

**ORDER PASSED BELOW EXH. 31 APPLICATION OF ACCUSED
NARESH SAJANDAS ROHRA IN R.C.C. NO. 110/2025 (CRIME NO.
505/2024) REGISTERED AT LONAWALA CITY POLICE STATION.**

1. This is an application filed by accused namely Naresh Sajandas Rohra for his immediate release on the ground of illegal custody.
2. According to accused the Police has violated rights of accused provided under Article 22(1) of the Constitution of India and not communicated the grounds of arrest to the accused and his relatives as per Section 47(1) of the B.N.S.S. Further, he submitted that his arrest is illegal. Therefore, he prayed for release him on bail.
3. The Ld.A.P.P and I.O have submitted that, the accused is deliberately denied to sign on notice given under Section 47 and 48 of B.N.S.S. But grounds of arrest were communicated to accused in Hindi. Also the accused immediately contacted his Ld. Advocate. The accused never raised this contention at the time of first production before JMFC or at the time of filling bail applications before the Hon'ble Sessions Court and The Hon'ble High Court. Further they submitted that, I.O. has complied all mandatory requirements in respect of arrest. They prayed for rejection of application.
4. Heard learned Advocate for accused and I.O. and Ld. A.P.P for state and Ld advocate for original complainant. The Ld. advocate on behalf of accused argued as per contention made in application. I.O. and Ld. A.P.P. argued as per their say at length.

5. Perused the record. On going through the investigation papers, there is one general diary entry 005 dated 17.12.2024, which is to the extent that the involvement of the present accused was revealed during the investigation, and therefore, by informing his wife, he was arrested. His arrest panchanama in clause No.8 shows that the accused, after being informed of the grounds of arrest and his legal rights, was duly taken into custody. Now, the question is whether the entry taken in the general diary entry and the mention of the clause that the grounds of arrest are informed to him is sufficient compliance in view of Section 47 of B.N.S.S.

6. The Article 22(1) of the Constitution reads as under:
“22. Protection against arrest and detention in certain cases-

No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest nor shall he be denied the right to consult, and to be defended by, a legal practitioner of his choice.”

7. Thus clause (1) of Article 22 of the Constitution states that no person shall be detained in custody without being informed as to the grounds of such arrest.

8. Section 47 of the B.N.S.S. deals with persons arrested to be informed of grounds of arrest and of right to bail which reads as under:

“Section 47. Person arrested to be informed of grounds of arrest and of right to bail.-

Every police officer or other person arresting any person without warrant shall forthwith communicate to him full

particulars of the offence for which he is arrested or other grounds for such arrest.

Where a police officer arrests without warrant any person other than a person accused of a non-bailable offence, he shall inform the person arrested that he is entitled to be released on bail and that he may arrange for sureties on his behalf.

9. As submitted by learned Advocate that there is non-compliance of Section 47 as well as Article 22 of the Constitution and therefore, arrest of the applicant is invalid. Whereas the prosecution placed reliance in general diary entry and the arrest panchanama of the accused.

10. This aspect is dealt by the Hon'ble Apex Court in the case of *Prabir Purkayastha Vs State of (NCT of Delhi) reported in (2024) 8 SCC 254 and Vihan Kumar vs. State of Haryana and anr [2025 SCC OnLine SC 269]*. In the case of *Prabir Purkayastha* wherein the Hon'ble Apex Court held that the communication of the grounds of detention to the detenu in writing and in a language, which he understand is imperative and essential to provide an opportunity to detenu of making an effective representation against the detention and in case, such communication is not made, the order of detention would stand vitiated as guarantee under Article 22(5) of the Constitution was violated.

11. By referring the decision in the case of *Lallubhai Jogobhai Patel Vs Union of India and Ors., reported in (1981) 2 SCC 427*, the Hon'ble Apex Court observed that "Communicate" is a strong word. It means that sufficient knowledge of the basic facts constituting

‘the grounds’ should be imparted effectively and fully to the detinue in writing in a language which he understands. The whole purpose of communicating the “ground” to the detinue is to enable him to make a purposeful and effective representation. If the ‘grounds’ are only verbally explained to the detinue and nothing in writing is left with him in a language which he understands, then that purpose is not served and the constitutional mandate in Article 22(5) is infringed.

12. In the case of *Vihan Kumar* while considering Section 47 of the B.N.S.S. and Article 22(1) of the Constitution held that view taken in the case of *Pankaj Bansal* was reiterated by this Court in the case of *Prabir Purkayastha*. By referring various decisions it observed “compliance can be made by communicating sufficient knowledge of the basic facts constituting the grounds of arrest to the person arrested. The grounds should be effectively and fully communicated to the arrestee in the manner in which he will fully understand the same. Therefore, it follows that the grounds of arrest must be informed in a language which the arrestee understand. That is how, in the case of *Pankaj Bansal*, this Court held that the mode of conveying the grounds of arrest must necessarily be meaningful so as to serve the intended purpose. However, under Article 22(1), there is no requirement of communicating the grounds of arrest in writing. Article 22(1) also incorporates the right of every person arrested to consult an advocate of his choice and the right to be defended by an advocate. If the grounds of arrest are not communicated to the arrestee, as soon as may be, he will not be able to effectively exercise the right to consult an advocate. This

requirement incorporated in Article 22(1) also ensures that the grounds for arresting the person without a warrant exist. Once a person is arrested, his right to liberty under Article 21 is curtailed. When such an important fundamental right is curtailed, it is necessary that the person concerned must understand on what grounds he has been arrested. That is why the mode of conveying information of the grounds must be meaningful so as to serve the objects stated above.

13. In the *State of Karnataka Vs Sri Darshan Etc, in Criminal Appeal Nos. 3528-3534 of 2025 (Arising from SLP (Crl.) Nos. 516-522 of 2025) decided on 14/08/2025*, wherein also, this aspect was considered and it is held that the constitutional and statutory framework thus mandates that the arrested person must be informed of the grounds of arrest. But neither provision prescribes a specific form nor insists upon written communication in every case. Judicial precedents have clarified that substantial compliance with these requirements is sufficient, unless demonstrable prejudice is shown.

14. In the present case it shows that, arrest memos and general diary entry clearly reflect that the accused is aware of the reasons for his arrest. He was legally represented by Ld. advocate who was present at the time of first production of accused before the J.M.F.C. also the accused has filed bail applications before the Hon'ble Sessions Court and The Hon'ble High Court, evidencing an immediate and informed understanding of the accusations and which shows that he was aware about the grounds of arrest. No material has been placed on record to establish that any prejudice was caused due to the non-supply of the ground of arrest. In the

absence of demonstrable prejudice, such as irregularity is, at best, a curable defect and cannot, by itself, warrant release on bail. The offence levelled against the accused is very serious and shows prima facie case.

15. Admittedly, in the present case, the accused has not raised any ground as to the non-communication of grounds of arrest to him, either at the time of his first remand, or at the time of filing of the application for grant of bail. Subsequently, this ground has been raised for the first time in the present application. In view of the above discussions, the applicant has not demonstrated that any prejudice was caused to him. Moreover, immediately after arrest, he was produced before the Judicial Magistrate First Class, where he engaged Ld. advocate and was represented by him. Thereafter, he applied for the bail also. Thus, no prejudice was caused to him, and therefore, on that ground also, the application deserves to be rejected.

16. As already observed, insofar as the merits of the matter is concerned, there is sufficient material on record to demonstrate the accused's involvement in the alleged offence. The ground that the grounds of arrest were not communicated to him is also not sustainable, as the accused has failed to establish what prejudice was caused to him due to the non-supply of the grounds. In view of the above, the present application deserves to be rejected. Accordingly, I proceed to pass the following order :

ORDER

The application is rejected.

Place : Vadgaon Maval.

Date : 24.11.2025.

(S.A. Mali)

5th Jt. Judicial Magistrate First Class,
Vadgaon Maval