



2026:AHC-LKO:10501-DB

AFR

**HIGH COURT OF JUDICATURE AT ALLAHABAD  
LUCKNOW**

**HABEAS CORPUS WRIT PETITION No. - 47 of 2026**

Shivam Chaurasiya Thru. His Brother Mr. Manas Chaurasiya  
.....Petitioner(s)

Versus

State of U.P. Thru. Prin. Secy. Deptt. of Home Affairs Lko. and others  
.....Respondent(s)

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Counsel for Petitioner(s)	: Skand Bajpai, Abhyudaya Mishra
Counsel for Respondent(s)	: G.A.,

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**Court No. - 11**

**HON'BLE ABDUL MOIN, J.  
HON'BLE MRS. BABITA RANI, J.**

1. Heard Sri Skand Bajpai and Sri Abhyudaya Mishra, learned counsels for the petitioner as well as Shri Shiv Nath Tilahari & Shri Anurag Verma, learned Additional Government Advocates appearing on behalf of the respondents no. 1 to 5. Learned AGA states that he is also accepting notice for the respondents no. 7 to 9. Considering the question of law involved in the instant petition, notice to respondent no. 6 is dispensed with.

2. Learned counsels for the petitioner pray for adding the words "Writ of Habeas Corpus" in prayer Clause-A.

3. To the aforesaid prayer, learned AGAs have no objection.

4. Accordingly, the prayer as made by the learned counsels for the petitioner is allowed. Let the learned counsels for the petitioner add "Writ of Habeas Corpus" in prayer Clause -A during the course of the day.

5. Considering the legal issue involved in the instant petition and the respondents having produced the complete records including the case diary before this Court as such, there would not be any requirement of filing of counter affidavit.

6. In this regard, it would be apt to refer to the judgment of the Apex Court in the case of **Union of India and others vs. Shiv Raj and others reported in (2014) 6 SCC 564** wherein it has been held as under:-

*"in a case where on the basis of submissions advanced in the court on behalf of the parties the court summons the original record to find out the truth, pleadings remain insignificant".*

7. Instant writ petition in the nature of habeas corpus has been filed praying for the following main reliefs:-

*"(A). Allow this petition, declare the petitioner's arrest & detention illegal, pass an order (s) setting aside the order dated 29.01.2026 passed by Hon'ble Court of learned Special Judge, POCSO Act, Pratapgarh, U.P. in relation to Case Crime No. 15/2026 registered at Police Station- Kandhai, Pratapgarh, U.P. alleging offences punishable under Sections 137 (2), 87, 64 (1), 351 (3) of B.N.S and 3 & 4 POCSO Act [Annexure-5 from page 49 to 53] and direct the Respondent Nos. 1, 2, 3 & 4 to release the petitioner forthwith by issuance of an order or direction in the nature of writ of Habeas Corpus.*

*(B). Allow this petition, declare the petitioner's arrest illegal, pass an order (s) quashing the arrest memo dated 28.01.2026 drawn regarding Case Crime No. 15/2026 registered at Police Station- Kandhai, Pratapgarh, U.P. alleging offences punishable under sections 137 (2), 87, 64 (1), 351 (3) B.N.S and 3 & 2 POCSO Act [Annexure-2 from page 34 to 44] and direct Respondent Nos. 1, 2, 3 & 4 to release the petitioner forthwith.*

*(C). Pass an order (s) or direction (s) in the nature of writ of mandamus commanding the 1st respondent to pay to the petitioner Rs. 10,00,000/- (Rupees Ten Lakh) as compensation on account of illegal deprivation of his liberty within such time as may be deemed fit and proper by this Court.*

*(D). Pass an order (s) or direction(s) directing the 1st and/ or 2nd respondent to fairly conduct disciplinary proceedings and criminal proceedings against the erring police officials for illegally depriving the petitioner of his liberty within such time as may be deemed fit and proper by this Hon'ble Court."*

8. Bereft of unnecessary details, the case set forth by the learned counsels for the petitioner is that the petitioner and the respondent no. 5/ alleged victim, were dating each other but her family was against the said relationship. On 21.01.2026, the First Information Report dated 21.01.2026 registered as Case Crime No. 15 of 2026 under Sections 137 (2), 87, 64 (1), 351 (3) of Bhartiya Nyay Sanhita, 2023 and 3 & 4 of Protection of Children from Sexual Offences Act, 2012 at Police Station- Kandhai District- Pratapgarh was lodged against the petitioner, a copy of which is annexure 1 to the writ petition.

9. It is contended that from a perusal of the First Information Report it emerges that the petitioner had persuaded the daughter of the complainant to establish physical relations by taking a room on rent and had thereafter established physical relations and left her. Subsequently, the petitioner is said to have blackmailed the complainant's daughter by threatening to circulate her video on internet. Certain other allegations have also been levelled in the First Information Report.

10. On the basis of the allegations as levelled and the First Information Report being lodged, the petitioner was asked to reach the Police Station- Narangpur on 28.01.2026. Upon the petitioner having reached the police station, he was detained in the police post. At 07:30 PM, a Sub-Inspector with two constables came out of the chowki and the petitioner was asked to sign an arrest memo. They made the petitioner to sit in a private car. Thereafter the petitioner's brother who was in another car was asked to get down from the car and go home. At about 09:30 PM, the petitioner's arrest was informed to his mother over telephone. The arrest memo dated 28.01.2026, a copy of which is annexure 2 to the writ petition was prepared but the said memo neither contained the reasons for arrest, nor the grounds for arrest except indicating about the aforesaid case crime number being lodged. It is also contended that on

29.01.2026, the authorities produced the petitioner before the learned Special Judge, POCSO Court, Pratapgarh who vide order dated 29.01.2026, a copy of which is Annexure 5 to the writ petition, granted fourteen days judicial custody of the petitioner and sent him to the district jail. It is contended that the learned Special Judge did not even advert to the evidence/material placed by the Investigating Officer and the remand order was passed in the cursory manner.

11. Praying for a writ of habeas corpus for the petitioner's arrest and detention to be declared illegal and for setting aside the order dated 29.01.2026 passed by the learned Special Judge, POCSO, Pratapgarh and for quashing of the arrest memo dated 28.01.2026, the instant writ petition has been filed

12. Argument of the learned counsel for the petitioner is that the arrest memo which has been given to the petitioner does not contain any reasons or grounds for arrest and consequently, the same is patently violative and in the teeth of the judgment of the Apex Court in the case of **Mihir Rajesh Shah Vs. State of Maharashtra- 2026 (1) SCC 500** which thus vitiates the arrest of the petitioner.

13. So far as the role of the learned Magistrate to consider various aspect of the matter while granting remand, reliance has been placed by the learned counsel on the Division Bench judgment of this Court at Allahabad in the case of **Manjeet Singh Vs State of U.P and Ors**, reported in **2025 SCC Online All 2119**.

14. On the other hand, Sri Shiv Nath Tilahari & Sri Anurag Verma, learned AGAs take a preliminary objection on the basis of the case diary that the statement of the victim has been recorded under Sections 180 & 183 of B.N.S.S, 2023, per which the offence against the petitioner is clearly made out and as this Court is exercising jurisdiction under Article 226 of the Constitution of India as such this Court may not exercise the said jurisdiction once an offence has been committed by the petitioner. Learned AGAs also argue that the radiological examination has been conducted per which the age of the victim has been determined to be seventeen years apart the educational records from which it emerges that

the victim is a minor and that the reasons and grounds of arrest were given to the petitioner in the arrest memo which duly bear his signatures along with the signatures of the witnesses.

15. Learned AGAs have also placed reliance on the judgment of the Apex Court in the cases of **Serious Fraud Investigation Office Vs Rahul Modi-MANU/SC/0420/2019** to argue that in habeas corpus proceedings, a Court is to have regard to the legality or otherwise of the detention at the time of return and not with reference to the institution of the proceedings meaning thereby that as subsequent to the arrest of the petitioner, the remand has been granted by the learned Magistrate as such, any illegality which might have occurred at the time of arrest would get obliterated on account of the remand having been granted by the learned Magistrate and as now the petitioner is in custody on account of the remand order as such, the petition in the nature of habeas corpus would not be maintainable.

16. Further, reliance has also been placed on the judgment of the Apex Court in the case of **Kashi Reddy Upendra Reddy Vs. State of Andhra Pradesh and Ors**, reported in **MANU/SC/0773/2025**, contending that as the reasons and grounds of arrest were in fact supplied to the petitioner consequently, it cannot be said that the arrest is illegal and unjustified from any angle and thus, the writ petition deserves to be dismissed, there being no infirmity in the arrest of the petitioner.

17. Heard learned counsels appearing on behalf of the contesting parties and perused the records.

18. From a perusal of records it emerges that on account of the First Information Report dated 21.01.2026 registered as Case Crime No. 15 of 2026 having been lodged against the petitioner, the petitioner has been arrested on 28.01.2026 and the arrest memo was duly supplied to him. The remand has also been given by the learned Magistrate vide order dated 29.01.2026 and consequently, the petitioner is in custody.

19. The Apex Court in the case of **Mihir Rajesh Shah (supra)** after exhaustively considering the earlier judgments with regard to necessity for supply of grounds of arrest, has held as under:-

*"28. It was said that any breach of the constitutional safeguards provided under Article 22 would vitiate the lawfulness of arrest and subsequent remand and entitle the arrested person to be set at liberty. The relevant portion in Prabir Purkayastha [Prabir Purkayastha v. State (NCT of Delhi), (2024) 8 SCC 254 : (2024) 3 SCC (Cri) 573] is reproduced herein: (SCC pp. 276 & 278, paras 19-21 & 28-29)*

*"19. Resultantly, there is no doubt in the mind of the court that any person arrested for allegation of commission of offences under the provisions of UAPA or for that matter any other offence(s) has a fundamental and a statutory right to be informed about the grounds of arrest in writing and a copy of such written grounds of arrest have to be furnished to the arrested person as a matter of course and without exception at the earliest. The purpose of informing to the arrested person the grounds of arrest is salutary and sacrosanct inasmuch as this information would be the only effective means for the arrested person to consult his advocate; oppose the police custody remand and to seek bail. Any other interpretation would tantamount to diluting the sanctity of the fundamental right guaranteed under Article 22(1) of the Constitution of India.*

*20. The right to life and personal liberty is the most sacrosanct fundamental right guaranteed under Articles 20, 21 and 22 of the Constitution of India. Any attempt to encroach upon this fundamental right has been frowned upon by this Court in a catena of decisions. In this regard, we may refer to the following observations made by this Court in Roy V.D. v. State of Kerala [Roy V.D. v. State of Kerala, (2000) 8 SCC 590 : 2001 SCC (Cri) 42] : (SCC p. 593, para 7)*

*'7. The life and liberty of an individual is so sacrosanct that it cannot be allowed to be interfered with except under the authority of law. It is a principle which has been recognised and applied in all civilised countries. In our Constitution, Article 21 guarantees protection of life and personal liberty not only to citizens of India but also to aliens.'*

*Thus, any attempt to violate such fundamental right, guaranteed by Articles 20, 21 and 22 of the Constitution of India, would have to be dealt with strictly.*

*21. The right to be informed about the grounds of arrest flows from Article 22(1) of the Constitution of India and any infringement of this fundamental right would vitiate the process of arrest and remand. Mere fact that a charge-sheet has been filed in the matter, would not validate the illegality and the unconstitutionality committed at the time of arresting the accused and the grant of initial police custody remand to the accused.*

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28. *The language used in Article 22(1) and Article 22(5) of the Constitution of India regarding the communication of the grounds is exactly the identical. Neither of the constitutional provisions require that the “grounds” of “arrest” or “detention”, as the case may be, must be communicated in writing. Thus, interpretation to this important facet of the fundamental right as made by the Constitution Bench while examining the scope of Article 22(5) of the Constitution of India would ipso facto apply to Article 22(1) of the Constitution of India insofar as the requirement to communicate the grounds of arrest is concerned.*

29. *Hence, we have no hesitation in reiterating that the requirement to communicate the grounds of arrest or the grounds of detention in writing to a person arrested in connection with an offence or a person placed under preventive detention as provided under Articles 22(1) and 22(5) of the Constitution of India is sacrosanct and cannot be breached under any situation. Non-compliance of this constitutional requirement and statutory mandate would lead to the custody or the detention being rendered illegal, as the case may be.”*

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31. *The relevant portion of Vihaan Kumar [Vihaan Kumar v. State of Haryana, (2025) 5 SCC 799 : (2025) 2 SCC (Cri) 762] is reproduced herein: (SCC pp. 814-15, 817 & 822-23, paras 15, 21 & 40-42)*

*“15. The view taken in Pankaj Bansal [Pankaj Bansal v. Union of India, (2024) 7 SCC 576 : (2024) 3 SCC (Cri) 450] was reiterated by this Court in Prabir Purkayastha [Prabir Purkayastha v. State (NCT of Delhi), (2024) 8 SCC 254 : (2024) 3 SCC (Cri) 573] . In paras 28 and 29, this Court held thus: (Prabir Purkayastha case [Prabir Purkayastha v. State (NCT of Delhi), (2024) 8 SCC 254 : (2024) 3 SCC (Cri) 573] , SCC p. 278)*

*‘28. The language used in Article 22(1) and Article 22(5) of the Constitution of India regarding the communication of the grounds is exactly the identical. Neither of the constitutional provisions require that the “grounds” of “arrest” or “detention”, as the case may be, must be communicated in writing. Thus, interpretation to this important facet of the fundamental right as made by the Constitution Bench while examining the scope of Article 22(5) of the Constitution of India would ipso facto apply to Article 22(1) of the Constitution of India insofar as the requirement to communicate the grounds of arrest is concerned.*

*29. Hence, we have no hesitation in reiterating that the requirement to communicate the grounds of arrest or the*

*grounds of detention in writing to a person arrested in connection with an offence or a person placed under preventive detention as provided under Articles 22(1) and 22(5) of the Constitution of India is sacrosanct and cannot be breached under any situation. Non-compliance of this constitutional requirement and statutory mandate would lead to the custody or the detention being rendered illegal, as the case may be.'*

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*21. An attempt was made by the learned Senior Counsel appearing for the first respondent to argue that after his arrest, the appellant was repeatedly remanded to custody, and now a charge-sheet has been filed. His submission is that now, the custody of the appellant is pursuant to the order taking cognizance passed on the charge-sheet. Accepting such arguments, with great respect to the learned Senior Counsel, will amount to completely nullifying Articles 21 and 22(1) of the Constitution. Once it is held that arrest is unconstitutional due to violation of Article 22(1), the arrest itself is vitiated. Therefore, continued custody of such a person based on orders of remand is also vitiated. Filing a charge-sheet and order of cognizance will not validate an arrest which is per se unconstitutional, being violative of Articles 21 and 22(1) of the Constitution of India. We cannot tinker with the most important safeguards provided under Article 22.*

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*N. Kotiswar Singh, J. (supplementing)—I had the benefit of going through the draft opinion of my esteemed Brother Hon'ble Mr Justice Abhay S. Oka and I concur with the analysis and conclusions arrived at. However, I wish to add a few lines in supplement to the aforesaid opinion.*

*41. The issue on the requirement of communication of grounds of arrest to the person arrested, as mandated under Article 22(1) of the Constitution of India, which has also been incorporated in the Prevention of Money Laundering Act, 2002 under Section 19 thereof has been succinctly reiterated in this judgment. The constitutional mandate of informing the grounds of arrest to the person arrested in writing has been explained in Pankaj Bansal [Pankaj Bansal v. Union of India, (2024) 7 SCC 576 : (2024) 3 SCC (Cri) 450] so as to be meaningful to serve the intended purpose which has been reiterated in Prabir Purkayastha [Prabir Purkayastha v. State (NCT of Delhi), (2024) 8 SCC 254 : (2024) 3 SCC (Cri) 573] . The said constitutional mandate has been incorporated in the statute under Section 50CrPC (Section 47 of the BNSS). It may also be noted that the aforesaid*



*provision of requirement for communicating the grounds of arrest, to be purposeful, is also required to be communicated to the friends, relatives or such other persons of the accused as may be disclosed or nominated by the arrested person for the purpose of giving such information as provided under Section 50-A CrPC. As may be noted, this is in the addition of the requirement as provided under Section 50(1) CrPC.*

*42. The purpose of inserting Section 50-A CrPC, making it obligatory on the person making arrest to inform about the arrest to the friends, relatives or persons nominated by the arrested person, is to ensure that they would be able to take immediate and prompt actions to secure the release of the arrested person as permissible under the law. The arrested person, because of his detention, may not have immediate and easy access to the legal process for securing his release, which would otherwise be available to the friends, relatives and such nominated persons by way of engaging lawyers, briefing them to secure release of the detained person on bail at the earliest. Therefore, the purpose of communicating the grounds of arrest to the detainee, and in addition to his relatives as mentioned above is not merely a formality but to enable the detained person to know the reasons for his arrest but also to provide the necessary opportunity to him through his relatives, friends or nominated persons to secure his release at the earliest possible opportunity for actualising the fundamental right to liberty and life as guaranteed under Article 21 of the Constitution. Hence, the requirement of communicating the grounds of arrest in writing is not only to the arrested person, but also to the friends, relatives or such other person as may be disclosed or nominated by the arrested person, so as to make the mandate of Article 22(1) of the Constitution meaningful and effective failing which, such arrest may be rendered illegal.”*

*(emphasis in original)*

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*35. In Joginder Kumar v. State of U.P. [Joginder Kumar v. State of U.P., (1994) 4 SCC 260 : 1994 SCC (Cri) 1172] , this Court while framing guidelines regarding the rights of an arrested person has observed that the existence of a power to arrest and the justification to use such power are two different aspects. The person making arrest must be able to justify the arrest with reasons apart from his power to do so. Arrest of a person can cause irreversible damage to his reputation in the society as well as his self-esteem, therefore, arrest cannot be made in a routine manner. The police officer making an arrest must be cautious while arresting a person and ought to satisfy himself after a reasonable investigation to justify the person's*

*complicity and also the effect as well as the need of arrest. This Court has further observed that except in heinous offences, arrest must be avoided.*

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*37. The mandate contained in Article 22(1) of the Constitution of India is unambiguous and clear in nature, it provides that the arrested person must be informed of the grounds of arrest as soon as they can be. It further provides that the arrested person has the right to defend himself by consulting a legal practitioner of his choice. This constitutional mandate has been effectuated by the legislature in Section 50CrPC (now Section 47 of BNSS 2023) which provides that an arrested person shall be forthwith communicated with the grounds of his arrest.*

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*41. The purpose of securing legal assistance before remand is not merely symbolic, but it is to ensure that the accused is afforded an effective opportunity to oppose the prayer for police custody and to place before the Magistrate any circumstances that may warrant refusal or limitation of such custody. If the accused is not represented through a counsel, he/she should be made aware that he/she is entitled for legal aid. As far as possible, it shall be ensured that every accused person is represented by an advocate, if he is not able to avail such assistance, he should be given free legal aid. A three-Judge Bench of this Court in *Ashok v. State of U.P.* [*Ashok v. State of U.P.*, (2025) 2 SCC 381 : (2025) 1 SCC (Cri) 744] held that an accused who is not represented by an advocate is entitled for free legal aid at all material stages starting from remand.*

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*43. Section 167CrPC (now Section 187 of BNSS 2023) while dealing with remand provides for a positive mandate on the police officer to forward the accused to the Magistrate before expiry of such period as fixed under Section 57CrPC (now Section 58 of BNSS 2023) when investigation cannot be completed in twenty-four hours. It further mandates that the Magistrate to not authorize the detention of accused unless he is physically produced before him. The purpose of this provision mandating the production of accused before Magistrate for exercise of the power of remanding him to custody under this section is with the dual purpose. First, ensuring physical presence of the accused and second to afford him an opportunity to be heard. The intent of this provision is not merely to be heard at the stage of remand but to be represented by the counsel of his choice. Thereafter, the duty is cast upon the Magistrate to apply his judicial mind to the material produced before him, hear the accused or the counsel representing him to determine whether the accused should be remanded to police custody*

*or should be detained at all within the parameters prescribed in Section 167CrPC (Section 187 of BNSS 2023). The Magistrate is not acting as a post office simply putting a stamp of approval to the remand papers as presented before him. In Manubhai Ratilal Patel v. State of Gujarat [Manubhai Ratilal Patel v. State of Gujarat, (2013) 1 SCC 314 : (2013) 1 SCC (Cri) 475] this Court held that it is obligatory on the part of the Magistrate to satisfy himself whether the materials placed before him justify such a remand.*

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*45. A plain reading of Article 22(1) of the Constitution of India shows that the intent of the Constitution makers while incorporating the provisions was not to create any exceptional circumstances, instead it reads as “No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest....”, it casts a mandatory unexceptional duty on the State to provide the arrested person with the grounds of such arrest with the objective to enable that person to be able to defend himself by consulting a legal practitioner of his choice. This mandate of Article 22(1) is notwithstanding any exception. This Court has made it explicit that the constitutional obligation under Article 22 is not statute-specific and it is grounded in fundamental right of life and personal liberty under Article 21 of the Constitution of India, therefore making it applicable to all offences including those under the Penal Code, 1860 (now BNS 2023).*

*46. The requirement of informing the arrested person the grounds of arrest, in the light of and under Article 22(1) of the Constitution of India, is not a mere formality but a mandatory binding constitutional safeguard which has been included in Part III of the Constitution under the head of Fundamental Rights. Thus, if a person is not informed of the grounds of his arrest as soon as maybe, it would amount to the violation of his fundamental rights thereby curtailing his right to life and personal liberty under Article 21 of the Constitution of India, rendering the arrest illegal.*

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*48. As mentioned above, it has been held while dealing with the mode of communicating the grounds of arrest so as to serve the intended purpose of the constitutional mandate that the language used in Articles 22(1) and 22(5) regarding communication of the grounds is identical and therefore the interpretation of Article 22(5) shall ipso facto apply to Article 22(1). The grounds of arrest must be furnished in writing, in order to attend the true intended purpose of Article 22(1). Reference at this stage may be made to the Constitution Bench judgment of this Court in Harikisan [Harikisan v. State of Maharashtra, 1962 SCC OnLine SC 117] wherein while dealing with Article 22(5) of the Constitution of India in the context of the right of a*

*detainee to be made aware of the grounds of arrest, it has been held that the same should be furnished in a language which he can understand and in a script which he can read, if he is a literate person.*

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*50. Further, the above judgment has been reiterated and followed by this Court in Lallubhai Jogibhai Patel v. Union of India [Lallubhai Jogibhai Patel v. Union of India, (1981) 2 SCC 427 : 1981 SCC (Cri) 463 : (1982) 52 Comp Cas 543] wherein it has been reaffirmed that grounds of detention must be communicated to the detenu in writing in a language which he understands.*

*51. On perusal of the above two judgments, it turns out that mere communication of the grounds in a language not understood by the person arrested does not fulfil the constitutional mandate under Article 22 of the Constitution of India. The failure to supply such grounds in a language understood by the arrestee renders the constitutional safeguards illusory and infringes the personal liberty of the person as guaranteed under Articles 21 and 22 of the Constitution of India. The objective of the constitutional mandate is to place the person in a position to comprehend the basis of the allegations levelled against him and it can only be realised when the grounds are furnished in a language understood by the person, thereby enabling him to exercise his rights effectively.*

*52. From the catena of decisions discussed above, the legal position which emerges is that the constitutional mandate provided in Article 22(1) of the Constitution of India is not a mere procedural formality but a constitutional safeguard in the form of fundamental rights. The intent and purpose of the constitutional mandate is to prepare the arrested person to defend himself. If the provisions of Article 22(1) are read in a restrictive manner, its intended purpose of securing personal liberty would not be achieved rather curtailed and put to disuse.*

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*55. This Court is of the opinion that to achieve the intended objective of the constitutional mandate of Article 22(1) of the Constitution of India, the grounds of arrest must be informed to the arrested person in each and every case without exception and the mode of the communication of such grounds must be in writing in the language he understands.*

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*57. The second issue which requires consideration is when grounds of arrest are not furnished either prior to arrest or immediately after the arrest, would it vitiate the arrest for non-compliance of the provisions of Section 50CrPC (now Section 47 of BNSS 2023) irrespective of certain exigencies where furnishing such grounds would not be possible forthwith.*

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*58. It is by now settled that if the grounds of arrest are not furnished to the arrestee in writing, this non-compliance will result in breach of the constitutional and statutory safeguards hence rendering the arrest and remand illegal and the person will be entitled to be set at liberty. The statute is silent with regard to the mode, nature or the time and stage at which the grounds of arrest has to be communicated. Article 22 says “as soon as may be” which would obviously not mean prior to arrest but can be on arrest or thereafter. The indication is as early as it can be conveyed. There may be situations wherein it may not be practically possible to supply such grounds of arrest to the arrested person at the time of his arrest or immediately.*

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*62. We thus hold, that, in cases where the police are already in possession of documentary material furnishing a cogent basis for the arrest, the written grounds of arrest must be furnished to the arrestee on his arrest. However, in exceptional circumstances such as offences against body or property committed in flagrante delicto, where informing the grounds of arrest in writing on arrest is rendered impractical, it shall be sufficient for the police officer or other person making the arrest to orally convey the same to the person at the time of arrest. Later, a written copy of grounds of arrest must be supplied to the arrested person within a reasonable time and in no event later than two hours prior to production of the arrestee before the Magistrate for remand proceedings. The remand papers shall contain the grounds of arrest and in case there is delay in supply thereof, a note indicating a cause for it be included for the information of the Magistrate.*

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*64. In view of the above, we hold with regard to the second issue that non-supply of grounds of arrest in writing to the arrestee prior to or immediately after arrest would not vitiate such arrest on the grounds of non-compliance with the provisions of Section 50CrPC (now Section 47 of BNSS 2023) provided the said grounds are supplied in writing within a reasonable time and in any case two hours prior to the production of the arrestee before the Magistrate for remand proceedings.*

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*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."*

20. From a perusal of the judgment of the Apex Court in the case of **Mihir Rajesh Shah (supra)** it clearly emerges that the Apex Court has categorically held, after considering Article 22 (1) of the Constitution of India, that no person who is arrested shall be detained in custody **without being informed of the grounds of such arrest** meaning thereby that it casts a mandatory and unexceptional duty on the State to provide the arrested person with the grounds of such arrest. Supply of grounds of arrest have also been held to be grounded in fundamental right of life and personal liberty under Article 21 of the Constitution of India and that requirement of informing the arrested person the grounds of arrest is not a mere formality but a **mandatory binding constitutional safeguard** which has been included in Part III of the Constitution under the head of "Fundamental Rights".

21. The Apex Court has further held that the grounds of arrest must be furnished in writing in order to attend the true intended purpose of Article 22 (1) of the Constitution of India and have also held that supply of grounds of arrest is the Constitutional mandate. Thereafter, the Apex Court has held that if the grounds of arrest are not furnished to the arrestee in writing, the non compliance will result in breach of constitutional and statutory safeguards rendering the arrest and remand illegal and the person will be entitled to be set at liberty. The aforesaid procedure has been directed to govern all arrest **henceforth** i.e with effect from the date of the judgment of the Apex Court which is dated 06.11.2025.

22. Thus, considering the aforesaid judgment it is apparent that the grounds of arrest are mandatorily to be given to the arrestee.

23. In the instant case, as per prosecution the petitioner has been given the grounds and reasons of arrest as per the arrest memo dated 28.01.2026 which has been annexed with the writ petition. However, Columns 12 & 13 of the arrest memo, which pertain to the reasons of arrest and grounds of arrest, only indicate about Case Crime No. 15 of 2026 having been lodged against the petitioner under Sections 137 (2),



87, 64 (1), 351 (3) of B.N.S, 2023 and Section 3/4 of the POCSO Act, 2012. No grounds or reasons emerge from the arrest memo as to why the petitioner has been arrested. The matter may have ended there but for the fact that the learned AGAs have also produced the copy of reasons for arrest duly bearing the signatures of the petitioner. The said grounds of arrest duly finds placed and noted in the case diary no. CD 8 dated 28.01.2026. For the sake of convenience, the arrest memo and the grounds of arrest, given separately, are reproduced below:-

**"प्रत्येक अभियुक्त के लिये अलग-अलग**

**गिरफ्तारी मेमो**

(प्र०सू०रि० सं० 15/2026      दिनांक 21.01.26  
धारा 137(2), 87, 64(1), 351(3) BNS व 3/4 पॉक्सो एक्ट 2012  
थाना कन्धई      जनपद प्रतापगढ़ )

**(भारतीय नागरिक सुरक्षा संहिता, 2023 की धारा 36 के अनुसार)**  
**(माननीय सर्वोच्च न्यायालय के निर्देशानुसार)**

1.	गिरफ्तारी व्यक्ति का नाम, उपनाम तथा उम्र	शिवम चौरसिया उर्फ चुन्नी उम्र करीब 20 वर्ष
2.	गिरफ्तारी व्यक्ति के माता/पिता का नाम	अशोक कुमार चौरसिया
3.	गिरफ्तारी व्यक्ति का मो०नं०/आधार सं०	मो० 7570836946, 7570883528, 9621015139
4.	गिरफ्तारी व्यक्ति का वर्तमान पता	ग्राम रामपुर बेला पोस्ट बेला रामपुर थाना पट्टी जनपद प्रतापगढ़ उ०प्र०
5.	गिरफ्तारी व्यक्ति का स्थायी पता	ग्राम रामपुर बेला पोस्ट बेला रामपुर थाना पट्टी जनपद प्रतापगढ़ उ०प्र०
6.	प्र०स०रि० सं० 15/26 धारांतर्गत थाना कन्धई जनपद प्रतापगढ़	137(2), 87, 64(1), 351(3) BNS व 3/4 पॉक्सो एक्ट 2012
7.	गिरफ्तारी का स्थान	उड़ैयाडीह मोड़ पुलिया के पास PS कन्धई
8.	गिरफ्तारी की तारीख और समय	28.01.2026 समय 22:15 बजे
9.	गिरफ्तारी एवं रखे जाने के स्थान के बारे में जिसे भी सूचित किया है उसका नाम, पता, ईमेल आईडी और फोन नंबर/सूचना का माध्यम (धारा 48(1) BNSS)	अभियुक्त की माँ भीला देवी w/o अशोक कुमार चौरसिया को जरिये दूरभाष मो०नं० 7570883528 पर दी गयी
10.	नोडल पुलिस अधिकारी को सूचना देने का विवरण (धारा 48(1) BNSS)	जरिये दूरभाष सूचित किया गया
11.	गिरफ्तारी करने वाले अधिकारियों	उ०नि० पवन कुमार यादव (231044721)

	का नाम पद और PNO सं०	का० प्रवीण यादव, का० राहुल कुमार
12.	गिरफ्तारी के कारण	मु०अ०सं० 15/26 धारा 137(2), 87, 64(1), 351(3) BNS व 3/4 पाक्सो एक्ट 2012 थाना कन्धई, प्रतापगढ़ में वांछित होने के कारण
(A)	पुलिस अधिकारी की उपस्थिति में संज्ञेय अपराध कारित करने के कारण (धारा 35(1)(a)BNSS)	—
(B)	ऐसे व्यक्ति को कोई अग्रेतर अपराध करने से निवारित करने के लिए	जी हाँ
(II)	अपराध के उचित अन्वेषण के लिए	जी हाँ
(III)	ऐसे व्यक्ति को अपराध के किसी साक्ष्य को मिटाने या ऐसे साक्ष्य में किसी भी प्रकार का छेड़छाड़ निवारित करने के लिए	जी हाँ
(IV)	ऐसे व्यक्ति को मामले के तथ्यों से परिचित किसी व्यक्ति को उत्प्रेरित करने, धमकी देने से निवारण करने के लिए ताकि उसे न्यायालय या पुलिस अधिकारी के समक्ष ऐसे तथ्य को प्रकट करने से रोका न, जा सके	जी हाँ
(V)	क्योंकि जब ऐसा व्यक्ति गिरफ्तारी नहीं किया जाता है तब उसकी उपस्थिति न्यायालय में जब कभी अपेक्षित हो सुनिश्चित नहीं की जा सकती है।	जी हाँ
13.	गिरफ्तारी के आधार	--
(I)	गिरफ्तार किये गये व्यक्ति के बयान एवं साक्ष्यों के साथ साथ वादी मुकदमा दिये गये साक्ष्यों के आलोक में कैसे गिरफ्तारी आवश्यक है।	--
(II)	वह समस्त सामग्री जिससे गिरफ्तार व्यक्ति की अपराध में संलिप्तता स्पष्ट है।	--
(III)	वह समस्त सामग्री/बरामदगी जिसके आधार पर उक्त अपराध में गिरफ्तार किये गये व्यक्ति की गिरफ्तारी की आवश्यकता है।	--
(IV)	विवेचनाधिकारी द्वारा गिरफ्तार किये गये व्यक्ति के सम्बन्ध में गिरफ्तारी	--

	के समय तक एकत्र की गयी समस्त सामग्री जिससे गिरफ्तार करने की आवश्यकता हुई।	
(V)	अन्य ऐसी सामग्री दस्तावेजी साक्ष्य व इलेक्ट्रॉनिक साक्ष्य आदि जो कि गिरफ्तार किये गये व्यक्ति से सम्बन्धित है, का विवरण	--
(VI)	गिरफ्तार किये गये व्यक्ति के सम्बन्ध में बीएनएस की किन-किन धाराओं में सामग्री /साक्ष्य है, जो कि गिरफ्तारी के लिये आवश्यक है, का विवरण।	धारा 137(2), 87, 64(1), 351(3) BNS व 3/4 पाक्सो एक्ट 2012
14.	संज्ञेय व जमानती मामलों में गिरफ्तारी पर जमानत के अधिकार से अवगत कराया गया या नहीं। (धारा 47 (2) BNSS)	जी हाँ
15.	शरीर पर कोई चोट अथवा अभिघात आदि के निशान।	कोई जाहिरा चोट नहीं है।
(A)	गिरफ्तारी के दौरान	नहीं
(B)	या अन्यथा।	नहीं
16.	यदि गिरफ्तारी व्यक्ति को उसके विधिक अधिकारों/उसका/उसकी पसन्द के अधिवक्ता से मिलने के बारे में बताया गया? (धारा 38 BNSS)	जी हाँ

अभियुक्त को गिरफ्तारी के कारण एवं आधारों व विधिक अधिकारों के बारे में अभियुक्त को समझ आने वाली भाषा में भली भाँति अवगत कराया गया तथा मा० सर्वोच्च न्यायालय के निर्देशों एवं BNSS के प्रावधानों का गिरफ्तारी के दौरान पालन किया।

अपठनीय  
गिरफ्तारी करने वाले अधिकारी के हस्ताक्षर  
नाम व रैंक उ० नि० पवन कुमार यादव  
थाना कन्धई प्रतापगढ़  
दिनांक 28.01.2026"

24. Further, the grounds of arrest given separately are quoted below:-

### कारण गिरफ्तारी सूचना

आज दिनांक 28.01.2026 को मुझ उपनिरीक्षक/विवेचक द्वारा थाना कन्धई पर पंजीकृत मु०अ०सं० 15/2026 धारा 137(2), 87, 69, 351(3) BNS 2023 व 3/4 पाक्सो एक्ट 2012 जो कि वादी विजय कुमार चौरसिया पुत्र लालजी

चौरसिया निवासी ग्राम परसनी सरायभीम सेन थाना कन्धई जनपद प्रतापगढ़ द्वारा दिनांक 21.01.26 को पंजीकृत कराया गया है जिसमें आप नामजद अभियुक्त हैं, मुकदमा उपरोक्त में अब तक की विवेचनात्मक कार्यवाही साक्ष्य संकलन, बयान वादी, बयान पीड़िता अन्तर्गत धारा 180 BNSS 2023 व बयान पीड़िता अन्तर्गत धारा 183 BNSS 2023 समक्ष मा० न्यायालय व अन्य साक्ष्य संकलन से मुकदमा उपरोक्त की धारा 137(2), 87, 64(1), 351(3) BNS 2023 व 3/4 पाक्सो एक्ट 2012 के अपराध में आपकी संलिप्तता पाये जाने पर आप शिवम चौरसिया उर्फ चुन्नी पुत्र अशोक कुमार चौरसिया निवासी ग्राम रामपुर बेला पोस्ट बेलारामपुर थाना पट्टी जनपद प्रतापगढ़ हिरासत पुलिस में लिया जाता है। आपके विरुद्ध अग्रिम विधिक कार्यवाही की जायेगी। आपके द्वारा कृत अपराध में गिरफ्तारी के सम्बन्ध में लिखित प्रमाण पत्र आपको दिया जा रहा है।

28.01.26  
(पवन कुमार यादव)  
उ०नि०/विवेचक  
थाना कन्धई  
जनपद प्रतापगढ़

25. The said separate grounds of arrest have been perused by the Court but no confidence or trust can be reposed on the said grounds of arrest which are alleged to have been supplied separately to the petitioner. The reasons are not far to seek. Apart from the fact that the said reasons for arrest are separate provided on separate paper and do not form part of the arrest memo, the other aspect of the matter is that neither column 12 nor column 13 of the arrest memo dated 28.01.2026 nor anywhere in the arrest memo has it been indicated that the grounds of arrest are being given separately. Further the column no. 13 and sub columns pertaining to providing grounds of arrest have been left blank. As such, there can be no occasion to accept that grounds of arrest has been duly supplied to the arrestee. As per section 36 of the B.N.S.S, 2023, under which the arrest memo is to be issued, it is categorically provided that the memorandum of arrest would be attested by atleast one witness who is the member of a family of a person arrested or a respectable member of the locality where

the arrest is made duly countersigned by the person arrested. Though the separate grounds/reasons of arrest are bearing the signature of the petitioner i.e a countersigned by the person arrested- the petitioner, yet there is no witness to the said grounds of arrest. This leads to the only inescapable conclusion that had the said grounds/reasons of arrest been prepared simultaneously with the arrest memo dated 28.01.2026, the same would duly have been mentioned on the arrest memo itself and would also have been attested by the witness who has attested the arrest memo as annexed with the petition. Thus, it is clearly apparent that the said grounds/ reasons of arrest have been prepared subsequently and though may be bearing the signature of the petitioner but do not conform to the mandatory provisions of Section 36 of the B.N.S.S, 2023 and the law laid down by the Apex Court in the case of **Mihir Rajesh Shah (supra)**.

26. Thus, it is apparent that the arrest of the petitioner is in the teeth of the law laid down by the Apex Court in the case of **Mihir Rajesh Shah (supra)** and also in breach of constitutional safeguards which thus renders the arrest and remand of the petitioner illegal whereby rendering the petitioner to be set at liberty.

27. So far as the argument of the learned AGAs that as the petitioner is now in custody in pursuance to the remand order passed by the learned Magistrate and thus the illegality, if any, in the arrest gets obliterated which argument has been advanced on the basis of the judgment of the Apex Court in the case of **Mihir Rajesh Shah (supra)**, the same merits to be rejected inasmuch as it is a settled proposition of law that once the edifice goes the super structure collapses meaning thereby that in case the arrest itself is declared illegal even if the remand order has been passed, the same would also be rendered bad keeping in view the law laid down by the Apex Court in the case of **Mihir Rajesh Shah (supra)**.

28. The other aspect of the matter is that the judgment of the Apex Court in the case of **Rahul Modi (supra)** has been considered by the Apex Court in the case of **Gautam Navlakha Vs. National Investigation**

Agency, reported in (2022) 13 SCC 542 wherein the Apex Court has held as under:-

***"Whether a writ of habeas corpus lies against an order of remand under Section 167 CrPC***

76. A habeas corpus petition is one seeking redress in the case of illegal detention. It is intended to be a most expeditious remedy as liberty is at stake. Whether a habeas corpus petition lies when a person is remanded to judicial custody or police custody is not *res integra*. We may notice only two judgments of this Court. In *Manubhai Ratilal Patel v. State of Gujarat* [*Manubhai Ratilal Patel v. State of Gujarat*, (2013) 1 SCC 314 : (2013) 1 SCC (Cri) 475], we may notice para 24 : (SCC p. 324)

*"24. The act of directing remand of an accused is fundamentally a judicial function. The Magistrate does not act in executive capacity while ordering the detention of an accused. While exercising this judicial act, it is obligatory on the part of the Magistrate to satisfy himself whether the materials placed before him justify such a remand or, to put it differently, whether there exist reasonable grounds to commit the accused to custody and extend his remand. The purpose of remand as postulated under Section 167 is that investigation cannot be completed within 24 hours. It enables the Magistrate to see that the remand is really necessary. This requires the investigating agency to send the case diary along with the remand report so that the Magistrate can appreciate the factual scenario and apply his mind whether there is a warrant for police remand or justification for judicial remand or there is no need for any remand at all. It is obligatory on the part of the Magistrate to apply his mind and not to pass an order of remand automatically or in a mechanical manner."*

*(emphasis supplied)*

77. However, the Court also held as follows : (*Manubhai Ratilal Patel case* [*Manubhai Ratilal Patel v. State of Gujarat*, (2013) 1 SCC 314 : (2013) 1 SCC (Cri) 475], SCC p. 326, para 31)

*"31. ... It is well-accepted principle that a writ of habeas corpus is not to be entertained when a person is committed to judicial custody or police custody by the competent court by an order which prima facie does not appear to be without jurisdiction or passed in an absolutely mechanical manner or wholly illegal. As has been stated in B. Ramachandra Rao [B. Ramachandra Rao v. State of Orissa, (1972) 3 SCC 256 : 1972 SCC (Cri) 481] and Kanu Sanyal [Kanu Sanyal v. Distt. Magistrate,*



*Darjeeling, (1974) 4 SCC 141 : 1974 SCC (Cri) 280] , the court is required to scrutinise the legality or otherwise of the order of detention which has been passed. Unless the court is satisfied that a person has been committed to jail custody by virtue of an order that suffers from the vice of lack of jurisdiction or absolute illegality, a writ of habeas corpus cannot be granted."*

*(emphasis supplied)*

**78.** *One of us (U.U. Lalit, J.) speaking for a Bench of two, followed the aforesaid line of thought in the decision of Serious Fraud Investigation Office v. Rahul Modi [Serious Fraud Investigation Office v. Rahul Modi, (2019) 5 SCC 266 : (2019) 2 SCC (Cri) 516] and held as follows : (SCC p. 289, para 21)*

*"21. The act of directing remand of an accused is thus held to be a judicial function and the challenge to the order of remand is not to be entertained in a habeas corpus petition."*

**79.** *We may also notice para 19 from the same judgment : (Rahul Modi case [Serious Fraud Investigation Office v. Rahul Modi, (2019) 5 SCC 266 : (2019) 2 SCC (Cri) 516] , SCC p. 285)*

*"19. The law is thus clear that 'in habeas corpus proceedings a court is to have regard to the legality or otherwise of the detention at the time of the return and not with reference to the institution of the proceedings'."*

**80.** *Thus, we would hold as follows : If the remand is absolutely illegal or the remand is afflicted with the vice of lack of jurisdiction, a habeas corpus petition would indeed lie. Equally, if an order of remand is passed in an absolutely mechanical manner, the person affected can seek the remedy of habeas corpus. Barring such situations, a habeas corpus petition will not lie."*

29. From a perusal of the aforesaid judgment of **Gautam Navlakha (supra)** it emerges that the Apex Court has held that the habeas corpus petition would lie when a person is remanded to the judicial custody or police custody where the remand order is passed in an absolutely mechanical manner.

30. A perusal of the order passed by the learned Magistrate would indicate that the learned Magistrate though has considered the material available on record yet he has failed to consider that the grounds/reasons of arrest, as detailed separately, do not form part of the arrest memo as they do not find mention anywhere in the arrest memo and further also

do not conform to the mandatory provisions of Section 36 of B.N.S.S, 2023 and thus it is apparent that the remand order has been passed in an absolutely mechanical manner and consequently, even if the remand has been given by the learned Magistrate yet the instant writ petition in the nature of habeas corpus would be maintainable.

31. So far as the preliminary objection raised by the learned AGAs pertaining to the maintainability of the instant petition in the nature of habeas corpus is concerned, apart from the law laid down by the Apex Court in the case of **Gautam Navlakha (supra)**, the Apex Court in the case of **Nenavath Bujji Vs. State of Telengana and ors- 2024 (17) SCC 294** has held as under :-

*"26. In Halsbury's Laws of England, it is stated thus:*

*"The writ of habeas corpus ad subjiciendum" unlike other writs, is a prerogative writ, that is to say, it is an extraordinary remedy, which is issued upon cause shown in cases where the ordinary legal remedies are inapplicable or inadequate. This writ is a writ of right and is granted ex debito justitiae. It is not, however, a writ of course. Both at common law and by statute, the writ of habeas corpus may be granted only upon reasonable ground for its issue being shown. The writ may not in general be refused merely because an alternative remedy by which the validity of the detention can be questioned. "Any person is entitled to institute proceedings to obtain a writ of habeas corpus for the purpose of liberating another from an illegal imprisonment and any person who is legally entitled to the custody of another may apply for the writ in order to regain custody. In any case, where access is denied to a person alleged to be unjustifiably detained, so that there are no instructions from the prisoner, the application may be made by any relation or friend on an affidavit setting forth the reason for it being made."*

*27. In Corpus Juris Secundum, the nature of the writ of habeas corpus is summarised thus:*

*"The writ of habeas corpus is a writ directed to the person detaining another, commanding him to produce the body of the prisoner at a designated time and place with the day and cause of his caption and detention to do, submit to, and receive whatsoever the court or Judge awarding the writ shall consider in that behalf. "Habeas corpus" literally means "have the body". By this writ, the court can direct to have the body of the*

*person detained to be brought before it in order to ascertain whether the detention is legal or illegal. Such is the predominant position of the writ in the Anglo-Saxon Jurisprudence.”*

**28.** *In Constitutional and Administrative Law by Hood Phillips & Jackson, it is stated thus:*

*“The legality of any form of detention may be challenged at common law by an application for the writ of habeas corpus. Habeas corpus was a prerogative writ, that is, one issued by the King against his officers to compel them to exercise their functions properly. The practical importance of habeas corpus as providing a speedy judicial remedy for the determination of an applicant's claim for freedom has been asserted frequently by judges and writers. Nonetheless, the effectiveness of the remedy depends in many instances on the width of the statutory power under which a public authority may be acting and the willingness of the courts to examine the legality of decision made in reliance on wide-ranging statutory provision. It has been suggested that the need for the “blunt remedy” of habeas corpus has diminished as judicial review has developed into an ever more flexible jurisdiction. Procedural reform of the writ may be appropriate, but it is important not to lose sight of substantive differences between habeas corpus and remedies under judicial review. The latter are discretionary and the court may refuse relief on practical grounds; habeas corpus is a writ of right, granted ex debito justitiae.”*

**29.** *The ancient prerogative writ of habeas corpus takes its name from the two mandatory words “habeas” and “corpus”. “Habeas corpus” literally means “have his body”. The general purpose of these writs as their name indicates was to obtain the production of the individual before a court or a Judge. This is a prerogative process for securing the liberty of the subject by affording an effective relief of immediate release from unlawful or unjustifiable detention, whether in prison or in private custody. This is a writ of such a sovereign and transcendent authority that no privilege of power or place can stand against it. It is a very powerful safeguard of the subject against arbitrary acts not only of private individuals but also of the Executive, the greatest safeguard for personal liberty, according to all constitutional jurists. The writ is a prerogative one obtainable by its own procedure. In England, the jurisdiction to grant a writ existed in Common law, but has been recognised and extended by statute. It is well established in England that the writ of habeas corpus is as of right and that the court has no discretion to refuse it. **“Unlike certiorari or mandamus, a writ of habeas corpus is as of right” to every man who is unlawfully detained. In India, it is this prerogative writ which has been given a constitutional status under Articles 32 and 226 of the Constitution.***

*Therefore, it is an extraordinary remedy available to a citizen of this country, which he can enforce under Article 226 or under Article 32 of the Constitution of India.*

*(emphasis by the Court)*

32. From a perusal of the aforesaid judgment of **Nenavath Bujji (supra)** it clearly emerges that there is a substantive difference between the writ of habeas corpus and remedies under judicial review inasmuch as the latter are discretionary and the Court may refuse release on practical grounds but a writ of habeas corpus is a **writ of right granted *ex debito justitiae***.

33. Apart from the above, the Apex Court in the case of **Mihir Rajesh Shah (supra)** has categorically held that supply of grounds to the person being arrested is a constitutional mandate and is not a mere procedural formality and thus a writ alleging violation of fundamental rights would be maintainable and the Court may not have any discretion to refuse the same if the allegation of violation of fundamental rights is found to be correct, as in the instant case. From the discussion as aforesaid, it is clearly demonstrated that the arresting officer has not complied with the mandatory provisions provided in BNSS and the judgment of the Apex Court in the case of **Mihir Rajesh Shah (supra)** while arresting and producing the arrestee before the learned Magistrate/Court concerned for remand, therefore, the arrest of arrestee is bad in the eyes of law, hence, judicial remand granted by the Court for the petitioner upon an illegal arrest, cannot be termed as valid.

34. Keeping in view the aforesaid discussion, the writ petition is **allowed**. A writ in the nature of habeas corpus is issued declaring the arrest of the petitioner as illegal. The remand order dated 29.01.2026 being consequential to the illegal arrest, is also set aside. The petitioner be set free provided he is not wanted in any other case

35. However, it would be open for the respondents to proceed in accordance with law.

36. The records i.e the Case Diary Nos. CD 1 to CD 13 have been returned back to the learned AGAs after being perused.

37. The Court records the assistance rendered by Mr. Mohd Azam Siddiqui, Research Associate of this Court.

**(Mrs. Babita Rani,J.) (Abdul Moin,J.)**

**February 10, 2026**  
*Pachhere/-*