



\$~8

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ BAIL APPLN. 638/2026

MOHD ATIF

.....Applicant

Through: Mr. Pramod Kumar, Adv.

Versus

THE STATE OF NCT OF DELHI (THROUGH SHO PS CRIME
BRANCH)

.....Respondent

Through: Ms. Meenakshi Dahiya, APP for the
State with Ms. Vanshika Singh, Ms.
Apoorva Khosla and Mr. Bhanu
Pratap Singh, Advocates
SI Ram Kishan, ANTF Crime
Branch, Delhi

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

18.05.2026

%

1. By virtue of the present application under *Section 483* of the Bharatiya Nagarik Suraksha Sanhita, 2023 (*BNSS*), the applicant seeks grant of regular bail in proceedings arising out of FIR No.18/2024 dated 17.01.2024 registered at PS.: Crime Branch for offences punishable under *Sections 21/25/29* of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*NDPS Act*).

2. Of the various assertions and grounds raised in the present application, learned counsel for the applicant has drawn attention of this Court to the Arrest Memo dated 17.01.2024 wherein there is no mention of the '*grounds of arrest*'. The learned counsel submits that since there were, *admittedly*, no grounds of arrest supplied/ furnished to the applicant in writing at the time of his arrest, his fundamental right under *Article 22* of the Constitution of India has been violated. Reliance is placed upon



Pankaj Bansal vs. Union of India & Ors.:2023 SCC OnLine SC 1244 and ***Prabir Purkayastha vs. State (NCT of Delhi): (2024) 8 SCC 254*** passed by the Hon'ble Supreme Court, wherefrom it is clear that the mandate of supplying grounds of arrest in writing to an arrestee at the time of his arrest in a language he understands, is mandatory, which position has been upheld and reiterated in ***Mihir Rajesh Shah vs. State of Maharashtra & Anr.:2025 SCC OnLine SC 2356***.

3. *Per contra*, learned APP for the State relying upon the Status Report submits that although the applicant was informed of the 'grounds of arrest', however, the said mandate has been complied with 'orally'. The learned APP, in any event, submits that mere absence of furnishing of written grounds of arrest does not *ipso facto* render the arrest illegal, unless it results in demonstrable prejudice or denial of fair opportunity to defend and therefore, cannot be a valid ground for grant of bail. In any event, since recovery of 1 kg of 'Heroin' has been affected from the applicant, not only the allegations against him are grave and serious in nature but are also attracting the rigours of *Section 37* of the NDPS Act. As such, as per learned APP, this is not a fit case for release of the applicant on bail.

4. This Court has heard the learned counsel for the applicant as also learned APP for the State and perused the documents on record.

5. Considering the dicta passed by the Hon'ble Supreme Court in ***Pankaj Bansal (supra)*** decided on 03.10.2023 to the effect that non-furnishing of grounds of arrest to an arrestee in writing in a language s/he understands would tantamount to infringement of their fundamental rights under *Articles 21* and *22* of the Constitution, and render such an arrest



illegal, as also in ***Prabir Purkayastha (supra)*** the same view has been reiterated, and in fact held the same to include arrests under all circumstances, irrespective of the Statute involved, (non-)supply of grounds of arrest to the applicant, is the vital factor for consideration by this Court.

6. What entails therefrom is that supply of specific ‘*grounds of arrest*’ to an arrestee like the applicant in writing is essential to enable him to seek effective recourse to appropriate remedies at the relevant time. In fact, the Hon’ble Supreme Court reiterated the said position in ***Mihir Rajesh Shah (supra)*** as well. Therefore, (non-)supply of grounds of arrest to an arrestee like the applicant *in writing* contravenes the provisions under *Article(s) 21* and *22* of the Constitution of India as an individual can be deprived of their life or personal liberty except in accordance with law. Anything contrary, such arrest itself held to be violative of the fundamental rights of an arrestee, like the applicant, guaranteed under *Article 22(1)* of the Constitution of India, thus, making his arrest illegitimate.

7. In the present scenario, wherein the Arrest Memo dated 17.01.2024 is, *admittedly*, silent on the ‘*grounds of arrest*’, and wherein the ‘*reasons of arrest*’ are extremely mechanical in nature as they do not contain anything specific *qua* the applicant, the same cannot be said to be having any value and/ or in consonance with the mandate under *Article 22(1)* of the Constitution of India.

8. In view of the established legal position in ***Pankaj Bansal (supra)***, ***Prabir Purkayastha (supra)***, without going into the other contentions of the parties, the present application is allowed.



9. As such, the applicant be released on regular bail in the proceedings arising out of FIR No.18/2024 dated 17.01.2024 registered at PS.: Crime Branch under *Sections 21/25/29* of the NDPS Act, subject to him furnishing a personal bond in the sum of Rs.50,000/- (*Rupees Fifty Thousand Only*) alongwith one surety of the like amount by a family member/ friend having no criminal case pending against him and subject to satisfaction of the learned Trial Court and further subject to the following conditions:-

- a) Applicant shall not leave NCT of Delhi without prior permission of the concerned Court and shall ordinarily reside at the address as per TCR.
- b) Applicant shall surrender his Passport, if any, to the IO within three days of his release.
- c) Applicant shall join and participate in the investigation as and when called by the IO.
- d) Applicant shall provide all his mobile numbers to the IO concerned which shall be kept in working condition at all times.
- e) Applicant shall not indulge in any criminal activity and shall not contact any of the prosecution witnesses, or tamper with the evidence of the case.

10. The application is accordingly disposed of in the above terms.

11. Needless to say, observations made hereinabove, if any, on the merits of the matter are purely for the purposes of adjudicating the present application and shall not be construed as expressions on the merits therein.

SAURABH BANERJEE, J.

MAY 18, 2026/So