p. 346, para 9.]

10. The word "reasonable" signifies "in accordance with *reason". In the ultimate analysis it is a question of fact, whether a particular act is reasonable or not depends on the circumstances in a given situation. (See Municipal Corpn. of Greater Mumbai v. Kamla Mills Ltd. [(2003) 6 SCC 315])*

11. The court while considering the application for bail with reference to Section 37 of the Act is not called upon to record a finding of not guilty. It is for the limited purpose essentially confined to the question of releasing the accused on bail that the court is called upon to see if there are reasonable grounds for believing that the accused is not guilty and records its satisfaction about the existence of such grounds. But the court has not to consider the matter as if it is pronouncing a judgment of acquittal and recording a finding of not guilty."

16 A perusal of the above shows that while examining the provisions of Section 37 of the NDPS Act and the import of the expression "reasonable grounds", the Hon'ble Supreme Court has held that the provision mandates that no accused shall be released on bail unless twin conditions are cumulatively satisfied. Further, the expression "reasonable grounds" has been construed to mean something more than mere prima facie satisfaction, requiring the existence of substantial and probable causes, founded on credible material, which justify the formation of such belief. It has further been elucidated that the term "reasonable" is inherently contextual and cannot be confined to a rigid or straitjacketed definition, but must be assessed in light of the facts and circumstances of each case, signifying a standard grounded in reason and not mere expediency or convenience.

17 The manner in which the petitioner, in concert with the co-accused and other associated persons, is alleged to have carried out the

operations in question, coupled with the magnitude of the contraband involved, prima facie reflects a high degree of planning, organisation and deliberation. The material on record suggests a sustained and systematic course of conduct. Of particular significance is the fact that the petitioner was specifically apprised by his own accountant regarding the dubious and non-genuine nature of C.S. Enterprises. Despite such explicit warning and the attendant obligation to exercise due diligence, no plausible explanation has been furnished as to why the petitioner chose to disregard the same. On the contrary, the record indicates that the petitioner continued to facilitate and ensure uninterrupted supply of the medicines to the said entity, which subsequently formed a crucial link in the diversion of contraband to the states of Punjab and Haryana. In the totality of circumstances, such conduct reflects not mere negligence but a conscious and deliberate disregard of law, seemingly driven by pecuniary considerations. The continued engagement with a known dubious entity, despite clear caution, lends substantial weight to the allegation of active complicity and conscious participation in the larger scheme. In these circumstances, this Court is of the considered view that the material on record discloses more than a mere suspicion and gives rise to reasonable grounds to believe that the accused is guilty of the offence alleged.

18 This Court cannot remain oblivious to the grave impact of the illicit drug trade in the States of Punjab, Haryana and the adjoining regions, where the menace has assumed alarming proportions. The proliferation of psychotropic substances has not only endangered public health but has also eroded the social fabric, undermined law and order and gravely jeopardised the future of the youth, who are increasingly falling prey to such substances.

The societal consequences of such offences are far-reaching, extending beyond individual culpability to affect the collective well-being of the community at large. In the present case, the material on record indicates a systematically orchestrated operation, involving multiple actors functioning in a coordinated manner by creating fictitious entities and deploying layered and manipulated documentation. Such mechanisms appear to have been consciously devised to lend a semblance of legitimacy to otherwise illicit transactions and to facilitate the clandestine distribution of psychotropic substances across State boundaries. In the backdrop of such a pervasive crisis, this Court is constrained to view such conduct with the degree of seriousness it warrants, particularly in light of the broader societal harm sought to be prevented by the stringent provisions of the NDPS Act.

19 As regards the reliance placed by the petitioner on the documentary material, it is to be noted that the said documents have emanated from the accused themselves and constitute an integral part of the very chain of transactions presently under scrutiny. Such material, therefore, cannot be viewed in isolation or presumed to be reliable merely on account of its formal appearance. At this stage of the proceedings, where the Court is concerned with a prima facie assessment, the evidentiary worth of such documents, which are sought to be projected as unimpeachable proof of lawful conduct, cannot be accepted at face value. It is well settled that documents forming part of a disputed transaction, particularly where the allegation pertains to the creation of a structured mechanism to facilitate illegality, must be subjected to strict scrutiny and tested in accordance with law during trial. The surrounding circumstances of the present case including the use of fictitious

entities, the layering of transactions and the manner in which the supply chain has been routed, give rise to a legitimate apprehension that such documentation may have been deliberately structured to lend a cloak of legitimacy to what is otherwise an illicit activity. In such a situation, the mere existence of invoices, bills or transport records cannot, at this stage, be determinative of the petitioner's innocence. The possibility that such documents were generated as part of a calculated design to camouflage the true nature of the transactions cannot be ruled out and consequently, their probative value must await a thorough evidentiary evaluation at trial.

20 So far as the contention of the petitioner regarding non-supply of the grounds of arrest in writing is concerned, it is not in dispute that the formal grounds, in the precise format as contemplated in the judgment of the Hon'ble Supreme Court in ***Mihir Rajesh Shah v. State of Maharashtra 2025 SCC OnLine SC 2356***, and subsequently reiterated in the judgment of ***Dr. Rajinder Rajan*** ***(supra)*** were not furnished to the petitioner in writing at the time of arrest. However, the material on record indicates that the reasons necessitating the arrest were orally communicated to the petitioner, and he was made aware of the substance of the allegations against him, including his role as emerging from the disclosure statements of co-accused, documentary material and statements of witnesses recorded during the course of investigation. At this juncture, it would be apposite to refer to the relevant extract of the judgment rendered in ***Mihir Rajesh Shah*** (supra), which is as under: -

> *"24. In Prabir Purkayastha (supra), of which, one of us was a member (B.R. Gavai, J., as he then was), this Court reiterated the principle laid down in the above judgment, while dealing with offences under UAPA and held that any individual arrested for*

alleged commission of offences under the UAPA or any other offence for that matter, has both a fundamental and a statutory right to be informed in writing such grounds of arrest. <u>The Court further held that a copy of such written grounds must be furnished to the arrested person at the earliest without any exception observing that the communication provided under Article 22 and Section 50 of CrPC 1973 (now Section 47 of BNSS 2023) is not a mere procedural formality but a vital safeguard with the ultimate objective to enable the arrested person to effectively consult legal aid and be prepared to raise objections in remand hearing and apply for his/her bail. The right to life and personal liberty, safeguarded under Articles 20, 21 and 22 of the Constitution, stands as the paramount fundamental right. Accordingly, infringement of these constitutional protections commands rigorous judicial scrutiny and strict enforcement.</u>

25. <u>It was said that any breach of the constitutional safeguards provided under Article 22 would vitiate the lawfulness of arrest and subsequent remand and entitle the arrested person to be set at liberty.</u>

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26. Subsequently, in Vihaan Kumar (supra), this Court underscored that a failure to comply with the requirement of informing the grounds of arrest soon after the arrest would render the arrest illegal. The Court referred to the above-mentioned decisions of this Court and observed that although the ideal mode of communication of grounds of arrest is to provide such grounds in writing, there is no such statutory requirement to provide such grounds in writing. The Court noted that it may not be practical to communicate grounds of arrest in writing in every situation, but if such a course is followed, the controversy about non-compliance will not arise at all.

27. It was further observed that to ensure the effective implementation of the constitutional mandate in Article 22, the law further requires such grounds to be effectively communicated *not only to the detainee/arrestee but also to their friends, relatives or any other nominated person as envisaged in Section 50A of CrPC 1973 (now Section 48 of BNSS 2023). The legislative intent behind the incorporation of Section 50A of CrPC 1973 is to ensure that those in a position to act, i.e. secure legal representation, initiate the process for bail, are empowered to do so without any delay, thereby safeguarding the fundamental rights of the arrested person as enshrined in Article 21 of the Constitution of India.*

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28. Before we delve into analysing the provisions of law and jurisprudential developments by this Court, we find it quintessential to discuss the impact of arrest on an individual. The arrest of an individual invariably impacts not only the person arrested himself, but also the persons associated with him, i.e. family, friends, relatives, etc., affecting their psychological balance and overall social well-being. This Court has on several occasions underscored that there is a stigma attached to arrest which impairs the reputation and the standing of an individual in society. The stigma attached to arrest undermines a person's social dignity and results into consequences that reverberate beyond the individual but also extend to their social circle.

29. The impacts of arrest are multidimensional and are not only limited to societal impact but also extend to the physical and mental health of the person. Mental health issues like depression due to custodial confinement can be aggravated by inadequate and overcrowded conditions prevalent in prisons. Such conditions severely impinge upon the fundamental rights of the arrested person and curtail his dignity and personal liberty.

30. This Court in Arnesh Kumar v. State of Bihar, observed that arrest results in embarrassment, restricts freedom, and leaves permanent scars. Lawmakers and the police are aware of this. The police and lawmakers are at odds, and it appears that the police have not learned the lesson that is implied in and reflected *in the CrPC 1973 (now BNSS 2023). Despite long years of independence, it still maintains its colonial image and is primarily viewed as an instrument of oppression and harassment, and it is undoubtedly not regarded as a friend of the public.*

31. In Joginder Kumar v. State of U.P., this Court while framing guidelines regarding the rights of an arrested person has observed that the existence of a power to arrest and the justification to use such power are two different aspects. The person making arrest must be able to justify the arrest with reasons apart from his power to do so. Arrest of a person can cause irreversible damage to his reputation in the society as well as his self-esteem, therefore, arrest cannot be made in a routine manner. The Police Officer making an arrest must be cautious while arresting a person and ought to satisfy himself after a reasonable investigation to justify the person's complicity and also the effect as well as the need of arrest. This Court has further observed that except in heinous offences, arrest must be avoided.

32. Having perused the jurisprudential developments and impact of arrest on a person, let us now consider the issues at hand.

33. <u>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.</u>

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.*

35. It is pertinent to note that the arrested person must be given early access to legal assistance to enable him to defend himself and oppose the remand. The early access to legal counsel becomes a quintessential object to ensure that the personal liberty of the arrested person is protected. This Court in Suhas Chakma v. Union of India while emphasizing on the need of pre-litigation assistance has directed that the "Guidelines on Early Access to Justice at Pre-arrest, Arrest and Remand Stage Framework" as framed by the National Legal Services Authority, are to be diligently pursued. The guidelines provide for legal assistance to the arrested person at the stage before remand. The remand advocate shall interact with the arrestee with the objective to inform him about the allegations against him and the grounds being put by the prosecution for seeking remand. The guidelines also provide for making available the translated copy of documents to the arrested person in the language he/she understands. The purpose of securing legal assistance before remand is not merely symbolic, but it is to ensure that the accused is afforded an effective opportunity to oppose the prayer for police custody and to place before the magistrate any circumstances that may warrant refusal or limitation of such custody. If the accused is not represented through a Counsel, he/she should be made aware that he/she is entitled for legal aid. As far as possible, it shall be ensured that every accused person is represented by an advocate, if he is not able to avail such assistance, he should be given free legal aid. A three-judge Bench of this Court in Ashok v. State of Uttar Pradesh held that an accused who is not represented by an advocate is entitled for free legal aid at all material stages starting from remand."

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***"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 IPC 1860 (now BNS 2023);

ii) The grounds of arrest must be communicated in writing to the arrestee in the language he/she understands;

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.

***58**. We are cognizant that there existed no consistent or binding requirement mandating written communication of the grounds of arrest for all the offences. Holding as above, in our view, would ensure implementation of the constitutional rights provided to an arrestee as engrafted under Article 22 of the Constitution of India in an effective manner. Such clarity on obligation would avoid uncertainty in the administration of criminal justice. The ends of fairness and legal discipline therefore demand that this procedure as affirmed above shall govern arrests **henceforth**."*

(emphasis supplied)

21 It is pertinent to note that the decision in ***Mihir Rajesh Shah (supra)*** was rendered on 06.11.2025, wherein it was expressly clarified that the procedural safeguards mandating communication of grounds of arrests, so enunciated would govern arrests prospectively.

22 It remains undisputed that a mandate of written grounds of arrest was to operate 'henceforth' whereas the petitioner had been arrested much

prior to the above judgment. The position prior thereto required communication of the reasons or the grounds for arrest. The petitioner had been associated with the investigation of the case and was thus aware of the reasons of his arrest. He thus cannot be assumed to be clueless about the case or reasons of his arrest and was conscious that offence under the NDPS Act, is a heinous offence.

23 In the present case, the allegations pertain to a grave and organised offence under the NDPS Act, involving commercial quantity of contraband, a coordinated network of accused persons and a structured mechanism designed to facilitate the clandestine distribution of psychotropic substances. The role attributed to the petitioner is not peripheral, but is prima facie indicative of active participation in ensuring the continuity of supply, despite being aware of the dubious nature of the entities involved. The record further reflects that the petitioner was not taken by surprise or kept in the dark regarding the basis of his arrest. The substance of the accusations, the material relied upon and his complicity were made known to him contemporaneously. The omission, therefore, pertains to the form and mode of communication rather than to a complete absence of knowledge of the grounds.

24 The judgment in ***Mihir Rajesh Shah*** ***(supra)*** should not be construed as laying down an inflexible proposition of law irrespective of the factual matrix of each case.

25 The true emphasis of the Hon'ble Supreme Court lies not in the mere formality of furnishing grounds of arrest in writing, but in ensuring that the arrested person is made aware, in an effective manner, of the reasons for his arrest so as to enable him to meaningfully exercise his legal rights,

including the right to seek legal representation and appropriate judicial remedies. The safeguard, thus, is substantive in nature, intended to prevent arbitrariness and to secure fairness in the process of arrest.

26 The requirement of communicating the grounds in writing assumes heightened importance in situations where the arrest is effected at a later point of time or stage of investigation, removed from the scene of occurrence or in circumstances where the accused may not have any immediate or apparent knowledge of the allegations or his potential role forming the basis of such arrest. In such cases, the written communication of grounds serves as a crucial instrument to dispel uncertainty and to equip the accused with the necessary information to challenge the legality of his arrest.

27 However, the position may stand on a materially different footing where the arrest is effected contemporaneously with the commission or detection of the offence more particularly where the accused is apprehended in the very act or in immediate connection therewith. In such circumstances, the factual context itself furnishes a clear and direct indication of the reasons for the arrest, leaving little scope for ambiguity or ignorance on the part of the accused. The grounds of arrest in such cases, may not be separable from the aspects mentioned in the memo of arrest. The object being communication in writing, as per the judgment of ***Mihir Rajesh Shah*** ***(supra)*** and to be operative, 'henceforth', does not mandate preparation of separate memo/Note. In an event where the prosecution is able to show a written communication setting out the reason/grounds of arrest, from the documents, the same may also be a compliance. Besides, the Court is not to conduct a micro-scrutiny of the grounds set out thereunder or assess adequacy of reasons, as per its own

standard. Such sufficiency and necessity has to be from the viewpoint of the investigating officer. To insist upon a rigid or ritualistic compliance of furnishing a separate written memo of grounds in such situations, divorced from the surrounding realities, may amount to elevating form over substance, which is neither the intent nor the spirit of the law as expounded by the Hon'ble Supreme Court.

28 In situations where a person is apprehended *in flagrante delicto i.e.* in the very course of committing an offence or in immediate proximity thereto, the surrounding circumstances, by their very nature, furnish a clear and unequivocal indication of the reasons for arrest. This would include instances such as offences involving theft, robbery, house-breaking, assault, possession or sale of narcotic substances, illegal transportation of contraband, possession of unlicensed arms, offences relating to counterfeit currency or any other cognizable offence where the act is detected contemporaneously with the apprehension of the accused. In such cases, the factual matrix itself speaks to the cause of arrest and the nexus between the act and the deprivation of liberty is both immediate and apparent. To contend, in such circumstances, that the accused remains unaware of the grounds of his arrest would be wholly artificial and ignoring the ordinary course of human conduct and understanding. Where the arrest is intrinsically and inseparably linked to the act being committed or discovered in the presence of the arresting authority, the knowledge of the basis of arrest can reasonably be attributed to the accused by virtue of the surrounding facts themselves.

29 The law, as understood in its true spirit, does not envisage mechanical compliance with procedural requirements in a manner divorced

from ground realities. The mandate of communicating grounds of arrest should, therefore, be interpreted in a purposive manner, having regard to whether the accused was made aware of the reasons necessitating his arrest. Thus the focus is on the existence of real and effective awareness and not merely on the formal mode through which such awareness is conveyed. The requirement of communicating the grounds of arrest, including in writing, is a means to achieve this larger constitutional objective, and not an end in itself.

30 In the present case, it is an admitted position that the petitioner came to be arrested prior to the judgment of ***Mihir Rajesh Shah*** ***(supra)*** i.e., on 12.06.2025, consequently, the petitioner cannot seek to derive any benefit or raise a grievance on the basis of a procedural requirement which was directed to operate 'henceforth' and was not prescribed at the time of his arrest.

31 Further, in ***Mihir Rajesh Shah*** ***(supra)*****,** it was observed that a written copy of grounds of arrest be supplied to the arrested person within a reasonable period of time and in no event later than two hours prior to production of arrestee before the Magistrate for remand proceedings. Counsel for the petitioner has not placed on record either the application for remand or the orders granting remand to examine as to whether any such objection for non-communication of the grounds of arrest was ever raised at the time of granting remand or not.

32 The Hon'ble Supreme Court in ***State of Karnataka v. Sri Darshan 2025 SCC OnLine SC 1702*** has held that the judicial approach in assessing violations of procedural safeguards has to be guided by a "prejudice-oriented test". The Court has emphasised that procedural safeguards, though

mandatory in nature, are ultimately intended to secure fairness in the process and their breach must be examined in the context of the actual impact caused upon the rights of the accused. In the present case, it is also significant to note that no specific plea has been raised on behalf of the petitioner to show that the alleged non-supply of written grounds of arrest has, in any manner, prejudiced him or impaired his ability to defend himself. Consequently, the contention raised on this ground does not merit acceptance.

33 Accordingly, while the lapse in not furnishing the grounds of arrest in writing cannot be brushed aside, I am of the opinion that, in the peculiar facts and circumstances of the present case and having regard to the gravity of the allegations, the nature of the material on record and the statutory rigour under the NDPS Act, such a ground, by itself, would not justify the grant of bail to the petitioner at this stage.

34 Consequently, the present petition is dismissed.

April 06, 2026. **(VINOD S. BHARDWAJ)**
raj arora **JUDGE**

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No