

**IA No. 1/25 in SC No. 28/25  
FIR 340/24  
PS Special Cell  
STATE VS FAITH RACHEAL**

**11.12.2025**

Present: Sh. A. B. Asthana, Ld. Addl. PP for the State.  
Sh. Fahad Siddiqui, Ld. Proxy counsel for  
applicant/accused.

Vide my separate order of even date, the present application is allowed and disposed off accordingly.

Copy of the order be given *dasti* as well as be sent to jail superintendent for supplying the same to accused in jail.

**(Atul Ahlawat)  
ASJ/Spl. Judge, NDPS/N Delhi  
11.12.2025**

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**ORDER**

1. Vide this order, I shall dispose of the bail application u/s. 483 BNSS, 2023 moved on behalf of accused/applicant Faith Racheal for grant of regular bail. Reply filed by the IO.
2. It is submitted by Ld. Counsel for the applicant/accused that there is no other bail application preferred by the present applicant/accused which is pending disposal before the Hon'ble Supreme Court of India, before the Hon'ble High Court of Delhi, or any other Court in the present case FIR, in which similar relief has been sought.
3. It is submitted by Ld. Counsel for applicant/accused that accused/applicant was arrested on 14.08.2024 upon the alleged secret information and from the search of the bag back carried by the applicant/accused, 3.800 Kg of cocaine (which was earlier found as mescaline in the field test) was allegedly recovered from 3 toffee shaped packets.
4. It is submitted by the Ld. Counsel for the

applicant/accused that the FSL result qua the substance recovered from the alleged position of the applicant/accused came out to be cocaine, instead of mescaline. Therefore, serious doubts on the recovery proceedings and the sanctity of the prosecution's case is being raised.

5. It is submitted by the Ld. Counsel for the applicant/accused that in the present case there has been non-compliance of mandatory provision, i.e Section 52 of the NDPS Act, since grounds of arrest were never supplied to the applicant/accused by the IO. Only arrest memo was prepared, which are not containing any grounds of arrest. The fundamental right of the applicant/accused as enshrined in Articles 21 and 22 (1) of the Constitution of India have been repudiated and hence, the arrest was illegal and *non-est*. The Ld. Counsel has relied upon the decisions of the Hon'ble Supreme Court in "***Pankaj Bansal Vs UOI & Ors.***" (2024) 7 SCC 576; "***Prabir Purkayastha Vs State (NCT of Delhi)***", (2024) 8 SCC 254; "***Vihaan Kumar vs State of Haryana***", 2025 SCC OnLine SC 269 and the decision of the Hon'ble High Court of Kerala in "***Shahina Vs State of Kerala***", 2025 SCC On Line Ker 4556.

6. It is submitted by the Ld. Counsel for the applicant/accused that there the reasons of arrest as allegedly

supplied to the applicant/accused are not complying with the mandatory guidelines issued in the aforementioned decisions. Furthermore, the grounds of arrest were not supplied to the family members of the applicant/accused, which is also a mandatory requirement as per the law laid down by the Hon'ble Supreme Court in ***Prabir Purkayashtha (Supra)***. The personal search memo does not reflect that the written grounds of arrest were recovered from her possession.

7. It is submitted by the Ld. Counsel for the applicant/accused that she is ready to abide with any condition that this Court may impose upon her if the bail is granted.

8. Per contra, it is submitted by the Ld. Addl. PP for the State that there is a recovery of commercial quantity of the contraband from the applicant/accused. The applicant/accused was found living in India without valid visa. She did not have any permanent address in India and she purposely did not get her passport recovered during the investigation. The videography was done in e-Sakshya application and the information of the same alongwith hash value, Certificate under Section 63 (4) BSA, as per procedure u/s 105 BNSS was duly forwarded to this Court. Furthermore, provisions of Section 14 of Foreigners Act were also invoked against her.

**9.** Before proceeding ahead with the merits of the present application, I deem it fit to first discuss the law of arrest and fundamental rights of the arrestee to be furnished with the grounds of arrest, in contradistinction to the reasons for arrest.

**10.** The expression “Arrest” is not defined in the Cr.P.C,1973 or BNSS,2023. The said expression has its origin in the Old French word “arester”, which in itself comes from Vulgar Latin word “arrestare”. The said word is a combination of two Latin words “ad” and “restare”, meaning “to stand firm, stop”. Therefore, the concept of the word revolves around the meaning of stopping or holding something back.

**11.** The Standing Order No. 330/2019 of Delhi Police for Guidelines for Arrest, defines arrest as a procedure in a criminal justice system which is caused by using legal authority to deprive a person of his or her freedom of movement. The arrestee is taken into custody upon the probable cause upon reasonable belief that the police officer holds in the guilt of the suspect, based on the facts and circumstances of the information received by him, prior to the arrest. The said reasonable belief pertains to the suspect of either having committed the crime or might be committing in the near future. As a safeguard against the abuse of

power, it requires that an arrest must be made for a thoroughly justified reason.

**12.** In *Pankaj Bansal (Supra)*, the Hon'ble Apex Court has held that Article 22(1) of the Constitution provides, *inter alia*, that no person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds of such arrest. This fundamental right guaranteed to the arrested person, the mode of communicating/conveying the information as to the grounds of arrest must necessarily be meaningful, so as to serve the intended purpose. For the arrested person to meet out the twin conditions prescribed u/s 45 of PMLA (corresponding provision of Section 37 of NDPS Act), it would be essential for the arrested person to be aware of the grounds on which the authorised officer has arrested him and the basis of the officers "reasons to believe", that he is guilty of an offence. Therefore, the communication of the grounds of arrest must serve the higher purpose, as mandated in Article 22(1) and the same must be given due importance.

**13.** In *Prabir Purkayastha (Supra)*, the Hon'ble Apex Court has held that the right to life and personal liberty is the most sacrosanct fundamental right guaranteed under Articles 20,21 and 22 of the Constitution of India. Any attempt to encroach upon

them has been frowned upon by the Hon'ble Supreme Court in catena of judgments. The arrestee has the fundamental and statutory right to be informed about the grounds of arrest in writing and copy of the same must be furnished to the arrested person to consult his advocate, oppose the PC remand and to seek bail. Any other interpretation would seek to dilute his fundamental rights, and such infringement shall vitiate the process of arrest and remand. Merely because chargesheet has been filed, would not validate the illegality and the unconstitutionality committed at the time of arrest or immediately thereafter.

**14.** In *Prabir Purkayastha (Supra)*, the Hon'ble Apex Court has further held that there is a significant difference between "reasons of arrest" and "grounds of arrest". The former pertains to purely formal parameters as indicated in the arrest memo, i.e to prevent him from committing any further offence; for proper investigation; to prevent tampering with evidence; to prevent from inducement, threat or promise etc. While the latter would require to contain all such details in hand with the IO, which necessitated the arrest of the accused. It must contain all the basic facts on which he was arrested so as to provide him an opportunity of defending himself against custody remand and to seek bail. The grounds of arrest would invariably be personal to

the accused, while the reasons of arrest would be general in nature.

15. In the landmark decision of ***Vihaan Kumar (Supra)***, it was held by the Hon'ble Apex Court that the requirement of informing the person arrested of the grounds of arrest is not a formality but a mandatory constitutional requirement. Article 22 is included in Part III of the Constitution, under the heading "Fundamental Rights". Thus, it is fundamental right of every person arrested and detained in custody to be informed of the grounds of arrest as soon as possible. If the grounds are not informed as may be after the arrest, it would amount to violation of the fundamental right of the arrestee. If the mandate of Article 22 is not followed, then it will also amount to violation of Article 21, and the arrest will be rendered illegal. Once the arrest is held to be vitiated, the person arrested cannot remain in custody for even a second.

16. The Hon'ble High Court of Delhi in '***Naveen Handa Vs CBN***', ***Neutral Citation:2025:DHC:6090*** has categorically held that significant procedural violations cannot be simply overlooked, as they go to the very root of the matter. The grounds of arrest have to be properly conveyed to the accused and to his family at the time of his arrest and since this is a statutory right

under the NDPS Act and also a constitutional guarantee under article 22, any such violation is a serious issue. It serves as a contributory ground for the accused or an under trial to seek release during the trial.

17. As per the decisions of the Hon'ble Supreme Court the grounds of arrest were to be supplied to the family members of the arrestee as well. In the present case, merely the boyfriend of applicant/accused was verbally intimated of the grounds of arrest, as allegedly stated by the IO, is not enough. It is not satisfying the mandate of Article 22(1) of the Constitution of India. In ***“Kasireddy Upender Reddy Vs State of Andhra Pradesh & Ors.,*** Neutral Citation: 2025 INSC 768, it was categorically held by the Hon'ble Apex Court that the grounds of arrest should not only be provided to the arrestee, but also to his family members and relatives so that necessary arrangements are made to secure his release at the earliest possible opportunity, so as to make the mandate of Article 22(1) meaningful. In the present case, alleged verbal intimation of grounds of arrest to the family member of the applicant/accused is no compliance of the mandate of Article 22(1) of the Constitution of India.

18. The Hon'ble Supreme Court of India had recently in the case of ***'Ahmed Mansoor and Ors. v. The State represented by***

*Assistant Commissioner of Police and Anr.*’, Criminal Appeal No. 4505/2025, date of decision 14.10.2025 had upheld the decisions in **Pankaj Bansal (Supra)**, **Prabir (Supra)**, **Vihaan Kumar (Supra)** and **Kasireddy (Supra)** and had distinguished the decision in ‘*State of Karnataka v. Sri Darshan Etc.*’, Criminal Appeal No. 3528-3534/2025 dated 14.08.2025 and held that the grounds of arrest should be communicated, as explained by the Hon’ble Apex Court in **Vihaan Kumar (Supra)**. Therefore, the law laid down in **Vihaan Kumar (Supra)** was approved and reiterated.

19. The Hon'ble Supreme Court of India recently in ‘**Mihir Rajesh Shah v. State of Maharashtra & Anr.**’, Neutral Citation:2025:INSC:1288, on 06.11.2025, had categorically held that 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). The grounds of arrest must be communicated in writing to the arrestee in the language he/she understands and where the Arresting Officer is unable to communicate the grounds in writing on or soon after arrest, it be so done orally and the said grounds must be communicated in writing within a reasonable time and in no case later than two hours prior to production of the arrestee for remand proceedings before the Magistrate. The non-

compliance would lead to the arrest and the subsequent remand being rendered illegal and the person will be at liberty to be set free. The Hon'ble Supreme Court of India had further held that the law laid down in *Vihaan (Supra)* and *Prabir (Supra)* had to be followed in all cases.

**20.** In the facts of the present case, it is not disputed that separate grounds of arrest in writing were never supplied to the applicant/accused. The arrest memo does not contain the said grounds of arrest. Upon specific inquiry made to the IO, he had replied that written grounds of arrest were never supplied to applicant/accused and he had orally supplied the same to the applicant/accused.

**21.** Since, no grounds of arrest were communicated to the applicant/accused and non-supply of grounds of arrest to the family members of the applicant/accused has led to non-compliance of Article 22(1) of the Constitution of India and Section 52 of the Act. Therefore, the rigours of section 37 shall not apply to the present case, as the applicant/accused was never granted the opportunity to mete out the stringent conditions leveled in the present case. Therefore, as the arrest itself is vitiated, I shall not deal the present application on merits on the other grounds raised by the Ld. Counsel for the accused.

22. After considering the rival contention of the parties, considering the facts & circumstances of the present case, and considering the fact that no grounds of arrest were communicated to the applicant/accused, rendering her arrest to be vitiated as being illegal, in my considered opinion, she has made out her case for regular bail. Hence, the applicant/accused Faith Racheal is admitted to regular bail on following conditions:-

**(i)** On furnishing of personal bond of **Rs. 1,00,000/- with two local sureties** of the like amount, to the satisfaction of this Court.

**(ii)** She shall deposit her passport, if not already deposited/impounded and she shall not leave the country without the permission of this Court.

**(iii)** She shall not try to tamper the evidence or hamper the trial or try to influence the remaining witnesses, in any manner.

**(iv)** She shall furnish her present and permanent address with supporting documents along with an affidavit/undertaking to inform any change thereof without delay to the SHO concerned.

**(v)** She shall mark her attendance in the PS concerned, on the first Monday of each calendar month, till the trial is completed.

**(vi)** She shall not commit any offence, whatsoever, during the period she remains on bail in the present case.

**(vii)** She shall attend the trial without any single default.

**(viii)** She shall be released subject to production of valid passport and visa. If the visa is expired, same must be applied online from the jail and the State shall provide all necessary assistance. It is made abundantly clear that until and unless valid passport and visa is produced, she shall not be released on bail.

**(ix)** She shall register herself with the FRRO, within two weeks of the date of her release and the FRRO shall report about her release to all authorities. The State is directed to immediately communicate this order to concerned Registration Officer appointed under Rule 3 of The Registration of Foreigners Rules, 1992, who shall in turn communicate the order to all the concerned authorities, including civilian authorities, to take appropriate steps in accordance of orders of law. The said direction is imposed in compliance of the decision of Hon'ble Supreme Court of India in '*Frank Vitus Vs NCB & Ors*', *Neutral Citation:2025:INSC:30*.

**(x)** She shall obtain a SIM card in her own name, on the basis of the passport and shall give the details of the number to this Court and to the IO.

**(xi)** She shall inform the place of residence along with valid proof and report any changes within one week, to both the Court and IO.

**(xii)** She shall file an affidavit within two weeks of her release on bail, stating the source of her funds and source of income in India, giving details of her bank account.

**23.** Nothing stated herein shall tantamount to any expression or opinion on the merits of the case.

24. The application under Section 483 BNSS, 2023 moved on behalf of applicant/accused Faith Racheal for grant of regular bail is accordingly disposed off, as allowed.

25. Needless to say, that nothing expressed herein shall have any effect on the merits of the case.

26. Copy of this order be sent to concerned Jail Superintendent, for necessary intimation to the applicant/accused.

27. Application is disposed off accordingly.

28. A copy of this order be given *dasti* to all concerned parties.

**(ATUL AHLAWAT)**  
**ASJ/ Special Judge, NDPS/N. Delhi**  
**Delhi/11.12.2025**