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

+ BAIL APPLN. 1265/2026

GULAM NABI

.....Applicant

Through: Mr. Sharukh Khan, Adv.

versus

STATE NCT OF DELHI

.....Respondent

Through: Ms. Meenakshi Dahiya, APP for
State SI- Gaurav, Special Staff

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

20.05.2026

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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 from FIR No.453/2023 dated 25.09.2023 registered at PS.: Ghazipur, Delhi for offences punishable under *Sections 21/29/61/85* of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*NDPS Act*).

2. At the outset, learned counsel for applicant submits that he seeks grant of bail on account of non-furnishing of grounds/ reasons of arrest at the time of arrest in the Arrest Memo, which is taken on record on being handed over by learned APP for State.

3. Drawing the attention of this Court to the Arrest Memo dated 25.09.2023 wherein there is no mention of '*grounds of arrest*', learned counsel for applicant submits that as evident therefrom no grounds of arrest were ever supplied/ furnished to the applicant in writing at the time of his arrest. As such, his fundamental right under *Article 22* of the Constitution of India has been violated. He, thus, submits that in view of



the law of the land in ***Pankaj Bansal vs. Union of India & Ors.:2023 SCC OnLine SC 1244***, ***Prabir Purkayastha vs. State (NCT of Delhi): (2024) 8 SCC 254*** and lastly in ***Mihir Rajesh Shah vs. State of Maharashtra & Anr.:2025 SCC OnLine SC 2356*** passed by the Hon'ble Supreme Court, wherefrom it is clear that an arrestee like the applicant is to be mandatorily supplied 'grounds of arrest' in writing at the time of his arrest in a language he understands, the applicant deserves a grant of regular bail.

4. *Per contra*, learned APP for State relying upon the Status Report submits that the applicant was informed of the 'grounds of arrest' orally. She also 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. Moreover, since 500g of 'Heroin/ Smack' has been affected from the applicant, which involve grave and serious allegations, as also attract the rigours of Section 37 of the NDPS Act. Therefore, learned APP seeks dismissal of the present application.

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

6. As per dicta of the Hon'ble Supreme Court in ***Pankaj Bansal (supra)*** decided on 03.10.2023, 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 of India, and render such an arrest illegal. The same view has been once again reiterated in ***Prabir Purkayastha (supra)***, and it has also been held therein that the same includes arrests under all circumstances,



irrespective of the Statute involved.

7. 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-)furnishing 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 thereto, such arrest of the applicant, guaranteed under *Article 22(1)* of the Constitution of India itself is violative of his fundamental rights.

8. The Arrest Memo dated 17.01.2024 herein 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, thus, are not in consonance with the mandate under *Article 22(1)* of the Constitution of India.

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

10. As such, the applicant is directed to be released on regular bail in the proceedings arising out of FIR No.453/2023 dated 25.09.2023 registered at PS.: Ghazipur, Delhi for offences punishable under *Sections 21/29/61/85* 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 and shall surrender his Passport, if any, to the IO within three days of his release.
- b) Applicant shall join and participate in the investigation as and when called by the IO.
- c) Applicant shall provide all his mobile numbers to the IO concerned which shall be kept in working condition at all times.
- d) 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.

11. The present application is disposed of in the aforesaid terms.

12. 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 20, 2026/Ab/DA