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MCRC-55263-2025

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE PRAMOD KUMAR AGRAWAL

ON THE 27th OF JANUARY, 2026MISC. CRIMINAL CASE No. 55263 of 2025*BIHARI LAL GUPTA**Versus**THE STATE OF MADHYA PRADESH*

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Appearance:

Shri Sandeep Kumar Jain - Advocate for the applicant.

Shri B.K. Upadhyay - Government Advocate for the respondent/State.

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ORDER

This is the first application filed by the applicant under Section 483 of BNSS for grant of regular bail relating to Crime No. 391/2025 registered at Police Station - Jaithri, District Anuppur (M.P.) for the offence punishable under Section 8/20B of N.D.P.S. Act. The applicant has been arrested on 12.09.2025.

2. As per the prosecution story, police seized 12.285 grams of ganja from the joint possession of applicant and co-accused, therefore, the aforesaid offence has been registered against him.

3. Learned counsel for the applicant submits that applicant is innocent and has been falsely implicated in this case. He is in custody since 12.09.2025. It is also submitted that FSL report has not been received. The procedure under Section 52-A of NDPS Act was complied with after a delay 13 days. It is further submitted that seizure memo does not mentioned that



where the applicant had kept the bag at the time of search. It is further submitted that the grounds of arrest has not been communicated to the applicant, which is mandatory under Article 22(1) of Constitution of India. There is violation of Article 22 of the Constitution of India and detention is illegal on this ground also, applicant is entitled to be released on bail. Applicant is in custody since 09.06.2025. He has placed reliance upon the decisions of Hon'ble Supreme Court in the cases of *Mihir Rajesh Shah Vs. The State of Maharashtra (Criminal Appeal No.2195 of 2025)*. Trial will take time to conclude, hence, it is prayed that applicant may be released on bail.

4. On the other hand, learned counsel for the State has opposed grant of bail to the applicant and submits that applicant was having knowledge of his arrest and he was well aware of the fact that contraband has been seized from him and measured in front of him. The intention behind furnishing the ground of arrest is that accused should know why he is being arrested. In this case, applicant was well aware that contraband articles has been seized from his possession and he knows the consequences of possessing such contraband articles. When applicant was arrested, police has informed him that for which offence he has been arrested. The reliance placed by the learned counsel for the applicant in the aforesaid cases of is not applicable in this case as the facts and circumstances of this case different from the aforesaid cited cases. It is submitted that applicant knew that why he has been arrested therefore at the time of deciding the bail application before the trial Court, the question regarding ground of arrest was not raised by the



applicant. Applicant has criminal record of five cases, out of which four cases are of a similar nature bearing Crime No.294/19, Crime No.258/23, Crime No.330/2021 and Crime No.391/25. One case is under the Excise Act bearing Crime No.322/25. Hence, the applicant is not entitled to be released on bail.

5. Heard learned counsel for the parties and perused the record.

6. In this case, on behalf of the present applicant, it is argued that applicant is also entitled for bail on the ground of non-filing of FSL report along with the chargesheet.

7. It is pertinent to mention here that in recent judgment of Supreme Court delivered in the case of *CBI. Vs. Kapil Wadhawan 2024 SCC OnLine SC 66*, wherein it was held as under:

"22. In view of the above settled legal position, there remains no shadow of doubt that the statutory requirement of the report under Section 173 (2) would be complied with if the various details prescribed therein are included in the report. The report under Section 173 is an intimation to the court that upon investigation into the cognizable offence, the investigating officer has been able to procure sufficient evidence for the court to inquire into the offence and the necessary information is being sent to the court. The report is complete if it is accompanied with all the documents and statements of witnesses as required by Section 175 (5). As settled in the afore-stated case, it is not necessary that all the details of the offence must be stated.



23. The benefit of proviso appended to sub-section (2) of Section 167 of the Code would be available to the offender only when a chargesheet is not filed and the investigation is kept pending against him. Once however, a chargesheet is filed, the said right ceases. It may be noted that the right of the investigating officer to pray for further investigation in terms of sub-section (8) of Section 173 is not taken away only because a chargesheet is filed under sub-section (2) thereof against the accused. Though ordinarily all documents relied upon by the prosecution should accompany the chargesheet, nonetheless for some reasons, if all the documents are not filed along with the chargesheet, that reason by itself would not invalidate or vitiate the chargesheet. It is also well settled that the court takes cognizance of the offence and not the offender. Once from the material produced along with the chargesheet, the court is satisfied about the commission of an offence and takes cognizance of the offence allegedly committed by the accused, it is immaterial whether the further investigation in terms of Section 173(8) is pending or not. The pendency of the further investigation qua the other accused or for production of some documents not available at the time of filing of chargesheet would neither vitiate the chargesheet, nor would it entitle the accused to claim right to get default bail on the ground that the chargesheet was an incomplete chargesheet or that the chargesheet was not filed in terms of Section 173(2) of Cr. P.C."



8. Though in cases of State of Haryana Vs. Dildar Ram @ Dari, CRM-M25600-2021, Krishan Singh Vs. State of Haryana, CRR - 755/2021, Bablu Singh Vs. The State of Madhya Pradesh, Special Leave to Appeal (Crl.) No. 631/2024, Vinay Kumar Singh Vs. Union of India, M.Cr.C. No. 39524/2022, Dharmendra Kumar Yadav Vs. Union of India, M.Cr.C. No. 38897/2022, Pradeep Kumar Vs. Union of India, M.Cr.C. No. 48460/2022, Ajit Singh alias Jeeta and another Vs. State of Punjab, Cr.R. No. 4659/2015 and Amanpreet Kaur @ Preeti (IN JC) Vs. State, Cri. Rev. P. 471/2023, the accused person has been enlarged on interim bail/bail by the Hon'ble Apex Court/High Court.

9. It is pertinent to mention here that, interim bail has been declined by the Hon'ble Apex Court in the case of CBI. Vs. Kapil Wadhawan (supra), Pabitra Narayan Pradhan Vs. The State (NGT) of Delhi (SLP (crl.) Diary No. 43791 of 2023), Shankar @ Shiva Maheshwar Savai Vs. The State of Gujarat (order dated 03.03.2023 in SLP (CrI) No.2562/2023)

10. Therefore, in view of the aforesaid discussion, there is no ground for grant of bail on the basis of incomplete charge sheet to the present applicant.

11. The contention of the learned counsel for the applicant that grounds of arrest were not communicated to the applicant at the time of his arrest and thus, he should be granted bail, is also unmerited. It is to be noted that in the notice under Section 50 of NDPS Act served upon the applicant, it was specifically mentioned that the raiding team was in receipt of information that applicant had kept ganja. Thus, *prima facie*, it cannot be



held that the applicant herein was not made aware as to why and on what ground he had been arrested in this case. This Court's attention has also been drawn to the judgment dated 14.08.2025 of the Hon'ble Supreme Court in *State of Karnataka v. Sri Darshan: 2025 INSC 979* wherein it has been held as under:

" 78. The final word: The true test to ascertain whether discretion has been judiciously exercised or not is to see whether the court has been able to strike a balance between the personal liberty of the accused and the interest of the State, in other words, the societal interests. Each bail application should be decided in the facts and circumstances of the case having regard to the various factors germane to the well settled principles of grant or refusal of bail. In the words of Philip Stanhope, "Judgment is not upon all occasions required, but discretion always is..

79. In the result all these appeals succeed and are allowed. The impugned orders of bail passed by the High Court are hereby set aside.

20. In the present case, the High Court, by the impugned order, enlarged the respondents on bail, primarily relying on a set of factual and legal findings. However, a closer examination of these findings reveals serious infirmities that warranting interference. We shall discuss the same in detail.

20.1. Delay in furnishing the grounds of arrest cannot, by itself, constitute a valid ground for grant of bail.

20.1.1. The learned counsel for the respondents – accused contended that the arrest was illegal as the grounds of arrest were not furnished immediately in writing, thereby violating Article 22 (1) of the Constitution and Section 50 Cr.P.C (now Section 47 of the Bharatiya Nagarik Suraksha Sanhita). This submission, however, is devoid of merit.

20.1.2. Article 22(1) of the Constitution mandates that "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”. Similarly, Section 50 (1) Cr.P.C. requires that “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.

20.1.3. 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 or insists upon written communication in every case. Judicial precedents have clarified that substantial compliance with these requirements is sufficient, unless demonstrable prejudice is shown.

20.1.4. In Vihaan Kumar v. State of Haryana²², it was reiterated that Article 22(1) is satisfied if the accused is made aware of the arrest grounds in substance, even if not conveyed in writing. Similarly, in Kasireddy Upender Reddy v. State of Andhra Pradesh ²³, it was observed that when arrest is made pursuant a warrant, reading out the warrant amounts to sufficient compliance. Both these post- Pankaj Bansal decisions clarify that written, individualised grounds are not an inflexible requirement in all circumstances. 2025 SCC Online SC 456 2025 INSC 768.

20.1.5. While Section 50 Cr.P.C is mandatory, the consistent judicial approach has been to adopt a prejudice-oriented test when examining alleged procedural lapses. The mere absence of written grounds does not ipso facto render the arrest illegal, unless it results in demonstrable prejudice or denial of a fair opportunity to defend.

20.1.6. The High Court, however, relied heavily on the alleged procedural lapse as a determinative factor while overlooking the gravity of the offence under Section 302 IPC and the existence of a prima facie case. It noted, inter alia, that there was no mention in the remand orders about service of memo of grounds of arrest (para 45); the arrest memos were allegedly template-based and not personalised (para 50); and eyewitnesses had not stated that they were present at the time of arrest or had signed the memos (para 48). Relying on Pankaj Bansal v. Union of India²⁴ and Prabir Purkayastha v. State (NCT of Delhi) (supra), it concluded (paras 43, 49 – 50) that from 03.10.2023 onwards, failure to serve



detailed, written, and individualised grounds of arrest immediately after arrest was a violation entitling the accused to bail.

20.1.7. In the present case, the arrest memos and remand records clearly reflect that the respondents were aware of the reasons for their arrest. They were legally (2024) 7 SCC 576 represented from the outset and applied for bail shortly after arrest, evidencing an immediate and informed understanding of the accusations. No material has been placed on record to establish that any prejudice was caused due to the alleged procedural lapse. In the absence of demonstrable prejudice, such as irregularity is, at best, a curable defect and cannot, by itself, warrant release on bail. As reiterated above, the High Court treated it as a determinative factor while overlooking the gravity of the charge under Section 302 IPC and the existence of a prima facie case. Its reliance on Pankaj Bansal and Prabir Purkayastha is misplaced, as those decisions turned on materially different facts and statutory contexts. The approach adopted here is inconsistent with the settled principle that procedural lapses in furnishing grounds of arrest, absent prejudice, do not ipso facto render custody illegal or entitle the accused to bail.

20.2. Courts are not expected to render findings on the merits of the case at the bail stage."

12. On due consideration to the submissions advanced by the learned counsel for the parties and after perusal of record, it is found that applicant was aware that contraband articles "Ganja" has been seized from his possession and he knows the consequences of possessing contraband articles. Police has also informed applicant that for which offence he has been arrested. No material has been placed on record to establish that any prejudice was caused due to the alleged procedural lapse. Total 12.285 of Ganja were seized from the possession of present applicant and co-accused. Applicant has criminal antecedents of four cases of a similar nature, which shows his repeated involvement in narcotics-related offences.



13. Therefore, looking to the overall facts and circumstances of the case, this Court is not inclined to enlarge the applicant on bail.

14. Accordingly, this MCRC stands dismissed.

(PRAMOD KUMAR AGRAWAL)
JUDGE

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