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SC 155/2024
STATE Vs. NADEEM
FIR No-276/2024
PS-(Dayal Pur)

19.11.2025

Present: Sh. Ghanshyam, Ld. APP for State.
Sh. Rakesh Sherawat and Sh. Gaurav Kumar, Ld.
Counsels for the applicant/accused.
Sh. Darshan Singh, Ld. Counsel for the complainant.
IO ASI Ranvir Singh present in person.

This is the 3rd bail application U/s 483 of BNSS 2023, moved on behalf of applicant/accused **Nadeem** who was arrested on 04.04.2024 on allegations of committing offences U/s 307/304B/325/34/323/498A of IPC.

Ld. Counsel for the applicant/accused has submitted that similar application is neither pending nor has been recently dismissed by any higher court.

Reply filed. Copy supplied.

The only ground pleaded by Ld. Counsel for the applicant/accused for release of the applicant/accused is that written grounds of arrest were not supplied within the reasonable time. Therefore, the arrest was in violation of fundamental rights of the applicant/accused enshrined under Article 22(1) of the constitution.

In support of his argument, Ld. Counsel has placed reliance upon the law laid down by the Hon'ble Apex Court in case titled as ***"Mihir Rajesh Shah Vs. State of Maharashtra & Anr."***, ***Crl. App no-2189/2025***. The relevant observations relied upon are as under:-

53. "The above indicated lower limit of two hours minimum interval before the production is grounded in the functional

necessity so that the right as provided to an arrestee under the Constitution and the statute is safeguarded effectively. This period would ensure that the counsel has adequate time to scrutinize the basis of arrest and gather relevant material to defend the arrestee proficiently and capably while opposing the remand. Any shorter interval may render such preparation illusory, thereby resulting in non-compliance of the constitutional and statutory mandate. The two-hour threshold before production for remand thus strikes a judicious balance between safeguarding the arrestee's constitutional rights under [Article 22\(1\)](#) and preserving the operational continuity of criminal investigations.

54. In view of the above, we hold with regard to the second issue that non supply of grounds of arrest in writing to the arrestee prior to or immediately after arrest would not vitiate such arrest on the grounds of non-compliance with the provisions of [Section 50](#) of the CrPC 1973 (now [Section 47](#) of BNSS 2023) provided the said grounds are supplied in writing within a reasonable time and in any case two hours prior to the production of the arrestee before the magistrate for remand proceedings.

55. It goes without saying that if the abovesaid schedule for supplying the grounds of arrest in writing is not adhered to, the arrest will be rendered illegal entitling the release of the arrestee. On such release, an application for remand or custody, if required, will be moved along with the reasons and necessity for the same, after the supply of the grounds of arrest in writing setting forth the explanation for non-supply thereof within the above stipulated schedule. On receipt of such an application, the magistrate shall decide the same expeditiously and preferably within a week of submission thereof by adhering to the principles of natural justice.

56. In conclusion, it is held that:

- i) 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);*
- ii) The grounds of arrest must be communicated in writing to the arrestee in the language he/she understands;*

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iii) In case(s) where, the arresting officer/person is unable to communicate the grounds of arrest in writing on or soon after arrest, it be so done orally.

The said grounds be communicated in writing within a reasonable time and in any case at least two hours prior to production of the arrestee for remand proceedings before the magistrate.

iv) In case of non-compliance of the above, the arrest and subsequent remand would be rendered illegal and the person will be at liberty to be set free.”

On the other hand, Ld. Addl. PP has submitted that it is not that grounds of arrest were not conveyed to the applicant/accused. Same were conveyed to him orally and same were also mentioned in the memo of arrest in form of reasons for arrest. Ld. APP has also invited the attention of this court towards para no-58 of the judgment relied upon by the Ld. Counsel for applicant/accused. Ld. APP has submitted that operation of the judgment relied upon by the Ld. Counsel for applicant/accused is prospective in nature and not retrospective therefore the same is not applicable on the arrest which was made before the aforesaid judgment. Ld. APP has also pointed out that judgment of ***“Prabir Purkayastha (supra) and Vihaan Kumar (supra)”*** were also passed after the arrest in this case was made.

Submissions heard. Record has been perused.

The only ground pleaded by the applicant/accused for seeking release on this case is the law laid down by the Hon'ble Apex Court of India in ***“Mihir Rajesh Shah Vs. State of Maharashtra & Anr.”, Crl. App no-2189/2025***. Firstly, this court has to see that whether the operation of the aforesaid judgment is retrospective or not. In this regard, reference of para no-58 of the aforementioned judgment can be taken. The relevant observations are as under:-

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*“58. 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.**”*

In the aforementioned judgment, the Hon’ble Apex Court of India has clarified that operation of the aforesaid judgment is not retrospective in nature. Thus, the law laid down shall be applicable on the arrests made henceforth I.e subsequently to the judgment.

The application is accordingly dismissed.

Copy of this order be sent to the concerned DCP and Joint Commissioner to sensitize the police staff on the mandate of furnishing of grounds of arrest to all the arrestees in writing without fail.

Application stands disposed of.

Copy of this order be given dasti.

Ordered accordingly.

(Babru Bhan)

ASJ-04/North-East District
KKD/Delhi/19.11.2025