

23.07.2026
Item No.7
Court No.9
CHC
(Rejected)

Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Side

C.R.M. (NDPS) 394 of 2026

In Re:- An application for bail under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, corresponding to Section 439 of the Code of Criminal Procedure, 1973, in connection with C.R. (N.D.P.S) Case No.60 of 2025 arising out of Pradhan Nagar Police Station Case No. 316 of 2025 dated 07.05.2025 under Sections 20(b)(ii)(c)/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985.

And

In the matter of : **Rabin Kayal**

..... petitioner

Mr. Aditi Shankar Chakraborty, Advocate
Mr. Rajib Acharyya, Advocate
Ms. Jena Chowdhury, Advocate
...for the petitioner

Mr. Bijay Bikram Das, Advocate
Mr. Shyamal Barman, Advocate
...for the Sate

1. Prayer for bail of the petitioner is taken up for consideration.
2. It is submitted by the learned advocate for the petitioner that the petitioner was apprehended with huge quantity of Ganja. The petitioner was the driver as well as the owner of the vehicle from whose possession contraband was seized. Learned advocate for the petitioner also submits that the ground of arrest was not informed to the petitioner at the time of arrest which makes the arrest illegal. In support of his contention, learned advocate for the petitioner relies upon **2025 INSC 162 (Vihaan**

Kumar vs. State of Haryana & Anr.). On the aforesaid ground, learned advocate for the petitioner prays for an order releasing the petitioner on bail.

3. On the other hand, learned advocate for the State submits that huge quantity of contraband articles were recovered from the possession of the petitioner. He refers to the materials in the Case Diary, including the seizure list and the memo of arrest. Learned advocate for the State submits that ground of arrest was duly communicated to the petitioner as evident from the memo of arrest.
4. Having heard the learned advocate for the parties and on perusal of the materials in the Case Diary it transpires that 197.685 Kgs Ganja was recovered from the vehicle belonging to the petitioner. The petitioner was himself travelling the vehicle at the relevant point of time. Investigation of the case has concluded and trial of the case has already started. It is presently fixed for cross-examination of P.W.1.
5. In **Vihaan Kumar** (supra), the Hon'ble Supreme Court observed as follows:

“14. Thus, 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 of Fundamental Rights. Thus, it is the 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 of arrest are not informed as soon as may be after the arrest, it would amount to a violation of the fundamental right of the arrestee guaranteed under Article 22(1). It will also amount to depriving the arrestee of his liberty. The reason is that, as provided in Article 21, no person can be deprived of his liberty except in accordance with the procedure established by law. The procedure established by law also includes what is provided in Article 22(1). Therefore, when a person is arrested without a warrant, and the grounds of arrest are not informed to him, as soon as may be, after the arrest, it will amount to a violation of his fundamental right guaranteed under Article 21 as well. In a given case, if the mandate of Article 22 is not followed while arresting a person or after arresting a person, it will also violate fundamental right to liberty guaranteed under Article 21, and the arrest will be rendered illegal. On the failure to comply with the requirement of informing grounds of arrest as soon as may be after the arrest, the arrest is vitiated. Once the arrest is held to be vitiated, the person arrested cannot remain in custody even for a second.

26. *The stand taken before the High Court was that the appellant's wife was informed about the arrest. Information about the arrest is completely different from the grounds of arrest. The grounds of arrest are different from the arrest memo. The arrest memo incorporates the name of the arrested person, his permanent*

address, present address, particulars of FIR and Section applied, place of arrest, date and time of arrest, the name of the officer arresting the accused and name, address and phone number of the person to whom information about arrest has been given. We have perused the arrest memo in the present case. The same contains only the information stated above and not the grounds of arrest. The information about the arrest is completely different from information about the grounds of arrest. Mere information of arrest will not amount to furnishing grounds of arrest.

28. *Therefore, in the facts of the case, we have no hesitation in holding that the arrest of the appellant was rendered illegal on account of failure to communicate the grounds of arrest to the appellant as mandated by Article 22(1) of the Constitution.”*

6. From the materials in the Case Diary, most specifically the arrest memo in respect of the present petitioner, it transpires that the ground of arrest was duly communicated to the petitioner. Petitioner put his signature on such memo of arrest as well as in writing which contains that communication of ground of arrest to the relative, friends and other.
7. Learned advocate for the State also refers to the statement of the petitioner recorded before the police.
8. In any case, huge quantity of narcotic contraband was recovered from the possession of the petitioner. Moreover, trial of the case has already commenced.

9. In such circumstances, I am not in a position to return a finding that the petitioner has been able to overcome the restrictions under Section 37 of the NDPS Act, 1988.
10. Consequently, prayer for bail of the petitioner is rejected.
11. CRM(NDPS) 394 of 2026 is **dismissed**.

(Md. Shabbar Rashidi, J.)