

IA 1/25 in SC No. 320/25
FIR No. 126/25
PS Special Cell
State Vs. Rajkumar

31.01.2026

Present: Sh. A. B. Asthana, Ld. Addl. PP for the State.
applicant/accused.
Sh. Sanjog Singh Arneja, Ld. Counsel for
applicant/accused (through VC).

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/ND
31.01.2026

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

IA 1/25 in SC No. 320/25

FIR No. 126/25

PS Special Cell

State Vs. Rajkumar

31.01.2026

ORDER

1. Vide this order, I shall dispose of the bail application u/s. 483 BNSS, 2023 moved on behalf of accused/applicant Rajkumar 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 15.04.2025, after the alleged secret information was received by the officials of the PS Special Cell. The raid was conducted after the secret informer had informed the officials of PS Special Cell that co-accused Jasmer Singh was

IA 1/25 in SC No. 320/25
State Vs. Rajkumar

operating a drugs syndicate, in which he was smuggling charas and opium from Nepal to India and on 15.04.2025 at about 02.00 PM, he alongwith his associate would be coming to Burari area near Ring Road, Delhi in a white Volkswagen Jetta registered in Haryana and having the last four digits as 4440.

4. It is submitted by the Ld. Counsel for the applicant/accused that the applicant/accused is the victim of circumstances and he had no connection with the co-accused and the alleged smuggling of the contrabands. He was merely employed as a daily wage driver at the rate of Rs. 800/- per day and one of his contacts introduced him with co-accused Jasmer Singh and he was informed that the co-accused wanted to go on a pilgrimage to Nepal and he wished the applicant/accused would drive his car. He was not aware of any secret cavity being created in the said car and after driving the co-accused to Nepal, he was not staying with the co-accused and after handing over the keys, he was lodged in the driver's dormitory. What transpired in the meanwhile and how the contraband was concealed in the secret cavities were not within the knowledge of the applicant/accused and he had merely driven the said car back to Delhi while being enroute from Nepal to Karnal, that is the place from where co-accused Jasmer Singh had hired him.

5. It is submitted by the Ld. Counsel for the applicant/accused

that prior to 09.04.2025, that is the date of the introduction of the applicant/accused with co-accused Jasmer Singh, there is no CDR connectivity between the two of them. The said calls were exchanged with respect to the driving work being offered to the applicant/accused. There is no transcript of any of the said calls. There are no whatsapp messages or text messages to substantiate that the applicant/accused was complicit with the offences in question.

6. It is submitted by the Ld. Counsel for the applicant/accused that as per the case of the prosecution, when the raid was conducted, in the densely populated area during the peak hours on the Ring Road, however, for the reasons best known to the IO, no independent witnesses were made to join the investigation. There is no videography or photography of the alleged search and seizure.

7. It is submitted by the Ld. Counsel for the applicant/accused that it is the case of the prosecution that the applicant/accused was not conversant with English and for the said reason, he was specifically issued notice u/s 50 of the Act in Hindi. However, for reasons best known to the IO, the alleged grounds of arrest supplied to the applicant/accused were drafted in English and the same were never explained to the applicant/accused in his vernacular. There is no such mention on the said grounds of arrest. Furthermore,

whether any such grounds of arrest were ever supplied is further cast under a shadow of doubt, since the personal search memo duly reflects the original notice u/s 50 of the Act, however, there is no mention of the grounds of arrest being recovered from the personal search of the applicant/accused. The grounds of arrest, which are allegedly supplied to the applicant/accused is a fabricated document and that is why it is not shown in the personal search memo.

8. 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 is 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.

9. 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. In support of the submissions, the Ld. Counsel has relied upon the decisions of the Hon'ble High Court of Delhi in “**Saneesh Soman Vs. NCB**”, Neutral Citation: 2025: DHC: 5860 and “**Rajender Kumar Vs. NCB**”, Neutral Citation: 2021: DHC: 1710.

10. Per contra, it is submitted by the Ld. Substitute Addl. PP for the State that there are recoveries of commercial quantity of the contraband from the car in which the applicant/accused and co-accused Jasmer Singh were traveling. The cell location ID chart of the mobile phone of the applicant/accused clearly establishes that he had accompanied co-accused Jasmer Singh to Nepal. The role of the applicant/accused was duly mentioned in the disclosure statement of the co-accused. The FSL result is still awaited. The rigours of Section 37 of the Act are fully applicable. Therefore, the State is strongly opposing the present application.

11. A specific query was put to the IO as to whether there are any financial transactions or CDR connectivity/transcripts of the voice calls/incriminating messages exchanged between the applicant/accused and the co-accused persons namely Jasmer Singh, Sanjay Rawat and Kala. To the said query, the IO has replied

back in the negative. Furthermore, upon the query regarding the grounds of arrest, the IO has replied that the grounds of arrest were duly explained to the applicant/accused in Hindi, however, inadvertently no such mention of the explanation of the grounds in the vernacular were mentioned in the said grounds of arrest.

12. 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.

13. 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.

14. 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.

15. 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.

16. 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.

17. 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.

18. 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.

19. 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 her family at the time of her 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.

20. 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. No grounds of arrest were supplied to the family members of the applicant/accused. 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 her family members and relatives so that necessary arrangements are made to secure her 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.

21. 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.

22. 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.

23. In the facts of the present case, it is not disputed that the grounds of arrest were not supplied to the applicant/accused in the language he understood and as per the law laid down by the Hon'ble Supreme Court of India, instead of substantial compliance, there has to be strict compliance of the said provision, since it is not only the statutory right of the arrestee, however, the same is also the constitutional obligation being the Fundamental Right enshrined under Article 22 (1) of the Constitution of India. Once the applicant/accused has raised the doubt upon the compliance of the said provisions, since there is no mention in the personal search memo that the said grounds of arrest were recovered from the cursory search alongwith other articles. Furthermore, there is no mention in the said grounds of arrest that although being prepared in English, they were explained in the vernacular of the applicant/accused. The explanation offered by the IO that same was inadvertently missed, especially when the IO had taken due care of preparing the notice u/s 50 of the Act in Hindi and the specific mention for the reasons behind the said notice being prepared in Hindi, as mentioned in the chargesheet and contradistinct with the manner in which the grounds of arrest were not prepared in the vernacular or absence of any noting reflecting that the same were explained in Hindi, has put the said document

and the mandatory compliance under the shadow of doubt.

24. Since, no meaningful 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.

25. The recovery was made from a densely populated residential area and the non-joining of the public witnesses and there being no videography/photography as certainly raised serious doubts over the very fulcrum of the case. The matter of recovery is a matter of trial, however, since the applicant/accused has no past criminal antecedents and there is no justification in the charge sheet or status report regarding the efforts made to join the independent witnesses, and there is no justification for the absence of photography or videography. Therefore, the applicant/accused has been able to satisfy the test of section 37 of the Act. Reliance is placed upon the receiving of Hon'ble High Court of Delhi in '***Bantu Vs State of NCT of Delhi***', 2024 OnLine Del 4671.

26. Except for the disclosure statement of the applicant/accused and the disclosure of co-accused Jasmer Singh, there is no incriminating corroborating material to link the applicant/accused with the recoveries of the present case. The absence of any financial transactions or CDR connectivities/whatsapp communication with respect to the contraband and considering that the applicant/accused has no previous criminal history. Therefore, the decision of Hon'ble High Court of Delhi in ***Rajender Kumar (Supra)*** is fully applicable to the facts of the present case and merely because he was driving the vehicle, it can not be said that he was in conscious possession of the contraband.

27. Therefore, in the considered opinion of this court, the present applicant/accused has made out her case for grant of regular bail to her. **Hence, the applicant/accused Rajkumar is admitted to regular bail on following conditions :-**

(i) On furnishing of personal bond of **Rs. 50,000/- with two local sureties** of the like amount, to the satisfaction of this Court/Ld. Link Judge/Ld. Duty JMFC.

(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

IA 1/25 in SC No. 320/25
State Vs. Rajkumar

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 IO/SHO concerned.

(v) He shall mark his attendance in the PS concerned, on the first Monday of each calendar month, till the investigation is completed and 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.

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

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

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

31. Copy of this order be sent to Jail Superintendent, Tihar Jail for necessary intimation to the applicant/accused.
32. Application is disposed off accordingly.
33. 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/ Special Judge, NDPS/N. Delhi
Delhi/31.01.2026