

**IN THE COURT OF DISTRICT JUDGE-1 & ADDITIONAL  
SESSIONS JUDGE, PANVEL-RAIGAD  
ORDER BELOW EXHIBIT 24 IN SPECIAL (MPID) CASE NO.141/2024  
(Dated 14/01/2025)**

**CNR NO.MHRG170016882024**

1] Applicant/accused No.1 Dinesh Tejraj Solanki is seeking bail in C.R.No.280/2023 registered with Karjat police station for the offence p/u/ sec.420, 409, 465, 467, 468, 471, 120(B), of Indian Penal Code, for the offence p/u/sec.81(5) Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999 and u/sec.3 and 4 of MPID Act.

2] According to prosecution, informant is one Sham Prabhakar Kapote, auditor of Co-Op Society, Karjat, Dist.Raigad. It is submitted that, the accused Nos.1 to 14 are Chairman, Vice Chairman, Director and Manager of Jagruti Nagri Sahkari Patsanstha Karjat. It is alleged that, from 01/04/2017 to 08/09/2023, Director and Manager of said financial institute committed misappropriation of amount of Rs.1,94,05,785/- and this was revealed in audit carried out for period of 01/04/2017 to 31/03/2020. Further it is submitted that, in said financial institute, one Chandan Thakur and other 4 from his family had invested in fixed deposit an amount of Rs.6,50,000/-. They had not availed any loan on this fixed deposits. In-spite of that, in cash book, by preparing forged documents loan was shown as availed on said fixed deposit amount. It is alleged that, fixed deposit amount is not yet refunded.

3] Applicant/accused No.1 submits that, there was non-compliance of section 50 of Cr. P. C. On this sole ground bail is sought.

4] Prosecution has filed say at Exh.27. In lengthy say reply is given about merits of the matter. The investigating officer has not replied anything about compliance of statutory provision of section 50 of Cr. P. C.

5] Heard Ld.Advocate Deepak Gaikwad for accused No.1. Heard Ld.APP Shri Bhopi. I had directed investigating officer to furnish an affidavit about compliance of section 50 of Cr. P. C. It is brought to my notice that, investigating officer Santosh Shripal Awate API of Khalapur police station on 23/10/2024 had filed an affidavit on record.

6] Before dealing with affidavit of IO, I would like to mention that, Ld.Advocate for the applicant had placed reliance on decision of Hon'ble Apex Court in case of **Pankaj Bansal Vs. Union of India and others.**

7] Hon'ble Apex Court in case of *Prabir Purkayastha Vs. State (NCT of Delhi)*, has laid down law regarding necessity to inform the grounds of arrest, relying on its earlier decision of Pankaj Bansal Vs. Union of India. I am reproducing paragraph No.25 to 28 of the decision of the Hon'ble Apex Court as under ;

“A Constitution Bench of this Court examined in detail the scheme of Article 22(5) of the

Constitution of India in the case of Harikisan v. State of Maharashtra and Others 4 and held that the communication of the grounds of detention to the detenu in 4 1962 SCC OnLine SC 117 writing and in a language which he understands 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 the guarantee under Article 22(5) of the Constitution was violated. The relevant para is extracted here-in-below

“clause (5) of Article 22 requires that the grounds of his detention should be made available to the detenu as soon as may be, and that the earliest opportunity of making a representation against the Order should also be afforded to him. In order that the detenu should have that opportunity, it is not sufficient that he has been physically delivered the means of knowledge with which to make his representation. In order that the detenu should be in a position effectively to make his representation against the Order, he should have knowledge of the grounds of detention, which are in the nature of the charge against him setting out the kinds of prejudicial acts which the authorities attribute to him. Communication, in this context, must, therefore, mean imparting to the detenu sufficient knowledge of all the grounds on which the Order of Detention is based. In this case the grounds are several, and are based on numerous speeches said to have been made by the appellant himself on different occasions and different dates. Naturally, therefore, any oral translation or explanation given by the police officer serving those on the detenu would not amount to communication, in this context, must mean bringing home to the detenu effective knowledge of the facts and circumstances on which the Order of Detention is based. (emphasis supplied)

26. Further, this Court in the case of Lallubhai Jogibhai Patel v. Union of India and Ors.<sup>5</sup>, laid down that the grounds of 5 (1981) 2 SCC 427 detention must be communicated to the detenu in writing in a language which he understands and if the grounds are only verbally explained, the constitutional mandate of Article 22(5) is infringed. The relevant para is extracted hereunder: -

“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 detenu in writing in a language which he understands. The whole purpose of communicating the “ground” to the detenu is to enable him to make a purposeful and effective representation. If the “grounds” are only verbally explained to the detenu 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.....” (emphasis supplied)

27. From a holistic reading of various judgments pertaining to the law of preventive detention including the Constitution Bench decision of this Court in Harikisan (supra), wherein, the provisions of Article 22(5) of the Constitution of India have been interpreted, we find that it has been the consistent view of this Court that the grounds on which the liberty of a citizen is curtailed, must be communicated in writing so as to enable him to seek remedial measures against the deprivation of liberty.

28. Thus, there is no hesitation in the mind of this Court that the submission of learned ASG that in a case of preventive detention, the grounds of detention need not be provided to a detenu in writing is ex facie untenable in eyes of law.

8] Further Hon'ble Parent High Court in a recent decision in Writ Petition No.4487/2024, in the case of Amit Giridhar Lalge Vs. State of Maharashtra decided on 28/11/2024 had dealt with similar issue and as there were no grounds of arrest communicated, declared arrest of petitioner therein as illegal and remand orders were declared as null and void. The petitioners therein were entitle to be released from custody on furnishing bail bonds.

9] Further I would like to mention following decisions in which non-compliance of informing reasons for arrest and grounds for arrest, was dealt by Hon'ble Parent High Court. These are as under ;

1. **Sachin Mahapati Nimbalkar Vs. State of Maharashtra Through Karad City police station Writ Petition (stamp) No.17029/2024** In this decision, the information of arrest was given to the wife of the accused on the cell phone. Hon'ble Parent High Court in the writ petition laid down that arrest was illegal and was gross violation of fundamental rights of the petitioner/accused.
2. **Mahesh Pandurang Naik Vs. State of Maharashtra Writ Petition (ST) No.13836/2024** In this decision, again Hon'ble Parent High Court laid down that, arrest of the petitioner was illegal and gross violation of his fundamental rights as intimation of arrest was given to the mother of the accused.
3. **Vishalkumar Bholu Ravani Vs. State of Maharashtra Writ Petition (ST) No.20594/2024** In this decision also arrest was declared as illegal and gross violation of fundamental rights as there was non compliance of section 50 of Cr. P. C. and Article

22 (1) of The Constitution of India.

10] In light of the above law laid down by Hon'ble Apex Court and Hon'ble Parent High Court, if facts regarding arrest of applicant/accused No.1 and informing him about grounds of arrest are considered then IO Santosh Awate API on affidavit states that, grounds of arrest were orally informed. This is gross violation of statutory provisions on part of investigating officer, while arresting present applicant/accused No.1.

11] When investigating officer has committed gross violation of the statutory provisions of arrest, law laid down by the Hon'ble Apex Court and Hon'ble Parent High Court, is binding and there is no alternative before me then to enlarge accused No.1 on bail bonds. The violation committed by investigating officer needs to be inquired, so as to victim will get justice. With these observations, I pass following order.

**ORDER**

1. Application Exh.24 is allowed.
2. Applicant/accused No.1 Dinesh Tejraj Solanki in C.R.No.280/2023 registered with Karjat police station for offence p/u/ sec.420, 409, 465, 467, 468, 471, 120(B), of Indian Penal Code, for offence p/u/sec.81(5) Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999 and u/sec.3 and 4 of MPID Act, be released on SB and PB of Rs.30,000/-.

3. Applicant/accused Dinesh Tejraj Solanki shall furnish his permanent address proof, alongwith names of his three blood relatives and their addresses.
4. Applicant/accused Dinesh Tejraj Solanki shall attend concerned police station as and when called.
5. Applicant/accused Dinesh Tejraj Solanki shall not directly or indirectly induce or threat the prosecution witnesses, victims of the crime, informant or any other person related with the crime.
6. Bail before this Court.
7. Inform concerned police station and jail authority by E-mail.

Panvel  
Date :-14/01/2025.

( Jairaj D.Wadne )  
Special MPID Judge,  
Panvel-Raigad

I affirm that the contents of this P.D.F. file order are same, word to word, as per the original order.

Name of the stenographer : S.J.Sheth  
Name of the Court : Additional Sessions Judge,  
Panvel Raigad  
Date of dictation (direct) : 14/01/2025  
Order signed by the P.O.on : 14/01/2025  
Order uploaded on : 15/01/2025