

IA3/25 SC 370/24
FIR 73/2024
STATE V Shahzeb Khan
PS Crime Branch

25.02.2026

Present: Sh. Vikas Kumar, Ld. Substitute Addl. PP for the
State.
Sh. Hasim Alam , Ld. Counsel for applicant/accused.

Vide my separate order of even date, the present application, seeking grant of regular bail on behalf of accused Shahzeb Khan is allowed and disposed of accordingly.

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

(Jitendra Pratap Singh)
ASJ NDPS Act
(Special Judge)/PHC
NDD/25.02.2026

**IN THE COURT OF JITENDRA PRATAP SINGH
ADDL. SESSIONS JUDGE /SPECIAL JUDGE (NDPS),
NEW DELHI DISTRICT, PATIALA HOUSE COURTS,
NEW DELHI**

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ORDER

1. Vide this order, I shall decide the present application moved under Section 483 of the Bharatiya Nagrik Suraksha Sanhita, 2023, seeking regular bail on behalf of the applicant/accused Shahzeb Khan in FIR No. 73/2024, PS Crime Branch, registered for offences punishable under Sections 21/25/29 of the NDPS Act.

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. The case of the prosecution in brief is as follows: On 03.04.2024, secret information was received at Inter State Cell, Crime Branch, Chanakyapuri, that one Shahzeb, resident of Rampur (U.P.), allegedly involved in smuggling of heroin (smack), would come near ISBT Flyover, Kashmiri Gate, Delhi at about 4:30 PM to sell/deliver a huge consignment. The information was conveyed to senior officers and recorded vide DD entries and a raiding team was constituted. The raiding party reached the spot with the informer. At the instance of the informer, the suspect was identified arriving in a cab Wagon-R bearing No. DL 1RTA 3778. The suspect allegedly boarded the cab again and the cab proceeded towards ITO. The cab was chased and intercepted near New Pragati Maidan Tunnel, Bhairon Marg, near Bhairon Mandir, New Delhi, where two persons were apprehended, namely Shahzeb Khan and Naved Khan.

4. It is the prosecution case that after compliance of Section 50 NDPS Act, personal search of Shahzeb yielded no contraband; however, on search of his bag, 406 grams of heroin was allegedly recovered from a transparent zip-locked polythene. On the instance of co-accused Naved, 304 grams of heroin was allegedly recovered from under the driver seat of the said cab. Thus, a total

recovery of 710 grams of heroin is alleged. The contraband was sealed and seized, and the vehicle was also seized. Shahzeb and Naved were arrested and, during investigation, co-accused Mumtaz Ali and thereafter Asim Khan were arrested on the basis of disclosures and further investigation. The prosecution further relies upon CDR/location analysis and digital payment transactions reflecting contact and monetary transfers inter se the accused persons. The FSL report has been received opining the contraband to be heroin, and the same has been filed by way of supplementary charge-sheet. The charge-sheet qua the applicant has been filed.

5. It has been submitted by the learned counsel for the applicant/accused that the applicant is innocent, has been falsely implicated, and has deep roots in society. It is argued that the registered owner of the cab, as reflected in the charge-sheet, is one Mohd. Shamshad, who has not been traced and the applicant has no connection with the ownership of the vehicle. It is further contended that at the time of arrest, no separate written grounds of arrest were supplied; rather, a pre-printed arrest memo was prepared which, according to the applicant, does not meaningfully convey the grounds of arrest as mandated under Article 22(1) of the Constitution. In support, reliance is placed

upon decisions of the Hon'ble Supreme Court in **Pankaj Bansal v. Union of India (2023 SCC OnLine SC 1244)**, **Prabir Purkayastha v. State (NCT of Delhi) (2024) 8 SCC 254**, **Vihaan Kumar v. State of Haryana (2025 SCC OnLine SC 269)** and **Mihir Rajesh Shah v. State of Maharashtra & Anr. (Neutral Citation: 2025:INSC:1288, decided on 06.11.2025)** to submit that communication of grounds of arrest is a mandatory constitutional requirement; non-compliance vitiates arrest and remand. Learned counsel also contended that there was no videography/photography and no public witness at the time of alleged seizure, and relies upon the Delhi High Court decision in **Bantu v. State (Bail Appln. No. 2287/2022, decided on 08.07.2024)** to submit that absence of independent corroboration and audio-visual record in appropriate cases casts a shadow over the recovery, at least for purposes of bail. It is further submitted that the applicant has been in judicial custody since 03.04.2024, charges are still not framed, trial will take considerable time, and continued incarceration would violate the applicant's fundamental rights. Reliance is also placed on **Gagan v. State (NCT of Delhi) (Bail Appln. 73/2025, decided on 28.02.2025)** and **Rizwan Ali v. State NCT of Delhi (Bail Appln. 1750/2025, decided on 28.08.2025)**. The applicant undertakes to abide by any condition, not to tamper with evidence, and not to influence

witnesses.

6. Per contra, it is argued by the learned Addl. PP for the State that the present case involves commercial quantity, attracting the bar of Section 37 NDPS Act, the applicant is a key member of a drug peddling syndicate. It is submitted that 406 grams of heroin was recovered from the bag carried by the applicant and the remaining recovery was effected from the vehicle at the instance of co-accused, showing a coordinated operation. The prosecution relies upon CDR analysis, location overlap and financial transactions between the accused persons to demonstrate nexus and active participation. It is further submitted that the charge-sheet has already been filed. That FSL confirms the recovered substance as heroin, charges are yet to be framed and if enlarged on bail, the applicant may abscond or influence the course of trial. Dismissal of the application is sought.

7. I have heard learned counsel for the applicant/accused and learned Addl. PP for the State, and have perused the material placed along with the application as well as the report/reply filed by the IO.

8. The alleged recovery in the present matter is of heroin and

the quantity stated is 710 grams, which, prima facie, falls within the commercial quantity bracket, and therefore, the rigours of Section 37 NDPS Act apply. At the stage of bail in commercial quantity cases, the Court is required to record satisfaction that there are reasonable grounds for believing that the accused is not guilty of such offence, and that he is not likely to commit any offence while on bail.

9. At the same time, it is equally settled that statutory rigours do not eclipse constitutional guarantees. The Court, while considering bail, cannot be oblivious to prima facie infirmities which go to the root of liberty and fairness and to the fact that pre-trial incarceration is not to assume the character of punishment.

10. In the present case, the applicant has specifically raised a plea of non-communication of grounds of arrest, contending that only a pre-printed arrest memo was prepared and that the grounds, in the sense of basic facts necessitating arrest, were not supplied in writing and were not meaningfully conveyed, thereby violating Article 22(1) and, consequently, Article 21 of the Constitution. The applicant has relied upon a line of authorities,

including **Pankaj Bansal (Supra)**, **Prabir Purkayastha (Supra)**, **Vihaan Kumar (Supra)**, and **Mihir Rajesh Shah (Supra)**, which emphasize that communication of grounds of arrest is not a mere ritual but a mandatory safeguard and must be meaningful. The IO report placed before this Court, while narrating the manner of apprehension, seizure and arrest, does not specifically meet the applicant's challenge in the manner required at this stage. It does not disclose, in clear terms, the material demonstrating due compliance of the Constitutional mandate as asserted by the applicant, beyond routine narration of arrest and remand. Without commenting finally upon the issue—which shall remain open for adjudication at the appropriate stage—the plea raised by the applicant, on the material presently shown, cannot be treated as a frivolous plea for purposes of bail and constitutes a relevant circumstance.

11. 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.

12. 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.

13. 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 authorized 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.

14. 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.

15. The Hon’ble Apex Court has further held in the said case 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.

16. 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.

17. In the facts of the present case, it is not disputed that the written grounds of arrest were never supplied to applicant/accused. Upon a specific query being put to the IO, he had replied that no grounds of arrest were supplied by him in writing.

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 in '*Mihir Rajesh Shah (Supra)*' 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. The objection raised by the Ld. Addl. PP for the State that no grounds of arrest were required to be given, since the arrest was made at the time of raid conducted by the officials of PS Crime Branch and was following the recovery of the illegal contra-band, is also devoid of any merits. If that stand is to be believed, then in all cases wherein the raid is conducted by the

officials and during the raid, the recovery of contraband was allegedly made, then the official making the arrest would be given a free hand to not supply the reasons for affecting the arrest and the grounds of arrest which were based on his subjective satisfaction of requirement of the arrest.

21. The Ld. Addl. PP has further argued that in paragraph no. 58 of **Mihir Rajesh Bhai (Supra)**, the Hon'ble Supreme Court of India has observed as follows:

“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”.

22. It is submitted that considering the use of phrase ‘henceforth’, the requirement of supply of ground of arrest was subsequent to the date of decision of the said case which was

06.11.2025. That in the present case, the applicant/accused was arrested on 03.04.2024 so it was not necessary to supply ground of arrest to him.

23. In view of this Court, the argument of the Ld. Addl. PP is not justified as the Hon'ble High Court of Delhi in the case titled **Thokcham Shyamjai Singh v. Union of India v. Ors., 2025 SCC OnLine Del 980** has settled this issue. The relevant para no. 21 is reproduced as follows:

“In light of the above, it must be appreciated that the law in relation to arrests (in the context of the PMLA) declared by the Supreme Court in Pankaj Bansal case was held by them to specifically apply "henceforth", meaning thereby that the interpretation of the law in that case was to be applied prospectively. But in Prabir Purkayastha case the Supreme Court has made no such observation in relation to arrests under the UAPA and other criminal offences. As a result, the ratio of Pankaj Bansal case would apply to arrests under the UAPA and other criminal offences from the date of pronouncement of Pankaj Bansal case (i.e. 3-10-2023) and not from the date of Prabir Purkayastha case² (i.e. 15-5-2024)⁹”.

24. In the instant case, the accused had been arrested on 03.04.2024 and admittedly, no written grounds of arrest were ever supplied to the applicant/accused. Therefore, this Court has no doubt to hold that the mandate of Article 22 is not followed which amounts to violation of Article 21. The consequent arrest therefore, is rendered illegal and vitiated. The applicant/accused cannot remain in further custody.

25. As no grounds of arrest were ever communicated to the applicant/accused, therefore, the rigours of section 37 shall not apply to the present case, since, the applicant/accused was never granted the opportunity to mete out the stringent conditions leveled in the present case. For the reasons stated hereinabove, since the legality of the arrest of the accused is vitiated, this Court does not find any justification to discuss other grounds mentioned in the application for seeking bail.

26. After considering the rival contention of the parties, the facts & circumstances of the present case, and the fact that no grounds of arrest were communicated to the applicant/accused, rendering his arrest to be vitiated as being illegal, the Court is of the opinion that the applicant deserves to be released on bail. Hence, the applicant/accused Shahzeb Khan is admitted to

regular bail on following conditions :-

- (i) On furnishing of personal bond of **Rs. 1,00,000/- with two sureties** of the like amount, to the satisfaction of this Court.
- (ii) He shall deposit his passport, if not already deposited/impounded and he shall not leave the country without the permission of this Court.
- (iii) He shall duly join the investigation, as and when called upon by the IO, since the investigation is still pending and he shall not try to tamper the evidence or hamper the trial or try to influence the witnesses, in any manner.
- (iv) He shall furnish his present and permanent address with supporting documents along with an affidavit/undertaking to inform any change thereof without delay to the SHO concerned.
- (v) He shall mark his attendance in the office of PS Crime Branch, on the first Monday of each calendar month, till the trial is completed.
- (vi) He shall not commit any offence, whatsoever, during the period he remains on bail in the present case.
- (vii) He shall attend the trial without any single default.

(viii) He shall inform the place of residence along with valid proof and report any change made thereof within one week, to both the Court and the IO.

27. The application under Section 483 BNSS, 2023 moved on behalf of applicant/accused Shahzeb Khan for grant of regular bail is accordingly disposed of, as allowed.

28. Nothing expressed herein shall have any effect on the merits of the case.

29. Application is disposed of accordingly.

30. Copy of the present order be given dasti and same be also sent to concerned jail superintendent, to be supplied to the applicant/accused.

(Jitendra Pratap Singh)
ASJ NDPS Act
(Special Judge)/PHC
NDD/25.02.2026