



2026:DHC:4854



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IN THE HIGH COURT OF DELHI AT NEW DELHI**Date of pronouncement: 29.05.2026****+ BAIL APPLN. 4028/2025, CRL.M.A. 34186/2025 &CRL.M.A. 36707/2025****AMIT KUMAR MASURIYA****.....Petitioner****Through: Mr. Vikram Hegde with Mr. Abhinav Hansaraman, Mr. Trishan D., Mr. Amit Dwivedi, Advocates.****versus****STATE OF NCT OF DELHI THROUGH SPECIAL CELL****.....Respondent****Through: Mr. Akhand Pratap Singh, SPP with Ms. Samridhi Dobhal, Ms. Krishna Mohan Maurya, Ms. Lisa Pegwal, Mr. Apoorv Paliya, Mr. Utkarsh Singh, Advocates.
SI Vipin Malik, P.S.: Special Cell.****HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI****J U D G M E N T****ANUP JAIRAM BHAMBHANI J.**

By way of the present petition filed under section 37 of the Narcotic Drugs and Psychotropic Substances Act, 1985 ('NDPS Act') and section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ('BNSS'), the petitioner seeks regular bail in case FIR No. 455/2024 dated 02.10.2024 registered under sections 8/20/21/25/29 of the NDPS Act at P.S.: Special Cell, Delhi. Consequent upon completion of investigation, allegations of offences under sections 22/27A of the NDPS Act and sections 238B/209 of the Bharatiya Nyaya Sanhita,



2023 ('BNS') have been added *vide* chargesheet dated 10.06.2025 filed in the matter.

2. Notice on this petition was issued *vide* order dated 17.10.2025.
3. Status Report dated 04.11.2025 has been filed on behalf of the State.
4. Nominal Roll dated 16.04.2026 in respect of the petitioner has been received from the concerned Jail Superintendent.
5. This court has heard Mr. Vikram Hegde, learned counsel appearing for the petitioner; as well as Mr. Akhand Pratap Singh, learned Special Public Prosecutor for the State, at length.

SUBMISSIONS ON BEHALF OF THE PETITIONER

6. Learned counsel for the petitioner has submitted, that the petitioner has been arraigned in the present case pursuant to the statement of one Mrs. Abhilasha Gupta, Head of Operations of one M/s Pharma Solution Services Pvt. Ltd. ('Pharma Solution Services') recorded on 04.10.2024 under section 180 BNSS.
7. It has been submitted that pursuant to the aforesaid statement, the premises of M/s Aavkar Drugs Pvt. Ltd. ('Aavkar Drugs') at Ankleshwar, Gujarat were raided by the Special Cell on 13.10.2024 and 518.18 kg of a white crystal powder was recovered; and three directors of Aavkar Drugs, namely Vijay Bhesaniya, Ashwani Ramani and Brijesh Kothia, alongwith one employee of Pharma Solution Services, Mayur Desale, and the present petitioner were arrested from the spot.
8. Mr. Hegde has submitted, that the principal allegation against the petitioner is, that working as a consultant, middleman and marketing agent under the name of Masuriya Pharma Solution, the petitioner had



a long-standing relationship with Aavkar Drugs and had facilitated the execution of a Job Work Agreement dated 08.08.2024 between Aavkar Drugs and Pharma Solution Services for manufacture of ‘*Phenylephrine Hydrochloride Intermediate*’, a legal pharmaceutical substance.

9. It is the petitioner’s case that he was never supplied with the ‘grounds of arrest’ in writing, either at the time of his arrest or at any time thereafter. Learned counsel points-out, that even the Arrest Memo dated 13.10.2024 *qua* the petitioner is devoid of any grounds of arrest. It is submitted that the arrest memo merely reflects a mechanical narration of alleged ‘reasons for arrest’, which falls foul of the constitutional requirement of serving grounds of arrest as enunciated by the Supreme Court in *Pankaj Bansal vs. Union of India & Ors.*,¹ *Prabir Purkayastha vs. State (NCT of Delhi)*,² *Mihir Rajesh Shah vs. State of Maharashtra & Anr.*³ and *Dr. Rajinder Rajan vs. Union of India & Anr.*⁴
10. Mr. Hegde has argued that the requirement of informing an arrestee of the grounds of his arrest is a substantive, sacrosanct safeguard of personal liberty under Article 22(1) of the Constitution, and the law mandates that such grounds of arrest, specific to the arrestee, must be communicated in writing in a language understood by the arrestee, at the time of arrest. It is submitted that even in exceptional cases, where immediate service of written grounds of arrest is impracticable,

¹ (2024) 7 SCC 576

² (2024) 8 SCC 254

³ (2026) 1 SCC 500

⁴ Order dated 01.04.2026 in SLP (Crl.) Nos.3326/2026 and 3327/2026



grounds of arrest are required to be served within a reasonable time and “*in no event later than two hours prior*”⁵ to production of the arrestee before the Magistrate.

11. Adverting to the facts of the present case and the steps taken after the petitioner’s arrest, it has been submitted that the transit remand application dated 14.10.2024, by which the petitioner, along with other co-accused persons, was produced before the learned ACJM, Ankleshwar, District Bharuch, Gujarat, contains no averment regarding the specific role alleged against the petitioner; and, in any event, there is nothing to show that the contents of that application were ever made known to petitioner *prior* to his production before the learned Magistrate seeking transit remand. Likewise, it has been submitted that even when the petitioner was produced before the learned Special Judge (NDPS), Patiala House Courts, New Delhi on 16.10.2024, and police custody remand was sought, the petitioner was still kept in the dark as regards the grounds of his arrest. The petitioner was thus deprived of a meaningful opportunity to oppose his transit remand in Gujarat as well as his police custody remand in Delhi.
12. Counsel has also stressed that by not communicating to the petitioner the grounds of arrest as mandated in law, the investigating agency has not merely committed a curable procedural irregularity but has perpetrated a substantive constitutional infraction that has caused demonstrable prejudice, because the petitioner could neither explain his

⁵ *Mihir Rajesh Shah*, para 62



side of the matter; nor was he able to instruct counsel to challenge the legality or necessity of transit or police custody remand.

13. In the above context, learned counsel has also placed reliance on a recent pronouncement by this Bench in *Brijesh Kothia vs. State (NCT of Delhi)*,⁶ wherein this Bench has already tested the validity of the arrest memo, *common* transit remand application and *common* application seeking police custody remand *qua* co-accused Brijesh Kothia (one of the directors of Aavkar Drugs) on the touchstone of the Supreme Court decisions and the constitutional mandate of Article 22(1); and after a thorough consideration of the matter, this court has admitted the said co-accused to regular bail, holding that the arrest of Brijesh Kothia stood vitiated for non-supply of written grounds of arrest.
14. It has been pointed-out that in *Brijesh Kothia*, this Bench has already held that the *very same* transit remand application and police custody remand application do not qualify as valid service of written grounds of arrest *qua* co-accused Brijesh Kothia; which view applies equally to the petitioner. Learned counsel has argued that the petitioner was not even a director of Aavkar Drugs; nor was he responsible for the business and affairs of the said company; and being only a consultant/middle-man, stands on an even stronger footing.
15. On merits, it has been further urged that there is no recovery of any contraband from, or at the instance of the petitioner; and that even the recovery from the premises of Aavkar Drugs was allegedly at the

⁶ 2026 SCC OnLine Del 3410



instance of its directors. Reliance in this regard has been placed on *Bharat Chaudhary vs. Union of India*⁷ and *Tofan Singh vs. State of Tamil Nadu*⁸, to contend that in the absence of recovery, mere reliance on statements of co-accused persons recorded under section 67 NDPS Act is too tenuous a basis to deny bail and that such statements are in any event inadmissible as evidence.

16. It has been emphasised that acting as a middle-man or business development partner of Aavkar Drugs, the petitioner had only facilitated the signing of a job-work agreement between Aavkar Drugs and Pharma Solution Services *for manufacture of Phenylephrine Hydrochloride*, which is a legal pharmaceutical substance; and the petitioner had no knowledge that any other substance or contraband was being manufactured at the factory, as alleged by the prosecution. It has been submitted that the petitioner was not responsible nor did he owe any legal duty to verify what was being actually manufactured at the Aavkar Drugs factory.
17. It has also been contended that there is no material indicative of any culpable mental state on the part of the petitioner, that could trigger the presumption under section 35 of the NDPS Act, since all material shows that the petitioner only facilitated the signing of a job-work agreement for manufacture of Phenylephrine Hydrochloride, a lawful pharmaceutical ingredient; that Avkar Drugs was, at the very least, a legitimate business since it had a website, a registered address and GST registration; and Pharma Solution Services had expressly declared that

⁷ 2021 SCC OnLine SC 1235, para 14

⁸ (2021) 4 SCC 1, para 158



no controlled substance would be manufactured at Aavkar Drugs; and that Phenylephrine Hydrochloride is neither a narcotic nor a controlled substance.

18. Learned counsel for the petitioner has also pointed to an evident mismatch between the result of the field-testing kit, which had indicated the seized material to be either ‘cocaine’ or ‘methaqualone’, while the subsequent FSL report has supposedly identified the substance as ‘mephedrone’. Reliance has been placed on this court’s decisions in *Taslina @ Putti vs. State (NCT of Delhi)* in Bail Appln. 3173/2025 and *Sahil Sharma @ Maxx vs. State (Govt. of NCT of Delhi)* in Bail Appln. 3068/2025, to urge that such *ex-facie* discrepancy touching upon the very identity of the substance recovered should enure to the benefit of an accused, at least at the stage of bail.
19. Learned counsel has further submitted, that the chargesheet filed against the petitioner invokes only section 29 of the NDPS Act; and that the material cited against him are confined to (i) WhatsApp chats between him and the alleged kingpin of an international drug trafficking operation, one Rana Tarandeep, and (ii) the job-work agreement between Aavkar Drugs and Pharma Solution Services, neither of which show the petitioner’s conscious involvement in the alleged offences.
20. The petitioner further claims parity with various other persons associated with Pharma Solution Services who have *not* been arrayed as accused, notably Ms. Abhilasha Gupta, India Head of Operations, who executed the job-work agreement with Aavkar Drugs and arranged the premises and logistics for storage of alleged contraband. It has been



argued that if functionaries of Pharma Solution Services have not been prosecuted, there is no justification to continue the petitioner's incarceration.

21. It has also been pointed-out that the petitioner has been in judicial custody for about 01 year and 06 months; that his jail conduct is 'satisfactory'; and that he has no criminal antecedents.
22. In the circumstances, it has been prayed that the petitioner deserves to be released on regular bail, since his case is squarely covered by the considerations that have weighed with this Bench in *Brijesh Kothia*; and the only role alleged against the petitioner is, that working as a consultant, middleman and marketing agent, he had facilitated the execution of a certain job-work agreement.

SUBMISSIONS ON BEHALF OF THE STATE

23. Opposing the grant of bail, Mr. Singh has argued that the petitioner's role is not merely that of a middleman and one who facilitated the signing of the job-work agreement; but the petitioner was in close contact with Rana Tarandeep, who is the kingpin of an international drug cartel that has smuggled 1290.967 kgs of cocaine/mephedrone and 39.706 kgs of marijuana into India. In support of his submission, learned SPP has relied on the WhatsApp chats between the petitioner and Rana Tarandeep.
24. Learned SPP has also submitted that it was at the instance of the petitioner and Rana Tarandeep that the job-work agreement had been signed. It has further been stated that the petitioner, who is an MBA degree-holder, has been involved in the business of supply of raw chemicals and possessed sufficient technical knowledge regarding the



manufacturing of chemical products and intermediates. It has therefore been argued that the petitioner was very well aware of illegitimacy of the manufacturing and supply activities that he was involved in.

25. Insofar as the petitioner's challenge to the validity of his arrest on 13.10.2024 citing non-supply of written 'grounds of arrest' is concerned, it has been submitted that the requirement of serving grounds of arrest on the petitioner did not arise, since in *Mihir Rajesh Shah*, the Supreme Court has observed that grounds of arrest have to be communicated to the arrestee in writing '*henceforth*,' i.e., after the date of pronouncement of the verdict in *Mihir Rajesh Shah* on 06.11.2025, which requirement had no application to the petitioner's arrest on 13.10.2024. Learned SPP has drawn attention to the following paragraphs of *Mihir Rajesh Shah* in support of his submission:

“67. After having come to the above conclusion, it is pertinent to note that the provision of law under Section 50 CrPC (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.

“68. 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.”

(emphasis supplied)

26. In furtherance of his submission, Mr. Singh has also relied upon a decision of a Division Bench of this court in ***Karan Singh vs. State NCT of Delhi***,⁹ wherein the Division Bench has observed that the ratio in *Mihir Rajesh Shah* applies *prospectively*, and accordingly, did not apply to the case of the petitioner in that case, who was arrested on 07.02.2024.
27. Insofar as the decision of the Supreme Court in *Dr. Rajinder Rajan* is concerned, learned SPP has argued that albeit the petitioner therein was released by the Supreme Court on non-supply of grounds of arrest, the said decision cannot be treated as a binding precedent, since in that case the Supreme Court has not discussed the prospective or retrospective application of *Mihir Rajesh Shah*.
28. Lastly and most importantly, Mr. Singh has argued that the petitioner, who is a key member of an international drug cartel, has failed to show any ‘demonstrable prejudice’¹⁰ that was caused to him due to the non-supply of grounds of arrest in writing.
29. The State has accordingly prayed that the petitioner’s bail petition be rejected, keeping in mind the gravity and nature of offences committed by him.

⁹ 2026 SCC OnLine Del 282

¹⁰ *State of Karnataka vs. Sri Darshan Etc*, 2025 SCC OnLine SC 1702



DISCUSSION & CONCLUSIONS

30. Having heard the rival submissions raised on behalf of the petitioner and the State, having considered the material on record and the precedents cited, the following considerations weigh with the court at this stage:

30.1. That on material facts that are germane to the legality of arrest and remand, the case of the present petitioner, Amit Kumar Masuriya, stands *exactly on the same footing* as that of his co-accused, Brijesh Kothia, in whose favour this Bench has already delivered judgment dated 13.05.2026 in BAIL APPLN. No. 439/2026. The said judgment exhaustively examines the constitutional and statutory requirements of furnishing written grounds of arrest under Article 22(1) of the Constitution read with section 47 BNSS (earlier section 50 of the Code of Criminal Procedure, 1973) as elucidated in *Pankaj Bansal, Prabir Purkayastha, Vihaan Kumar, Mihir Rajesh Shah* and the recent decision of the Supreme Court in *Dr. Rajinder Rajan*. In *Brijesh Kothia* this Bench has concluded that non-supply of written grounds of arrest within the stipulated window of time vitiates the arrest and remand, and entitles the arrestee to be released on bail, though without nullifying the investigation or trial of the case.

30.2. That in particular, this Bench has already held in *Brijesh Kothia*, that where the police are in possession of documentary material forming a cogent basis for arrest, the written grounds of arrest must be furnished to the arrestee on his arrest, or at the very least,



within a reasonable time, and in no event later than 02 hours *prior* to his production before the Magistrate for remand proceedings, failing which the arrest would be rendered illegal and the arrestee is entitled to be set free.

30.3. That in *Dr. Rajinder Rajan* the Supreme Court has applied the necessity of serving grounds of arrest in writing to arrests effected *even prior* to the pronouncement of *Mihir Rajesh Shah*, thereby reinforcing the principle that the mandate for serving grounds of arrest in writing flows directly from Article 22(1) and is not merely prospective in operation. Relying upon the said decisions of the Supreme Court, in *Brijesh Kothia* this Bench has held as follows:

“26. In its most recent pronouncement dated 1-4-2026 in Dr Rajinder Rajan, the Supreme Court has applied this dictum to arrests made on 3-5-2025 - i.e., before Mihir Rajesh Shah came to be pronounced on 6-11-2025 - namely, to arrests effected prior to the decision in Mihir Rajesh Shah. In Dr Rajinder Rajan the Supreme Court has directed the release of the arrestees on bail, since the arrest memos merely recorded that grounds of arrest were orally explained but written grounds were not furnished (at least) two hours before remand. In the opinion of this court, a reading of Dr Rajinder Rajan shows that Mihir Rajesh Shah does not create a fresh prospective regime but merely re-affirms the constitutional requirement inherent in Article 22(1) as earlier elucidated, inter-alia in Pankaj Bansal, Prabir Purkayastha, and Vihaan Kumar.

“27. The decision in Mihir Rajesh Shah possibly cannot, and does not, move forward the date from which the verdict in Pankaj Bansal takes effect i.e. 3-10-2023, which position is reiterated in Prabir Purkayastha and Vihaan Kumar.”

(emphasis in original)



- 30.4. That applying the same legal yardstick to the present case, the following features stand-out and are materially *indistinguishable* from those in Brijesh Kothia: (a) the arrest memo dated 13.10.2024 pertaining to the petitioner does not record any person-specific, written “grounds of arrest” but only sets-out generic ‘reasons for arrest’; (ii) there is no material to show that any separate written grounds of arrest were furnished to the petitioner at the time of his arrest at Ankleshwar, Gujarat or soon thereafter; (iii) on the State’s own showing, the transit remand application dated 14.10.2024 was not served on the petitioner, and in any case, that application also does not disclose any personalised grounds for the petitioner’s arrest; and (iv) the police custody remand application dated 16.10.2024 filed before the learned Special Judge (NDPS), Patiala House Courts, New Delhi, even if treated as containing adequate particulars, was placed before the court only at the time of the petitioner’s production and was not supplied to the petitioner *at least 02 hours prior* thereto, thereby failing to satisfy the temporal mandate laid-down in *Mihir Rajesh Shah*.
- 30.5. The inevitable consequence of the above is that the petitioner was precluded from meaningfully instructing counsel and effectively resisting his transit remand and police custody remand at those crucial stages, defeating the very purpose of Article 22(1), which is to ensure that an arrestee be put in possession of sufficient knowledge about the allegations against him, so that he can meaningfully challenge his custody.



- 30.6. That his nominal roll shows that the petitioner has already spent over 01 year 06 months in judicial custody; that his overall jail conduct has been ‘satisfactory’ and that he has no other criminal involvements.
- 30.7. That consistent with the approach adopted by this Bench in *Brijesh Kothia*, this court is also mindful that the illegality in arrest and remand does not, by itself, nullify the investigation or preclude the investigating agency from taking such steps as may be permissible in law, including if so advised, effecting a fresh arrest in strict compliance with Article 22(1), the BNSS and the NDPS Act.
- 30.8. For the present purposes however, the constitutional violation in not supplying the written grounds of arrest within the time and manner mandated by the Supreme Court, is sufficient to entitle the petitioner to be set at liberty on bail, especially when he has already spent a substantial period in judicial custody.
31. Accordingly, in the totality of circumstances, this court is persuaded to grant to the petitioner – **Amit Kumar s/o Jagdish Bhai** – *regular bail* pending trial in the present case, on the following terms:
- 31.1. The petitioner shall furnish a personal bond in the sum of Rs.1,00,000/- (Rupees One Lac Only) with 02 sureties in the like amount from family members, to the satisfaction of the learned trial court;
- 31.2. The petitioner shall furnish to the Investigating Officer/S.H.O., Special Cell, Delhi, a cellphone number on which he may be



- contacted at any time, and shall ensure that the number is kept active and switched-on at all times;
- 31.3. If the petitioner has a passport, he shall surrender the same to the learned trial court and shall not travel out of the country without prior permission of the learned trial court;
- 31.4. The petitioner shall not contact, visit, or offer any inducement, threat or promise to any of the prosecution witnesses or any other person acquainted with the facts of the case;
- 31.5. The petitioner shall not tamper with evidence nor otherwise indulge in any act or omission that is unlawful or that would prejudice the proceedings in the pending trial; and
- 31.6. In case of any change in his residential address or contact details, the petitioner shall promptly inform the Investigating Officer in writing.
32. Since the petitioner is facing trial and would, therefore, be appearing before the learned trial court from time-to-time, it is not considered necessary to impose any additional reporting requirement as a condition of regular bail, beyond what has been set-out above.
33. It is clarified that nothing contained in this judgment shall be construed as an expression of opinion by this court on the merits of the prosecution case at trial, which shall proceed uninfluenced by any observation herein.
34. The present petition is disposed-of in the above terms.
35. Pending applications, if any, also stand disposed-of.



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36. A copy of this judgment be forwarded to the concerned Jail Superintendent *forthwith* for information and necessary compliance.

ANUP JAIRAM BHAMBHANI, J

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