

**(2025) 12 UK CK 0056**

**Uttarakhand HC**

**Case No:** 2nd Bail Application No. 164 Of 2025

Yogesh Chand Aggarwal

APPELLANT

Vs

Central Bureau Of Investigation

RESPONDENT

**Date of Decision:** Dec. 17, 2025

**Acts Referred:**

- Prevention Of Corruption Act, 1988 - Section 7
- Code Of Criminal Procedure, 1973 - Section 41(1)(b)(i), 41(1)(b)(ii), 50
- Constitution Of India, 1950 - Article 21, 22, 22(1), 22(5)

**Hon'ble Judges:** Ravindra Maithani, J

**Bench:** Single Bench

**Advocate:** A.S. Rawat, Raj Kumar Singh, Shashwat Sarin, Piyush Garg

**Final Decision:** Dismissed

**Judgement**

Ravindra Maithani, J

1. The applicant is in judicial custody in FIR No. RC0072024(A)0002 dated 24.02.2024 under Section 7 of the Prevention of Corruption Act, 1988 (the PC Act), Police Station CBI SPE Dehradun. He seeks his release on bail.

2. According to the prosecution, the applicant was working as Superintendent in the Office of Deputy Commissioner, Central Goods and Services Tax, Rudrapur, District Udham Singh Nagar. The wife of the informant was running a business. Her Goods and Services Tax Identification Number (GSTIN) was suspended. When the applicant was approached, he demanded Rs. 15,000/- to activate the GSTIN. The matter was reported to the Central Bureau of Investigation (the CBI). After preliminary verification, FIR was lodged. In fact, when the demand was made by the applicant, it was recorded by the informant. Finally, a trap was made. On the date of trap, according to the prosecution, the applicant demanded money by gesture, which was given to him. His hand wash turned pink and the money was recovered from him.

3. This is second bail application of the applicant. The first bail application has already been rejected on merit on 13.08.2024.

4. Second bail application has been filed on the ground that at the time of arrest, the grounds of arrest, in writing, were never communicated to the applicant, which is violation of Article 22(1) of the Constitution of India.

5. The CBI has filed its response. According to the CBI, the applicant was informed about the grounds of arrest.

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

7. Learned Senior Counsel for the applicant submits that the ground grounds of arrest are required to be given in writing. It is the mandate under Article 22 of the Constitution of India. It is argued that if certain documents have been given containing the grounds of arrest, it is not compliance of the constitutional provisions. Learned Senior Counsel also raised the following submissions in his arguments:-

(i) Reason of arrest is different than the grounds of arrest. In the instant case, reason of arrest has been communicated to the applicant.

(ii) The applicant was not provided pre-trap memo, post-trap memo, remand application or first remand order.

8. Learned Senior Counsel for the applicant submits that in the instant case, since the grounds of arrest, in writing, have not been communicated to the applicant, it is violation of the Fundamental Rights of the applicant as guaranteed under Article 22 of the Constitution of India and, as such, the applicant is entitled to bail.

9. In support of his arguments, learned Senior Counsel has relied upon the judgments in the cases of *Ichhu Devi Choraria v. Union of India and others*, (1980) 4 SCC 531, *Lallubhai Jogibhai Patel v. Union of India and others*, (1981) 2 SCC 427, *Pankaj Bansal v. Union of India* (2024) 7 SCC 576, *Prabir Purkayastha v. State (NCT of Delhi)*, (2024) 8 SCC 254, *Vihaan Kumar v. State of Haryana*, (2025) 5 SCC 799 and *Mihir Rajesh Shah v. State of Maharashtra*, 2025 SCC OnLine SC 2356.

10. On the other hand, learned counsel for the CBI submits that the objective behind Article 22(1) of the Constitution of India is that an arrestee should be communicated/ informed as to why he is arrested, so that he may prepare for his defence. It is argued that initially giving information to the arrestee as to why he is arrested, was considered sufficient compliance of Article 22 (1) of the Constitution of India. Reference is made to the judgment in the case of *Vijay Madanlal Choudhary and others v. Union of India and others*, (2023) 12 SCC 1. But, it is argued that subsequent to the judgment in the case of *Pankaj Bansal* ( **supra**) and *Prabir Purkayastha* ( **supra**), it was made mandatory that the grounds of arrest should be communicated in writing. Referring to the judgment in the case of *Vihaan Kumar* (

**supra**), it is argued that in the case of Vihaan Kumar ( **supra**), the Honble Supreme Court has laid down that the grounds of arrest may be given either orally or in writing, but the mode and method of communication must be such that the object of the constitutional safeguard is achieved. Learned counsel for the CBI further submits that after the judgment in the case of Vihaan Kumar ( **supra**), which was subsequently followed in the case of Kasireddy Upender Reddy v. State of Andhra Pradesh, 2025 SCC OnLine SC 1228 and in the case of State of Karnataka v. Sri Darshan, etc., 2025 SCC OnLine SC 1702, the position of law did not remain consistent because, on the one hand, earlier in the cases of Pankaj Bansal ( **supra**) and Prabir Purkayastha ( **supra**), it was mandated that grounds of arrest should be given in writing whereas, on the other hand, it was diluted in the case of Vihaan Kumar ( **supra**), when the mode and method of communication was left open with the caveat that such mode and method of communication must be such that the object of the constitutional safeguard is achieved.

11. Learned counsel for the CBI further argued that in order to make a legal position consistent, in the case of Mihir Rajesh Shah ( **supra**), the Honble Supreme Court held that the grounds of arrest must be communicated in writing to the arrestee in the language, which he or she understands.

12. Learned counsel for the CBI had further adverted to the fact as to what constitutes the grounds of arrest. He would submit that the ground of arrest is basically akin to the charge that is framed against the accused so as to understand as to what is the allegation against him or the basic facts, which constitute the offence.

13. It is also argued on behalf of the CBI that basically grounds of arrest are such grounds, which necessitates arrest of the person, which is quite different than the reasons for arrest, which may be general in nature. It is argued that the grounds of arrest even in writing may be communicated by supplying a document, which contains the grounds of arrest; it is not necessary that from some document, grounds of arrest, as such may be culled out so as to be given to the arrestee. He would submit that prior to the judgment in the case of Mihir Rajesh Shah ( **supra**), in view of the judgment in the case of Vihaan Kumar ( **supra**), if the police wanted to prove communication of the grounds of arrest only based on a diary entry, it was necessary to incorporate those grounds of arrest in the diary entry or any other document. The grounds of arrest should have been in existence before the same were informed.

14. Learned Senior Counsel for the applicant as well as the learned counsel for the CBI has widely read over the relevant portions of the judgments referred to by them.

15. Multiple bail applications have been tagged with this bail application, where similar questions of law are involved.

16. In the instant matter, arguments have been heard.

17. Needless to say, one of the precious rights of a person as enshrined in the Constitution of India is life and liberty, which he cannot be deprived of except according to the proceedings established by law, as mandated under Article 21 of the Constitution of India.

18. Section 50 of the Code of Criminal Procedure, 1973 (the Code) casts a duty on a police officer affecting arrest to forthwith communicate the arrestee full particulars of the offence for which he is arrested or other grounds for such arrest. This is, in fact, in accordance with the constitutional scheme, as provided under Article 22 of the Constitution of India. It reads as follows:-

**22. Protection against arrest and detention in certain cases.** - (1) 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.

.....  
.....

(5) When any person is detained in pursuance of an order made under any law providing for preventive detention, the authority making the order shall, as soon as may be, communicate to such person the grounds on which the order has been made and shall afford him the earliest opportunity of making a representation against the order.

19. In the case of *Harikisan v. State of Maharashtra and others*, AIR 1962 SC 911, it was held that **detained person has the right to be communicated the grounds on which the order of detention has been made against him, in order that he may be able to make his representation against the order of detention.**

20. In the case of *Icchu Devi Choraria* ( **supra**) also, the Honble Supreme Court held that the grounds of detention are to be communicated to the detenu.

21. Similarly, in the case of *Lallubhai Jogibhai Patel* ( **supra**), it was held that **One of the basic requirements of clause (5) of Article 22 is that the authority making the order of detention must, as soon as may be, communicate to the detenu the grounds on which the order of detention has been made ....**

22. Not only under detention laws, but in the other matters also, subsequently the Honble Supreme Court has held that the grounds of arrest should be communicated as it is integral part of Article 22 of the Constitution of India. In the case of *Pankaj Bansal* ( **supra**), in para 42, the Honble Supreme Court held that **there is no valid reason as to why a copy of such written grounds of arrest should not be furnished to the arrested person as a matter of course and without exception** and finally, in para 45 of the judgment, the Honble Supreme

Court held that **we hold that it would be necessary, henceforth, that a copy of such written grounds of arrest is furnished to the arrested person as a matter of course and without exception.**

23. In the case of Prabir Purkayastha ( **supra**), in para 18 of the judgment, the Honble Supreme Court observed that **we have no hesitation in holding that the interpretation of statutory mandate laid down by this Court in Pankaj Bansal [Pankaj Bansal v. Union of India, (2024) 7 SCC 576] on the aspect of informing the arrested person the grounds of arrest in writing has to be applied pari passu to a person arrested in a case registered under the provisions of the UAPA.** Finally, in para 29 of the judgment in the case of Prabir Purkayastha ( **supra**), the Honble Supreme Court held as follows:-

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.

24. The consistent view had been taken by the Honble Supreme Court in the earlier judgments, until the judgment in the case of Vihaan Kumar ( **supra**) was delivered by the Honble Supreme Court. It may be noted that in the case of Pankaj Bansal ( **supra**) and Prabir Purkayastha ( **supra**), the Honble Supreme Court categorically held that grounds of arrest must be communicated to the arrestee in writing, but in the case of Vihaan Kumar ( **supra**), the Honble Supreme Court held that **the mode of conveying the grounds of arrest must necessarily be meaningful so as to serve the intended purpose. However, under Article 22(1), there is no requirement of communicating the grounds of arrest in writing.** (Para 18).

25. In para 20 of the judgment, in the case of Vihaan Kumar ( **supra**), the Honble Supreme Court observed that in the case of Pankaj Bansal ( **supra**), it was suggested that proper and ideal course of communicating the grounds of arrest is to provide grounds of arrest in writing. Although, in para 23, the Honble Supreme Court further held that **If the police want to prove communication of the grounds of arrest only based on a diary entry, it is necessary to incorporate those grounds of arrest in the diary entry or any other document. The grounds of arrest must exist before the same are informed. Therefore, in a given case, even assuming that the case of the police regarding requirements of Article 22(1) of the Constitution is to be accepted based on an entry in the case diary, there must be a contemporaneous record, which records what the grounds of arrest were. When an arrestee pleads before a court that grounds of arrest were not communicated, the burden to prove the compliance of Article 22(1) is on the police.**

26. While making these observations, finally, in para 26 of the judgment in the case of Vihaan Kumar ( **supra**), the Honble Supreme Court recorded the conclusions as below:-

**26.** Therefore, we conclude:

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

**26.2.** The information of the grounds of arrest must be provided to the arrested person in such a manner that sufficient knowledge of the basic facts constituting the grounds is imparted and communicated to the arrested person effectively in the language which he understands. **The mode and method of communication must be such that the object of the constitutional safeguard is achieved;**

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

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

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

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

(emphasis supplied)

27. A bare perusal of para 26.2 of the judgment in the case of Vihaan Kumar ( **supra**), makes it clear that the Honble Supreme Court mandated informing the arrestee of the grounds of arrest in a mode and method so that the object of the constitutional safeguard is achieved. It was not mandated that the grounds of arrest should be communicated in writing.

28. Subsequent to it, in the case of Kasireddy Upender Reddy ( **supra**), the Honble Supreme Court discussed the law laid down in the case of Vihaan Kumar ( **supra**)

and in para 27 of the judgment, the Honble Supreme Court observed as below:-

**27.** The object underlying the provision that the grounds of arrest should be communicated to the person arrested has been very succinctly explained in Vihaan Kumar ( **supra**). On learning about the grounds for arrest, the person concerned will be in a position to make an application before the appropriate Court for bail, or move the High Court for a writ of habeas corpus. Further, the information will enable the arrested person to prepare his defence in time for the purposes of his trial. For these reasons, it has been provided by the Constitution that, the ground for the arrest must be communicated to the person arrested as soon as possible.

29. This has further been followed in the case of Sri Darshan ( **supra**), when in para 20.1.4, the Honble Supreme Court observed as follows:-

**20.1.4.** In **Vihaan Kumar v. State of Haryana, 2025 SCC OnLine SC 456**, 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, 2025 INSC 768**, 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.

(emphasis supplied)

30. At the cost of repetition, it may be noted that upto the judgment in the case of Vihaan Kumar ( **supra**), the consistent law was that the grounds of arrest must be communicated in writing. However, the mode and method was kept open in the case of Vihaan Kumar ( **supra**), which was followed in the cases of Kasireddy Upender Reddy ( **supra**) and Sri Darshan ( **supra**).

31. Then came the judgment in the case of Mihir Rajesh Shah ( **supra**), In para 13 of it, the Honble Supreme Court noted the findings recorded in the case of Vihaan Kumar ( **supra**) and held that **This Court in Pankaj Bansal ( supra) observed that ideally grounds of arrest should be informed in writing, however, in Vihaan Kumar ( supra) it was acknowledged that it might not be practical to provide grounds of arrest to an accused in each and every case in writing and thus clarified that there is no mandate to communicate the grounds of arrest in writing**. In the case of Mihir Rajesh Shah ( **supra**), after discussing on the law on the point, in para 56, the Honble Supreme Court summed up the principles as follows:-

**56.** In conclusion, it is held that:

i) The constitutional mandate of informing the arrestee the grounds of arrest is mandatory in all offences under all statutes including offences under Penal Code, 1860 (now BNS 2023);

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

iii) In case(s) where, the arresting officer/person is unable to communicate the grounds of arrest in writing on or soon after arrest, it be so done orally. The said grounds be communicated in writing within a reasonable time and in any case at least two hours prior to production of the arrestee for remand proceedings before the magistrate.

iv) In case of non-compliance of the above, the arrest and subsequent remand would be rendered illegal and the person will be at liberty to be set free.

32. Further, in para 58 of the judgment in the case of Mihir Rajesh Shah ( **supra**), the Honble Supreme Court observed that since there was no consistent or binding requirement mandating written communication of the grounds of arrest, clarity has been observed in the judgment. In para 58, the Honble Supreme Court observed as under:-

**58.** 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.

33. From the above discussion, it is established that the constitutional mandate of communicating the grounds of arrest has consistently been followed by the Honble Supreme Court. Before the judgment in the case of Vihaan Kumar ( **supra**) was delivered, the requirement was to communicate the grounds of arrest to the arrestee in writing. In the case of Vihaan Kumar ( **supra**), the Honble Supreme Court kept it open to the person effecting arrest to decide the mode and method of communicating the grounds of arrest in such a manner that the object of the constitutional safeguard is achieved. It means that oral information was also held to be the compliance of Article 22(1) of the Constitution of India. But, after the judgment in the case of Mihir Rajesh Shah ( **supra**), the grounds of arrest must be communicated in writing. This is the legal position.

34. What are the grounds of arrest? It may be noted that the grounds of arrest and the reasons of arrest are two separate concepts. It is also settled law that in a cognizable offence, the police may arrest without warrant. But, it is not necessary that in every cognizable offence, the accused must be arrested. Power to arrest is one thing and necessity to arrest is different. As such, what is ground of arrest has not been defined anywhere. In the case of Prabir Purkayastha ( **supra**), in para 49 of the judgment, the Honble Supreme Court discussed the concept of grounds



of arrest and the reasons of arrest in the following words:-

**48.** It may be reiterated at the cost of repetition that there is a significant difference in the phrase reasons for arrest and grounds of arrest. The reasons for arrest as indicated in the arrest memo are purely formal parameters viz. to prevent the accused person from committing any further offence; for proper investigation of the offence; to prevent the accused person from causing the evidence of the offence to disappear or tampering with such evidence in any manner; to prevent the arrested person for making inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to the investigating officer. These reasons would commonly apply to any person arrested on charge of a crime whereas the grounds of arrest would be required to contain all such details in hand of the investigating officer which necessitated the arrest of the accused. Simultaneously, the grounds of arrest informed in writing must convey to the arrested accused all basic facts on which he was being arrested so as to provide him an opportunity of defending himself against custodial remand and to seek bail. Thus, the grounds of arrest would invariably be personal to the accused and cannot be equated with the reasons of arrest which are general in nature.

35. Section 41(1) (b) (i) & (ii) of the Code, makes provision when the police officer may make an arrest. It reads as under:-

**41. When police may arrest without warrant.** (1) Any police officer may without an order from a Magistrate and without a warrant, arrest any person

(a)....

(b)....

(i) the police officer has reason to believe on the basis of such complaint, information, or suspicion that such person has committed the said offence;

(ii) the police office is satisfied that such arrest is necessary

(a) to prevent such person from committing any further offence; or

(b) for proper investigation of the offence; or

(c) to prevent such person from causing the evidence of the offence to disappear or tampering with such evidence in any manner; or

(d) to prevent such person from making any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to the police officer; or

(e) as unless such person is arrested, his presence in the Court whenever required cannot be ensured

and the police officer shall record while making such arrest, his reasons in writing:

Provided that a police officer shall, in all cases where the arrest of a person is not required under the provisions of this sub-section, record the reasons in writing for not making the arrest.

36. A person may only be arrested when the arresting officer is satisfied or he has reasons to believe that the person has committed an offence and thereafter question arises about the necessity to arrest. This is generally known as reasons to arrest. They may be general in nature. But, what makes the arresting officer to form an opinion that the arrestee has committed an offence, these are, in fact, basic facts, which constitute the offence. These are the grounds of arrest.

37. In the case of Kasireddy Upender Reddy ( **supra**), in para 28 of the judgment, the Honble Supreme Court has observed that the grounds to be communicated to the arrested person should be somewhat similar to the charge framed by the trial court. In para 28, the Honble Supreme Court observed as follows:-

**28.** For the purposes of Clause (1) of Article 22, it is not necessary for the authorities to furnish full details of the offence. However, the information should be sufficient to enable the arrested person to understand why he has been arrested. The grounds to be communicated to the arrested person should be somewhat similar to the charge framed by the Court for the trial of a case.

38. In para 36 of the judgment in the case of Kasireddy Upender Reddy ( **supra**), the Honble Supreme Court further observed the grounds of arrest and held that arrestee must be told that he has committed certain offence, for which he would be placed on trial and further as to why he has been arrested? The Honble Supreme Court, in para 36 of the judgment, observed as under:-

**36.** If a person is arrested on a warrant, the grounds for reasons for the arrest is the warrant itself; if the warrant is read over to him, that is sufficient compliance with the requirement that he should be informed of the grounds for his arrest. If he is arrested without a warrant, he must be told why he has been arrested. If he is arrested for committing an offence, he must be told that he has committed a certain offence for which he would be placed on trial. In order to inform him that he has committed a certain offence, he must be told of the acts done by him which amounts to the offence. He must be informed of the precise acts done by him for which he would be tried; informing him merely of the law applicable to such acts would not be enough. (See : **Vimal Kishore Mehrotra** ( **supra**)).

39. In the case of Pankaj Bansal ( **supra**), in para 38 of the judgment, the Honble Supreme Court held that the arrested person should be aware of the grounds on which the authorised officer arrested him/her under Section 19 and the basis for the officer's reason to believe that he or she is guilty of an offence.

40. In the case of Vihaan Kumar ( **supra**), in para 13 of the judgment, the Honble Supreme Court observed that **Therefore, as far as Article 22(1) is concerned, compliance can be made by communicating sufficient knowledge of the basic facts constituting the grounds of arrest to the person arrested.** It means that the grounds of arrest are those basic facts, which constitute the offence and in para 26.2, the Honble Supreme Court in the case of Vihaan Kumar ( **supra**), held that the arrestee must be told the basic facts constituting the grounds of arrest.

41. In view of the settled legal position, the law may be summarized as below:-

Grounds of arrest include the following:-

(i) The grounds on which the arresting officer arrested the person or basis for the officers reason to believe that the arrestee is guilty of offence [Pankaj Bansals case ( **supra**) and Vihaan Kumars case ( **supra**)].

(ii) The information, which is sufficient to enable the arrested person to understand as to why he has been arrested. [Kasireddy Upender Reddys case ( **supra**)]

(iii) The grounds to be communicated should be somewhat similar to the charge framed by the court for trial of a case. [Kasireddy Upender Reddys case ( **supra**)]

(iv) The acts done by the arrestee, which amount to offence. The arrestee must be informed of the precise acts done by him, for which he would be tried. Informing him merely of the law applicable to such acts would not be enough. [Kasireddy Upender Reddys case ( **supra**)]

(v) The basic facts constituting an offence. [Vihaan Kumars case ( **supra**)]

42. Now, the question is whether the grounds of arrest should be separately written on a sheet of paper and given in writing to the arrestee so as to comply the provisions of Article 22(1) of the Constitution of India or if a written document, which contains the grounds of arrest is delivered to the arrestee, it would be sufficient compliance of it?

43. Learned counsel for the CBI submits that the purpose, the objective of communicating the grounds of arrest is that the arrestee should know as to what is the allegation against him so that he may prepare for his defence. He would refer to the findings recorded in para 20.1.7 in the case of Sri Darshan ( **supra**), which is as follows:-

**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 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.

44. Based on the above observation made by the Honble Supreme Court in the case of Sri Darshan ( **supra**), learned counsel for the CBI submits that even if the arrestee is given a written document, which contains the grounds of arrest, it is sufficient compliance of Article 22(1) of the Constitution of India, which requires that the grounds of arrest should be communicated to the arrestee. He submits that it further fulfils the mandate of law as laid down in the case of Mihir Rajesh Shah ( **supra**) that the grounds of arrest should be communicated in writing. According to him, it is not required that the grounds of arrest should be recorded in a separate sheet and then it should be given to an arrestee.

45. On the other hand, learned Senior Counsel for the applicant submits that the grounds of arrest should be separately recorded and given to an arrestee so that he could know as to what are the allegations against him and as to how he should prepare against his arrest.

46. In every case, when arrest is effected, there are documents based on which the arresting officer forms an opinion or the arresting officer has basis for reasons to believe that the arrestee has committed some offence. It is thereafter, the arresting officer further makes an opinion as to whether the arrest is necessary or not.

47. The first part i.e. the basis on which the arresting officer forms an opinion that the arrestee has committed some offence are grounds of arrest. They are in some documents. This Court is of the view that if that document as such is given to an arrestee, it is definitely communicating the grounds of arrest in writing to the arrestee. The law nowhere requires that the grounds of arrest should be written separately on a separate sheet and thereafter it is to be given to an arrestee.

48. The legal position may, therefore, be summed up as below:-

(i) After the judgment in the case of Mihir Rajesh Shah ( **supra**), the grounds of arrest must be communicated in writing to an arrestee.

(ii) Before the judgment delivered in the case of Mihir Rajesh Shah ( **supra**), it was open to the person effecting arrest to decide the mode and method of communicating the grounds of arrest in such a manner that the object of the constitutional safeguard is achieved and if the police wants to prove communication of the grounds of arrest only based on a diary entry, it is necessary to incorporate

those grounds of arrest in the diary entry or any other document. The grounds of arrest must exist before the same are informed.

(iii) The grounds of arrest include the followings:-

(a) The grounds on which the arresting officer arrested the person or basis for the officers reason to believe that the arrestee is guilty of offence [Pankaj Bansals case ( **supra**) and Vihaan Kumars case ( **supra**)].

(b) The information, which is sufficient to enable the arrested person to understand as to why he has been arrested. [Kasireddy Upender Reddys case ( **supra**)]

(c) The grounds to be communicated should be somewhat similar to the charge framed by the court for trial of a case. [Kasireddy Upender Reddys case ( **supra**)]

(d) The acts done by the arrestee, which amount to offence. The arrestee must be informed of the precise acts done by him, for which he would be tried. Informing him merely of the law applicable to such acts would not be enough. [Kasireddy Upender Reddys case ( **supra**)]

(e) The basic facts constituting an offence. [Vihaan Kumars case ( **supra**)]

(iv) If the grounds of arrest are recorded in some document and the document as such is given to an arrestee, it is definitely communicating the grounds of arrest in writing to the arrestee.

(vi) Law nowhere requires that the grounds of arrest should be recorded in a separate sheet and only thereafter it is to be given to the arrestee.

49. Factually, on behalf of the applicant, it is argued that the applicant was not given pre-trap or post-trap memo, the arrest memo, case diary, remand application and the first remand order. There has been no communication of grounds of arrest.

50. On the other hand, learned counsel for the CBI submits that in the instant case, arrest was made on 24.02.2024, which is prior to the judgment in the case of Mihir Rajesh Shah ( **supra**), which was delivered on 06.11.2025. He submits that the law as laid down by the Honble Supreme Court in the cases of Pankaj Bansal ( **supra**), Prabir Purkayastha ( **supra**) and further in the case of Kasireddy Upender Reddy ( **supra**) and Sri Darshan ( **supra**) will be applicable in the instant case. Therefore, it is argued that, in fact, in view of the judgment in the case of Vihaan Kumar ( **supra**), the arresting officer could have communicated the grounds of arrest in such mode and method so that the object of the constitutional safeguard is achieved. It is argued that, in fact, it was not mandatory at the relevant time to communicate the grounds of arrest in writing, though it is argued that in the instant case, the grounds of arrest were communicated.

51. Learned counsel for the CBI referred to the judgment in the case of Vihaan Kumar ( **supra**) to argue that when the police claims that the grounds of arrest were

informed, they should exist on the record. Learned counsel would submit that the post-trap memo dated 26.02.2024 records that when the appellant accepted the bribe, he was challenged if he had demanded and accepted bribe from the complainant and on this, the applicant accepted that he had demanded and accepted bribe of Rs. 10,000/- from the complainant. Similar challenge was made on multiple stages. It is argued that this compliance is contemporary. The grounds of arrest were recorded in the post-trap memo that the applicant demanded bribe, etc., which is an offence. It is argued that what was told to the applicant at the time of arrest was the basic facts constituting the offence; the manner, in which the charges are framed, and it is argued that it is communication of the grounds of arrest.

52. Learned counsel for the CBI further argued that the arrest memo was given to the applicant, which he had admitted and in para 12 of it, the reasons for arrest in brief is given, which is as follows:-

12. Reasons for arrest in brief :

Demand and acceptance of Bribe of Rs. 10,000/0 from complainant Sh. Mukesh Kumar punishable u/s 7 of PC Act, 1988 (as amended 2018).

53. It is argued that though it is shown as reason to arrest, but these are basic facts, which constitute an offence, which are grounds of arrest. It is further argued that the remand application also records the basic facts of the offence. The fact remains that the copy of the remand application was not given to the applicant.

54. On the other hand, learned Senior Counsel for the applicant submits that in the instant case no sufficient compliance of the provisions of Article 22(1) of the Constitution of India has been made.

55. In fact, in the instant case, in the post-trap memo, it is recorded that the applicant was challenged and arrested, but, as such he was not told as to why he was being arrested; he was asked as to whether he demanded and accepted the money, to which he admitted.

56. The fact remains that in the arrest memo, the basic facts constituting the offence are written in the heading of Reasons for arrest in brief. In fact, under this caption what is stated is the grounds of arrest, which is that the applicant demanded and accepted bribe of Rs. 10,000/- from complainant Mukesh Kumar, which is an offence punishable under Section 7 of the PC Act (as amended in 2018). This is akin to the charge that may be framed against the appellant during trial.

57. The applicant has sought bail merely on the ground of compliance of Article 22(1) of the Constitution of India.

58. In the instant case, the grounds of arrest have, in fact, been communicated to the applicant in writing by way of the arrest memo, which was supplied to the

applicant at the time of his arrest, which is sufficient compliance of the provisions of Article 22 (1) of the Constitution of India. Therefore, this Court is of the view that there is no violation of Fundamental Rights of the applicant as guaranteed under Article 22 of the Constitution of India. Accordingly, the 2nd bail application of the applicant deserves to be rejected.

59. The bail application is rejected.