

*** THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI**

*** THE HONOURABLE SRI JUSTICE BALAJI MEDAMALLI**

WRIT PETITION NO: 9972/2026

% 23.04.2026

Bolla Kiran

.....petitioner

And:

\$ The State of Andhra Pradesh & 5 others

.... respondents

!Counsel for the petitioner : Sri Kuntamukkala Sai Sree Sanjay

^Counsel for the respondents : Sri J. Krishna Praneeth,
learned Assistant Government Pleader

<Gist:

>Head Note:

? Cases referred:

1. (2026) 1 SCC 500
2. (2025) 5 SCC 799
3. 2024 SCC OnLine AP 5532
4. 2025 SCC OnLine AP 1989
5. 2025 SCC OnLine SC 1228
6. (2024) 8 SCC 254

HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

* * * *

WRIT PETITION NO: 9972/2026**Between:**

Bolla Kiran

..... PETITIONER

AND

The State of Andhra Pradesh & 5 others

....RESPONDENTS

DATE OF JUDGMENT RESERVED : 16.04.2026**DATE OF JUDGMENT PRONOUNCED : 23.04.2026****DATE OF JUDGMENT UPLOADED : 23.04.2026****SUBMITTED FOR APPROVAL:****THE HON'BLE SRI JUSTICE RAVI NATH TILHARI****&****THE HONOURABLE SRI JUSTICE BALAJI MEDAMALLI**

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|---|--------|
| 1. Whether Reporters of Local newspapers may be allowed to see the Judgments? | Yes/No |
| 2. Whether the copies of judgment may be marked to Law Reporters/Journals | Yes/No |
| 3. Whether Your Lordships wish to see the fair copy of the Judgment? | Yes/No |

RAVI NATH TILHARI,J

BALAJI MEDAMALLI,J

THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI
THE HONOURABLE SRI JUSTICE BALAJI MEDAMALLI
WRIT PETITION NO: 9972/2026

ORDER:- *(per Hon'ble Sri Justice Ravi Nath Tilhari)*

Heard Sri Kuntamukkala Sai Sree Sanjay, learned counsel for the petitioner and Sri J. Krishna Praneeth, learned Assistant Government Pleader attached to the office of the learned Advocate General appearing for the respondents.

2. This Writ Petition under Article 226 of Constitution of India has been filed by the petitioner for a writ of Habeas Corpus declaring the arrest of one Tanigadapa Prasad S/o. Tanigadapa Subba Rao and the other, Tungala Rukhmini w/o. Tungala Yesupadam, (in short the detenues) (A1 & A2 respectively) as also the order of their remand dated 09.04.2026 passed in Criminal No.95 of 2026 of Mylavaram Police Station passed by II Additional Judicial First Class Magistrate, Nuzvidu – FAC – Judicial First Class Magistrate, Mylavaram (in short 'the Magistrate') as illegal; to set aside the same, and consequently to set free the above named detenues.

3. The two detenues were arrested by the police of Mylavaram Police Station and were produced before the Magistrate. The order of remand was passed on 09.04.2026, remanding them to Judicial custody till 23.04.2026 for the offences punishable under Sections 308(5), 127(1) r/w. Section 3(5) of the Bharatiya Nagarik Suraksha Sanhita, 2023 (in short 'BNSS'), punishable with an imprisonment upto 10 years and fine.

4. Challenging the order of remand and the detention as illegal and seeking their release, the ground raised is that the detenues were not communicated the grounds of their arrest.

5. Learned counsel for the petitioner confined only to the ground that, no ground of arrest was communicated in writing and on the basis of vague notices under Section 47 & 48 of Bharatiya Nagarik Suraksha Sanhita, 2023 (in short 'BNSS') the remand was ordered, which were only arrest intimation (annexure P6 & P7). Those notices did not contain the ground of arrest. Those notices were only the intimation of the arrest of the detenues giving the date, time, crime number and Sections under which they were arrested and their entitlement to apply for bail while producing them for the purpose of remand before the Magistrate. So, there was no communication of the ground of arrest to the detenues.

6. Learned counsel for the petitioner placed reliance in ***Mihir Rajesh Shah v. State of Maharashtra***¹ to contend that the grounds of arrest must be communicated in writing to the arrestee in the language he or she understands within a reasonable time and in any case atleast two hours prior to the production of the arrestee for remand proceedings before the Magistrate, and in case of non compliance the arrest and the remand order would be rendered illegal. The person/arrestee would be entitled for his/her liberty to be set free.

¹ (2026) 1 SCC 500

7. Learned counsel for the petitioner further placed reliance in the case of ***Vihaan Kumar v. State of Haryana***² for the same proposition that is that the requirement of informing the arrestee of the grounds of arrest is a mandatory requirement under Article 22(1) of the Constitution of India and its non compliance will be violation of the fundamental right of the accused guaranteed by the Articles 22(1) and 21 of the Constitution of India.

8. Learned Assistant Government Pleader submitted that there is no dispute on the legal proposition, well settled in the cases of ***Mihir Rajesh Shah*** (supra) and ***Vihaan Kumar*** (supra) but he submitted that in the present case there is no non-compliance with the requirement of the communication or informing of the grounds of arrest to the arrestee/ detenues. He submitted that the copy of the remand report was served on the detenues. The remand report contained the grounds of arrest. So, there was communication of the grounds of arrest and there is no violation of the mandatory provisions of Article 22(1) or/and the fundamental right to personal liberty under Article 21 of the Constitution of India.

9. Learned Assistant Government Pleader placed reliance in ***Pappula Chalama Reddy v. State of Andhra Pradesh***³ and ***Kesireddy Upender Reddy v. State of Andhra Pradesh***⁴ to contend that the remand report served on the detainee, prior to the hearing of the remand application, fulfils the requirement of communication of the grounds of arrest; as also for the

² (2025) 5 SCC 799

³ 2024 SCC OnLine AP 5532

⁴ 2025 SCC OnLine AP 1989

proposition that the heading 'grounds of arrest' may not be necessary as long as the necessary details are set out in the remand report. So the remand order is valid and in accordance with law and therefore the detention pursuant to the remand order is not illegal detention and the writ petition for Habeas Corpus deserves to be dismissed.

10. In response the learned counsel for the petitioner submitted that mentioning of the grounds of arrest in the remand report is not compliance with the requirement of informing the arrestee of the grounds of arrest, and in support of his contention, he again placed reliance in ***Vihaan Kumar*** (supra).

11. Learned counsel for the petitioner however did not dispute that the remand report was served to the detenues and that it was so served prior to the proceedings of remand. He did not dispute that the remand report contained the grounds of arrest.

12. Learned counsel for the petitioner tried to submit that the remand report was in English language whereas the communication of the grounds of arrest should be in the language the arrestee understands.

13. We have considered the aforesaid submissions and perused the material on record.

14. In view of the submissions advanced, the point for our consideration and determination is as follows:

“Whether the order of remand passed by the learned Judicial First Class Magistrate, Mylavaram in Cr.No.95 of 2026 dated 09.04.2026 is illegal on

the ground that ‘the grounds of arrest were not communicated or informed to the arrestee/detenues’, and so the detention of detenues is illegal entitling them to be set free?”

15. The law on the point of the compliance with the requirement under Article 22(1) of the Constitution of India i.e., communication of the ground of arrest to the arrestee is well settled. That is a mandatory constitutional safeguard which also aims to protecting the fundamental right under Article 21 of the Constitution of India of the personal liberty of an individual. Article 22(1) is itself a fundamental right. The communication of the grounds of arrest should be made at the time of arrest or as soon as after arrest, in writing. It may be informed orally at the time of arrest but written communication should be made within a reasonable time of arrest and in any case atleast two hours prior to the production of the arrestee for remand before the Magistrate. The Communication must be in writing and be in the language the arrestee understands.

16. In ***Vihaan Kumar*** (supra) the Hon’ble Apex Court in paragraph 26 held as under:

“Conclusions

26. Therefore, we conclude:

26.1. The requirement of informing a person arrested of grounds of arrest is a mandatory requirement of Article 22(1);

26.2. The information of the grounds of arrest must be provided to the arrested person in such a manner that sufficient knowledge of the basic facts constituting the grounds is imparted and communicated to the arrested person effectively in the

language which he understands. The mode and method of communication must be such that the object of the constitutional safeguard is achieved;

26.3. When arrested accused alleges non-compliance with the requirements of Article 22(1), the burden will always be on the investigating officer/agency to prove compliance with the requirements of Article 22(1);

26.4. Non-compliance with Article 22(1) will be a violation of the fundamental rights of the accused guaranteed by the said Article. Moreover, it will amount to a violation of the right to personal liberty guaranteed by Article 21 of the Constitution. Therefore, non-compliance with the requirements of Article 22(1) vitiates the arrest of the accused. Hence, further orders passed by a criminal court of remand are also vitiated. Needless to add that it will not vitiate the investigation, charge-sheet and trial. But, at the same time, filing of charge-sheet will not validate a breach of constitutional mandate under Article 22(1);

26.5. When an arrested person is produced before a Judicial Magistrate for remand, it is the duty of the Magistrate to ascertain whether compliance with Article 22(1) and other mandatory safeguards has been made; and

26.6. When a violation of Article 22(1) is established, it is the duty of the court to forthwith order the release of the accused. That will be a ground to grant bail even if statutory restrictions on the grant of bail exist. The statutory restrictions do not affect the power of the court to grant bail when the violation of Articles 21 and 22 of the Constitution is established.”

17. In ***Mihir Rajesh Shah*** (supra), the Hon’ble Apex Court held in ‘conclusions’ in paragraph Nos.66 & 67 as under:

“**66.** In conclusion, it is held that:

66.1. 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);

66.2. The grounds of arrest must be communicated in writing to the arrestee in the language he/she understands;

66.3. 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.

66.4. 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.

67. After having come to the above conclusion, it is pertinent to note that the provision of law under Section 50CrPC (Section 47 of BNSS 2023) does not provide for a specific mode of or time-frame for communication of the grounds of arrest to the person arrested. This Court in *Prabir Purkayastha* [*Prabir Purkayastha v. State (NCT of Delhi)*, (2024) 8 SCC 254 : (2024) 3 SCC (Cri) 573], held that the grounds of arrest be conveyed to the arrestee in writing in all offences at the earliest, which means it need not be given at the time of arrest but within a reasonable time thereafter, for offences under all the statutes, which period would be as has been laid down above in this order."

18. In this case there is no dispute that the copy of the remand report was served to the arrestee/detenues before the proceedings for remand.

19. The submission advanced by the learned counsel for the petitioner is that, mention of the grounds of arrest in the remand report is no compliance.

20. The controversy is confined to, if the grounds in the remand report is due compliance of the communication of grounds of arrest to the arrestee or not.

21. Learned counsel for the petitioner placed reliance in ***Vihaan Kumar*** (supra) in paragraph No.25 to contend that mention in the remand report of the ground of arrest is no compliance, which is reproduced as under:

25. A contention has been raised in the written argument that the grounds of arrest were incorporated in the remand report. This contention has been raised for the first time in written submissions before this Court. This is not pleaded in the reply filed before the High Court and this Court. The police submit a remand report before the learned Magistrate for seeking remand without serving a copy

thereof to the arrestee. The reason is that the police cannot divulge the details of the investigation to the accused till the final report is filed. Mentioning the grounds of arrest in the remand report is no compliance with the requirement of informing the arrestee of the grounds of arrest.

22. In ***Vihaan Kumar*** (supra) the police submitted the remand report before the learned Magistrate seeking remand without serving a copy thereof to the arrestee. The remand report contained the grounds for arrest. The contention was raised in the written arguments in ***Vihaan Kumar*** (supra) that the grounds of arrest were incorporated in the remand report. The Hon'ble Apex Court held that "Mentioning of the grounds of arrest in the remand report is no compliance with the requirement of informing the arrestee of the grounds of arrest". In our view, ***Vihaan Kumar*** (supra) is of no help to the petitioner. The reason is that, the remand report was served in the present case. Mere mentioning of the grounds of arrest in the remand report, without serving it to the arrestee before the remand proceedings, would not be a compliance with the mandatory requirement of communication of the grounds of arrest, as the requirement is 'communication of the grounds of arrest' and not mere mentioning in the remand report. So, where the grounds of arrest have been mentioned in the remand report but not served to the arrestees, there would be no communication of those grounds. Mere mentioning of the grounds of arrest in the remand report by itself would not be the compliance of the mandatory requirement unless there is communication that is service of the remand report on the arrestee.

23. In ***Kesireddy Upender Reddy*** (supra) a Co-ordinate Bench of this Court recorded that the ground for arrest could be made out on a conjoint reading of the notices under Section 47, under Section 48 of BNSS and the remand report, which were all served on the detainee prior to the hearing of his remand application. It was held that the requirement of Article 22(1) of the Constitution of India as well as the provisions of BNSS had been complied. The judgment in ***Vihaan Kumar*** (supra) was considered and it was observed that in ***Vihaan Kumar*** (supra) the remand report was not served so there was no communication of grounds of arrest to the arrestee.

24. ***Kesireddy Upender Reddy*** (supra) was taken to the Hon'ble Apex Court. In ***Kasireddy Upender Reddy v. State of Andhra Pradesh***⁵ the Hon'ble Apex Court considered ***Vihaan Kumar*** (supra) and held that in ***Vihaan Kumar*** (supra) there was an absolute failure on the part of the police to provide the grounds of arrest. In the case of ***Kesireddy Upender Reddy*** (supra-4) the grounds of arrest were supplied to the arrestees. Paragraph No.19 in ***Kasireddy Upender Reddy*** (supra-5) is being reproduced as under:

“19. We must clarify one important aspect of *Vihaan Kumar* (supra). In *Vihaan Kumar* (supra) the case was that there was an absolute failure on the part of the police to provide the grounds of arrest. In *Vihaan Kumar* (supra) reliance was placed upon the entry in the case diary which recorded that the appellant therein was arrested after informing him of the grounds of arrest. In the case at hand, it is not in dispute that the grounds of arrest were supplied to the arrestee, however, the case put up is that those grounds are not meaningful and are bereft of necessary essential information.”

⁵ 2025 SCC OnLine SC 1228

25. In ***Pappula Chalama Reddy*** (supra) a Co-ordinate Bench of this Court considered the judgment of the Hon'ble Apex Court in ***Prabir Purkayastha v. State (NCT of Delhi)***⁶ and held that the requirement, set out in the judgment of ***Prabir Purkayastha*** (supra) regarding grounds of arrest is that the arrested person should be informed of the case against him, to enable him to prepare his defence and also for seeking bail or to oppose custodial remand. It was held that a formal heading of grounds of defence may not be necessary as long as the necessary details are set out. In ***Pappula Chalama Reddy*** (supra) the remand report set out the case against the detainee, including the comments said to have been posted by him on the social media, and the subsequent actions. It was held by the Co-ordinate Bench of this Court that the remand report contained the grounds of arrest and was served on the arrestee. So, that was the compliance with the requirement of communication of grounds of arrest. Paragraph No. 71 of ***Pappula Chalama Reddy*** (supra) reads as under:

“71. The requirement, set out in the above judgment of the Hon'ble Supreme Court, regarding “Grounds of Arrest” is that the arrested person should be informed of the case against him, to enable him to prepare his defence and also for seeking bail or to oppose custodial remand. A formal heading of “Grounds of Defence” may not be necessary as long as the necessary details are set out. In the present case, the remand report sets out the case against the detainee, including the comments said to have been posted by him on the social media, and the subsequent actions.”

26. Learned counsel for the petitioner also placed reliance in ***Prabir Purkayastha*** (supra) but in the said case the arrestee therein was not provided

⁶ (2024) 8 SCC 254

the copy of the remand application as is evident from paragraph No. 49 which is being reproduced as under:

“49. From the detailed analysis made above, there is no hesitation in the mind of the court to reach to a conclusion that the copy of the remand application in the purported exercise of communication of the grounds of arrest in writing was not provided to the appellant-accused or his counsel before passing of the order of remand dated 4-10-2023 which vitiates the arrest and subsequent remand of the appellant.”

27. In the present case there is no dispute that the remand report containing the grounds of arrest was served on the arrestees. Though the remand report does not contain ‘Heading of Ground of Arrest’ but on perusal of the same (annexure P8) that the necessary details have been set out with respect to both the detenues. It is also the submission of the learned counsel for the petitioner that the remand report does not contain the grounds of arrest.

28. We are therefore of the view that the service of the remand report to the arrestees, containing the grounds of arrest is communication of the grounds of arrest to the arrestees even if the notices under Sections 47 & 48 of BNSS did not contain the grounds of arrest.

29. The contention of the learned counsel for the petitioner was that the remand report is in English language. Any pleading that the remand report is not in the language which the arrestees understand, has not been raised in the writ petition. Any such pleading or any such ground taken in the writ petition has not been shown to us. Consequently, in the absence of any factual foundation it cannot be presumed that the communication of the grounds of

arrest vide the remand report is not in the language which the arrestees do not understand.

30. In conclusion, we hold that; there is no violation of Article 22(1) of the Constitution of India. There is no violation of the fundamental right of the arrestees under Article 21 of Constitution of India. The challenge to the remand Order on the aforesaid limited ground is not made out. The detention of the detenues is not an illegal detention.

31. The Writ Petition lacks merits and is dismissed.

No order as to costs.

As a sequel thereto, miscellaneous petitions, if any pending, shall also stand closed.

RAVI NATH TILHARI,J

BALAJI MEDAMALLI,J

Dated: 23.04.2026
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THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI
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