THE LAW LEDGER

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DELHI POLICE ACADEMY

CRIMINAL APPEAL NO.2195 OF 2025
Date of Judgement: 06/11/2025

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>
> –THE SUPREME COURT

MIHIR RAJESH SHAH ... APPELLANT(S)
VERSUS
STATE OF MAHARASHTRA AND ANOTHER ...RESPONDENT(S)

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MIHIR RAJESH SHAH ... APPELLANT(S)
VERSUS
STATE OF MAHARASHTRA AND ANOTHER ...RESPONDENT(S)

CRIMINAL APPEAL NO.2195 OF 2025
with
CRIMINAL APPEAL NO.2189 OF 2025
CRIMINAL APPEAL NO.2190 OF 2025
and
S.L.P (CRL.) NO. 8704 OF 2025

Date of Judgement: 06/11/2025



Facts of the Case:

These appeals arise from the arrest of Mihir Rajesh Shah in a Mumbai hit-and-run case. On 07.07.2024, a BMW car allegedly driven by the appellant struck the complainant's scooter at high speed. The complainant and his wife were thrown onto the bonnet; while the complainant fell to the side, his wife remained trapped and was dragged as the driver fled without offering help, leading to her death and minor injuries to the complainant. An FIR (No. 378/2024) was registered at Worli Police Station under the Bharatiya Nyaya Sanhita, 2023 and Motor Vehicles Act, 1988. CCTV footage identified the car, and the damaged vehicle was later found along with a co-accused and the appellant's father. The co-accused was arrested immediately, and the appellant was arrested on 09.07.2024. Prosecution evidence included CCTV visuals showing the appellant driving, proof of alcohol consumption, attempts to alter his appearance, and Fastag data. After his arrest, the appellant was remanded to police custody and later judicial custody. He challenged the arrest before the Bombay High Court, arguing that he was not given the grounds of arrest in writing, violating Article 22(1) and Section 47 Bharatiya Nagarik Suraksha Sanhita. Although the High Court acknowledged that written grounds were not furnished at the time of arrest, it upheld the arrest, holding that the appellant was aware of the allegations and that non-supply of written grounds did not vitiate the arrest in the circumstances. Aggrieved by the High Court's decision, the appellant approached the Supreme Court.



ISSUES ADVANCED

The Supreme Court framed the following issues:

(a) Whether in each and every case, even arising out of an offence under Indian Penal Code, 1860 ("IPC 1860") now Bharatiya Nyaya Sanhita, 2023 (BNS 2023) would it be necessary to furnish grounds of arrest to an accused either before arrest or forthwith after arrest, and

(b) Whether, even in exceptional cases, where on account of certain exigencies it will not be possible to furnish the grounds of arrest either before arrest or immediately after arrest, the arrest would be vitiated on the ground of non-compliance with the provisions of Section 50 of the CrPC 1973 (Now section 47 of Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS-2023)).

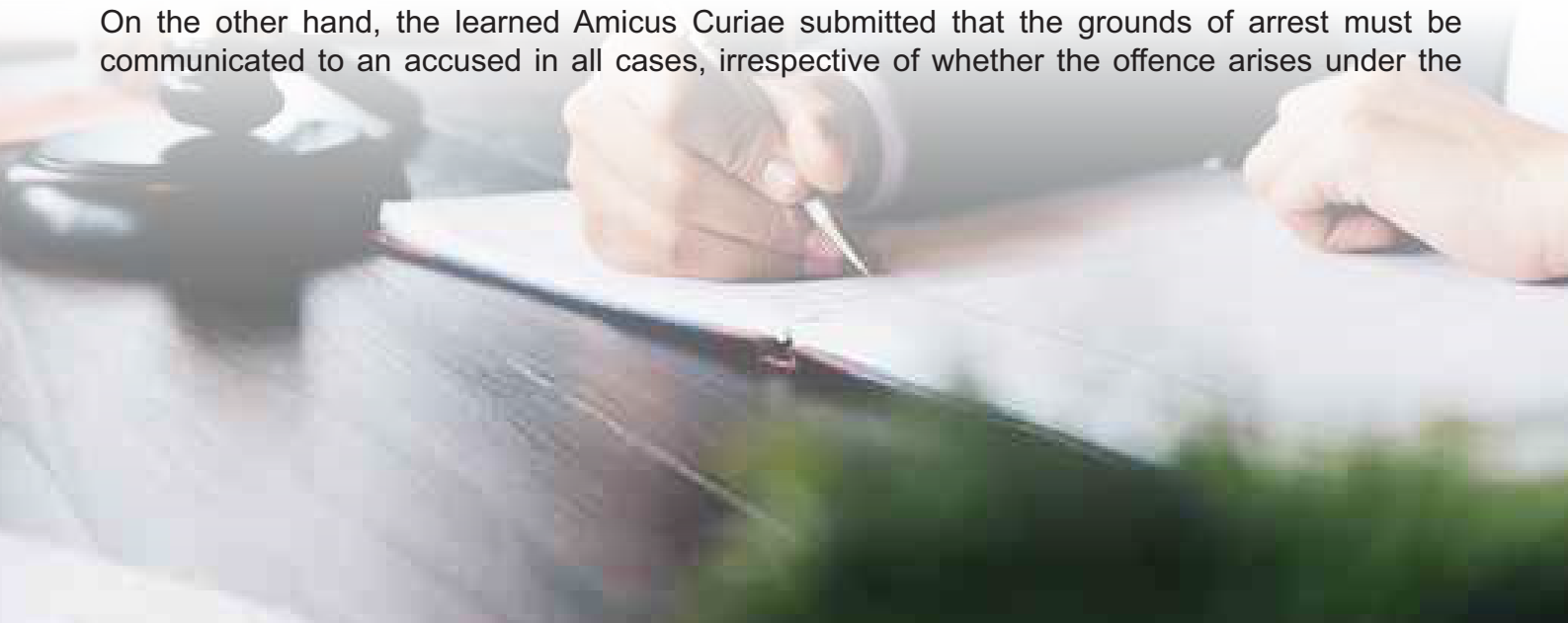
JUDGEMENT

The Hon'ble Supreme Court heard learned counsel for the parties as well as the learned Amicus Curiae on the issue concerning the constitutional and statutory requirement to furnish an arrestee with the grounds of arrest. The Court thereafter examined the relevant constitutional provisions, statutory framework, and precedents governing this mandate.

The learned Senior Counsel for the appellant submitted that the arrest of the appellant without informing him of the grounds of arrest in writing amounts to a gross violation of the constitutional protections under **Articles 21 and 22(1)** of the Constitution of India and **Section 47 of the BNSS, 2023.** Reliance was placed on the decision in **Pankaj Bansal v. Union of India,** to contend that to meet the requirement of Article 22(1), the grounds of arrest must necessarily be furnished in writing as a matter of course. Further reliance was placed on **Prabir Purkayastha v. State (NCT of Delhi)** wherein this Court held that the grounds of arrest must be furnished in writing at the earliest in cases under UAPA or any other offence. The appellant also relied on **Vihaan Kumar v. State of Haryana and Another** to submit that informing a person of the grounds of arrest is a mandatory requirement under Article 22(1), and Article 22 does not differentiate between offences under the BNS (formerly IPC) or any special statute; therefore, non-supply of written grounds vitiates the arrest, and the appellant is entitled to be set at liberty.

In response, learned counsel for the Respondent-State submitted that Section 47 of the BNSS, 2023 does not prescribe any specific mode for communicating the grounds of arrest, and therefore there is no statutory mandate that such grounds must be furnished in writing; the decisions in **Pankaj Bansal** and **Prabir Purkayastha** were stated to be inapplicable as they pertain to special statutes and not to offences under the BNS, and it was argued that informing the arrestee of the grounds orally satisfies Article 22(1). The State supported the order of the High Court on the basis that the grounds of arrest were duly communicated and all procedural safeguards were followed.

On the other hand, the learned Amicus Curiae submitted that the grounds of arrest must be communicated to an accused in all cases, irrespective of whether the offence arises under the



BNS/IPC or a special statute such as UAPA, as neither the Constitution nor the BNSS provides any exception to this requirement. Reliance was placed on Pankaj Bansal and Prabir Purkayastha to assert that even under special enactments, communication of grounds of arrest is mandatory. On the mode of communication, it was submitted that Article 22(1) and the BNSS do not mandate written communication in every instance, and that compliance is satisfied if the Court is convinced that the grounds were duly conveyed; Pankaj Bansal observed written communication to be ideal, whereas Vihaan Kumar recognised that providing written grounds may not be feasible in every case. Nevertheless, in investigations under statutes like PMLA and UAPA, this Court has required communication in writing. On the timeframe, it was urged that the grounds of arrest must be supplied at the time of arrest or as early as possible thereafter, within a reasonable time that allows the accused to meaningfully consult counsel and oppose remand, and in any case before the remand hearing. The Amicus concluded that non-communication of grounds violates Article 22(1) and entitles the arrestee to release, although such illegality does not automatically invalidate subsequent investigative steps, and the consequences must be assessed on the facts of each case.

Having heard the learned counsels for the parties, learned Amicus Curiae and on perusal of the material on record, the Hon'ble Court find it apposite to delve into the constitutional mandate and statutory provisions relatable to informing of ground of arrest to the arrested person as well as existing jurisprudence as developed by this court while dealing with such provisions. The relevant paras of the Judgement are reproduced as under:

Para 17. The genesis of informing the grounds of arrest to a person flows from the Constitutional safeguard provided in Article 21 of the Constitution of India, which reads "No person shall be deprived of his life or personal liberty except according to procedure established by law". The expression 'personal liberty' has been given a wide meaning through various judicial pronouncements. One of which is that personal liberty includes procedural safeguards from the abuse of power by the State agencies and scrutiny of the actions of the State.

Para 18. Article 22 of the Constitution of India further strengthens the protection of personal liberty of a person by providing that a person arrested must be informed of the grounds of his arrest at the earliest and should not be detained without informing him of such grounds. Article 22 reads as follow:

"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.

(2) Every person who is arrested and detained in custody shall be produced before the nearest magistrate within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place of arrest to the court of the magistrate and no such person shall be detained in custody beyond the said period without the authority of a magistrate.

(3)……



Para 19: The Constitutional safeguard provided under Article 22 of the Constitution of India has been effectuated by the legislature by incorporating Section 50 of CrPC 1973 (now Section 47 of BNSS 2023) which puts into force the procedural mandate providing for the protection of the personal liberty of the person so arrested. Section 47 of BNSS 2023 casts a duty on the police officer or other person arresting any person without a warrant shall communicate him the grounds of arrest, which is reproduced herein below:

"47. Person arrested to be informed of grounds of arrest and of right to bail.—(1) Every police officer or other person arresting any person without warrant shall forthwith communicate to him full particulars of the offence for which he is arrested or other grounds for such arrest.

(2) Where a police officer arrests without warrant any person other than a person accused of a nonbailable offence, he shall inform the person arrested that he is entitled to be released on bail and that he may arrange for sureties on his behalf."

Para 20: Section 50A of the CrPC 1973 now Section 48 of BNSS 2023 was further added to extend the scope of such protection by casting a duty upon the person arresting to inform such grounds of arrest to his friend, relative or any other person nominated by arrested person. Section 48 of BNSS 2023 reads as follows:

"48. Obligation of person making arrest to inform about arrest, etc., to relative or friend.— (1) Every police officer or other person making any arrest under this Sanhita shall forthwith give the information regarding such arrest and place where the arrested person is being held to any of his relatives, friends or such other persons as may be disclosed or nominated by the arrested person for the purpose of giving such information and also to the designated police officer in the district.

(2) The police officer shall inform the arrested person of his rights under sub-section (1) as soon as he is brought to the police station.

(3) An entry of the fact as to who has been informed of the arrest of such person shall be made in a book to be kept in the police station in such form as the State Government may, by rules, provide.

(4) It shall be the duty of the Magistrate before whom such arrested person is produced, to satisfy himself that the requirements of sub-section (2) and sub-section (3) have been complied with in respect of such arrested person."

Thereafter, the Court proceeded to analyse the judicial precedent on the requirement of furnishing grounds of arrest, beginning with the decision in Pankaj Bansal. The relevant extract from the judgment is reproduced below:

Para 22: In **Pankaj Bansal (supra)**, this Court while dealing with the issue of furnishing grounds of arrest under Section 19(1) of PMLA has underscored that Article 22(1) of the Constitution mandates that no arrested person shall be detained without being informed of the grounds of such arrest at the



earliest opportunity. The manner in which such grounds are to be communicated must be efficacious and substantive which must fulfil the essential objective and mandate of the constitutional provisions. It was further held that there exists no plausible justification as to why a written copy of the grounds of arrest ought not be provided to the arrestee as a standard procedural requirement without any exception.

Para 23: This Court has reached the above conclusion based on the proposition that mere oral communication of such grounds, in the absence of any written document, renders the compliance susceptible to factual disputes which often result into conflicting claims between the arrested person and the investigating agency. This conflict results in jeopardizing the integrity of the arrest process and thereby giving an opportunity to the accused person to claim an immediate release. This situation may be obviated by furnishing the grounds of arrest in writing. Apart from the practical difficulties, furnishing grounds of arrest in writing also results into effective compliance of the mandate provided under Article 22 of the Constitution of India……

Para 24: In **Prabir Purkayastha (supra)**, of which, one of us was a member (B.R. Gavai, J., as he then was), this Court reiterated the principle laid down in the above judgment, while dealing with offences under UAPA and held that any individual arrested for alleged commission of offences under the UAPA or any other offence for that matter, has both a fundamental and a statutory right to be informed in writing such grounds of arrest. The Court further held that a copy of such written grounds must be furnished to the arrested person at the earliest without any exception observing that the communication provided under Article 22 and Section 50 of CrPC 1973 (now Section 47 of BNSS 2023) is not a mere procedural formality but a vital safeguard with the ultimate objective to enable the arrested person to effectively consult legal aid and be prepared to raise objections in remand hearing and apply for his/her bail. The right to life and personal liberty, safeguarded under Articles 20, 21 and 22 of the Constitution, stands as the paramount fundamental right. Accordingly, infringement of these constitutional protections commands rigorous judicial scrutiny and strict enforcement.

Para 25: 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. ……

Para 26: Subsequently, in Vihaan Kumar (supra), this Court underscored that a failure to comply with the requirement of informing the grounds of arrest soon after the arrest would render the arrest illegal. The Court referred to the above-mentioned decisions of this Court and observed that although the ideal mode of communication of grounds of arrest is to provide such grounds in writing, there is no such statutory requirement to provide such grounds in writing. The Court noted that it may not be practical to communicate grounds of arrest in writing in every situation, but if such a course is followed, the controversy about non-compliance will not arise at all.

Para 27: It was further observed that to ensure the effective implementation of the constitutional mandate in Article 22, the law further requires such grounds to be effectively communicated not only



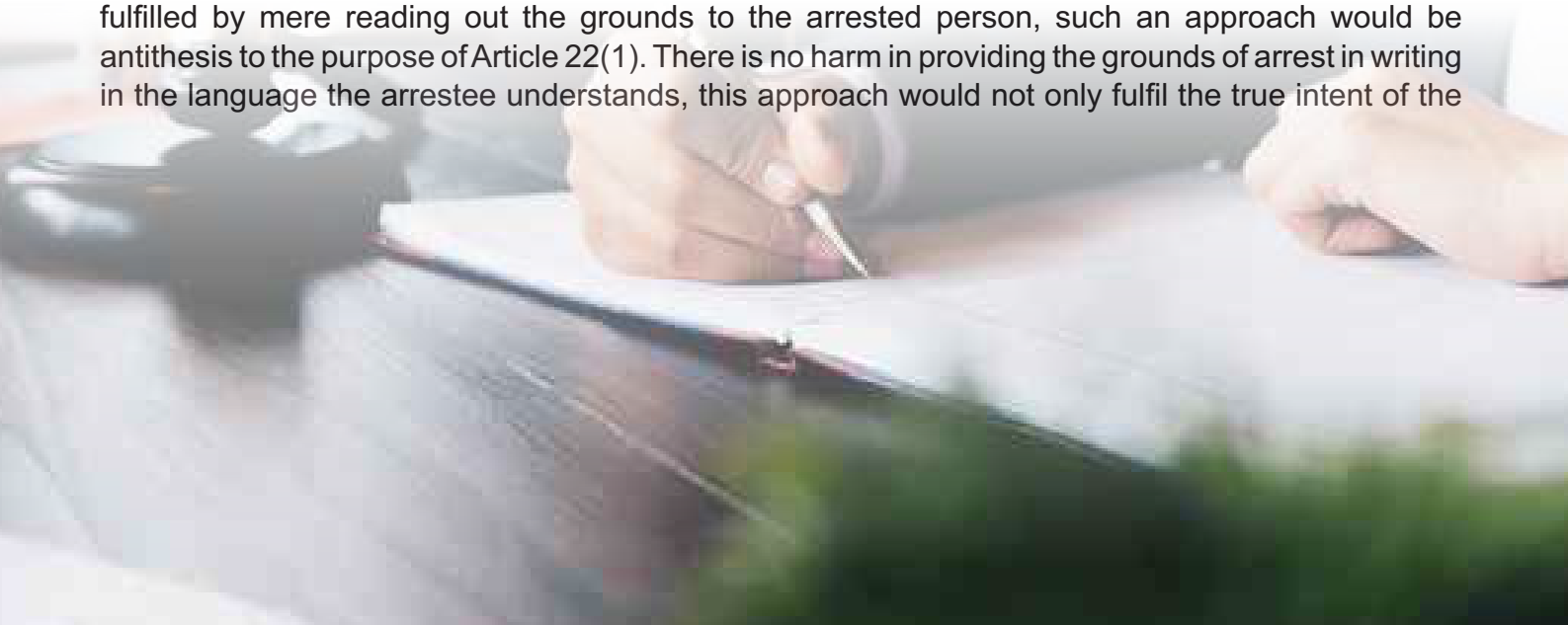
to the detainee/arrestee but also to their friends, relatives or any other nominated person as envisaged in Section 50A of CrPC 1973 (now Section 48 of BNSS 2023). The legislative intent behind the incorporation of Section 50A of CrPC 1973 is to ensure that those in a position to act, i.e. secure legal representation, initiate the process for bail, are empowered to do so without any delay, thereby safeguarding the fundamental rights of the arrested person as enshrined in Article 21 of the Constitution of India. …..

Subsequently, the Hon'ble Court discussed the impact of arrest on the individual, observing that arrest does not merely affect the person detained but also deeply affects their family members, friends, and social circle, disturbing their psychological and social well-being. The Court noted that arrest carries a stigma that harms an individual's reputation and social dignity, and its consequences extend beyond the individual to society at large. The effects are multidimensional, impacting not only social standing but also physical and mental health; custodial conditions such as overcrowding and lack of facilities aggravate stress, depression, and violate the dignity and liberty of the arrested person.

The Court referred to **Arnesh Kumar v. State of Bihar,** reiterating that arrest causes embarrassment, restricts liberty, and leaves lasting scars, and despite independence, the police system continues to bear a colonial character, often perceived as an instrument of oppression. The Court then cited **Joginder Kumar v. State of U.P.,** emphasizing that the power to arrest and the justification to arrest are distinct; arrest must not be routine but must be supported by reasons following reasonable inquiry. Except in heinous offences, arrest should be avoided, and the police must act cautiously, mindful of the irreversible harm caused to dignity, reputation, and self-esteem.

The Hon'ble Court summarised the legal position on the issue as follows:-

Para 45: 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. The mode of communicating the grounds of arrest must be such that it effectively serves the intended purpose as envisioned under the Constitution of India which is to enable the arrested person to get legal counsel, oppose the remand and effectively defend himself by exercising his rights and safeguards as provided in law. The grounds of arrest must be provided to the arrestee in such a manner that sufficient knowledge of facts constituting grounds is imparted and communicated to the arrested person effectively in a language which he/she understands. The mode of communication ought to be such that it must achieve the intended purpose of the constitutional safeguard. The objective of the constitutional mandate would not be fulfilled by mere reading out the grounds to the arrested person, such an approach would be antithesis to the purpose of Article 22(1). There is no harm in providing the grounds of arrest in writing in the language the arrestee understands, this approach would not only fulfil the true intent of the



constitutional mandate but will also be beneficial for the investigating agency to prove that the grounds of arrest were informed to the arrestee when a challenge is made to the arrest on the plea of non-furnishing of the grounds of arrest.

Para 46: 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.

Para 47: It would not be out of context now to refer to an obligation which has been imposed on a person making arrest, as provided under Section 50A read in relation to Section 50 of the CrPC 1973 (now Section 48 and 47 of BNSS 2023 respectively), to inform the arrestee of his right to indicate his relative, friend or such other person for the purpose of giving information with regard to his arrest. Simultaneously, a duty has also been cast on the person making arrest to forthwith thereafter inform of such arrest with reasons and the place where the arrested person is being held to the such indicated person. The police officer/person making any arrest shall make an entry of the fact as to who has been informed of such an arrest in a book to be kept in the police station. Further protection in this regard is reflected when a duty has been cast on the magistrate to satisfy himself, when the arrestee is produced before him, that the above requirement stands complied with. This requirement is in addition to the rights of an arrestee to be made aware of the grounds of arrest.

Thereafter, the Hon'ble Court next considered the issue of the time frame and mode of communication of the grounds of arrest. The Court held that while grounds of arrest must ordinarily be supplied **at the time of arrest**, in exceptional situations oral communication may temporarily suffice, provided written grounds are later furnished. The Court mandated that written grounds must be given at **least two hours before production for remand**, to enable the accused to effectively consult counsel and contest detention. Non-compliance renders the **arrest and remand illegal**, though subsequent investigation may not automatically stand vitiated. The relevant paras are reproduced as under:

Para 49: It is by now settled that if the grounds of arrest are not furnished to the arrestee in writing, this noncompliance 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.

Para 50: It may so happen that in the presence of a police officer a cognizable offence is being committed and the factual matrix presents a tangible and imminent risk of the suspect absconding or

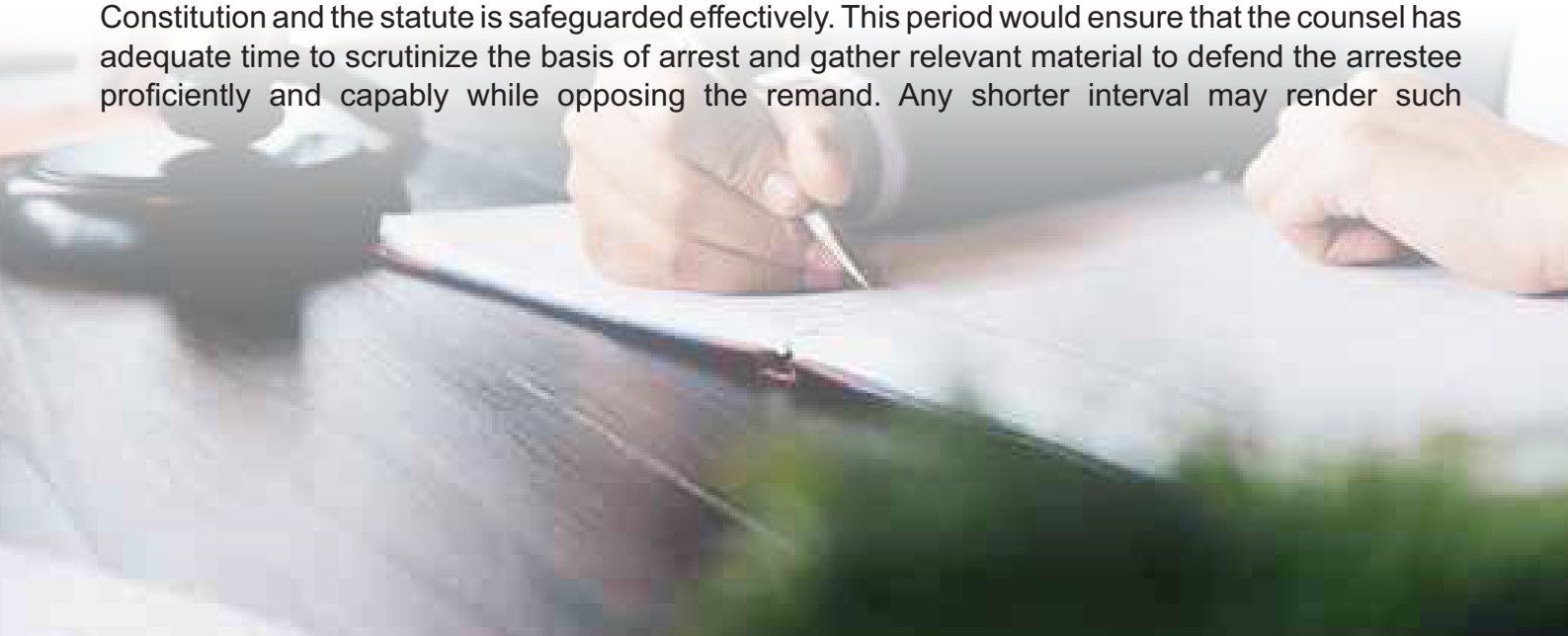


committing further offence(s). For instance, in a case involving a murder being committed in front of a police officer, it may not be possible for the officer to provide the grounds of arrest in writing before the arrest or forthwith on the arrest to the accused. A rigid insistence upon informing of written ground(s) of arrest before or at the time of effecting the arrest or immediately thereafter may result into police officer not being able to discharge their duty and responsibility efficiently and effectively. The constitutional safeguards, valuable as they are, cannot be interpreted in a manner so as to allow it to metamorphose into a procedural impediment that handicaps the law enforcing agencies in due lawful discharge of their duties. Therefore, a balance between compliance of the constitutional as also the statutorily mandated safeguards on the one hand vis-a-vis the effective discharge of lawful statutory law enforcement duties and responsibilities cast upon the State agencies must be struck.

Para 51: Supplanting the above situation, there may be a case wherein the Investigating Officer has sent a notice for appearance of the accused to join the investigation under Section 41A of CrPC 1973 (now Section 35(3) to 35(6) of BNSS 2023) pursuant to which the accused has joined the investigation. The Investigating Officer, after perusal of material available before him and/or on interrogating the accused, makes up his mind that the arrest of the accused person is required for further investigation or has other reason(s) for arrest, in such cases, since the accused is under the supervision of the Investigating Agency and there exists no apprehension of him absconding, it becomes incumbent upon the Police Officer to supply the grounds of arrest in writing on arresting the accused person. This can also be followed, for instance, in cases involving offences which are primarily based on documentary evidence/records, economic offences such as under PMLA where the grounds of arrest in writing be furnished to the arrested person on arrest simultaneously.

Para 52: 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 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. 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.

Para 53: The above indicated lower limit of two hours minimum interval before the production is grounded in the functional necessity so that the right as provided to an arrestee under the Constitution and the statute is safeguarded effectively. This period would ensure that the counsel has adequate time to scrutinize the basis of arrest and gather relevant material to defend the arrestee proficiently and capably while opposing the remand. Any shorter interval may render such



preparation illusory, thereby resulting in non-compliance of the constitutional and statutory mandate. The two-hour threshold before production for remand thus strikes a judicious balance between safeguarding the arrestee's constitutional rights under Article 22(1) and preserving the operational continuity of criminal investigations.

Para 54: 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 50 of the CrPC 1973 (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.

Para 55: It goes without saying that if the abovesaid schedule for supplying the grounds of arrest in writing is not adhered to, the arrest will be rendered illegal entitling the release of the arrestee. On such release, an application for remand or custody, if required, will be moved along with the reasons and necessity for the same, after the supply of the grounds of arrest in writing setting forth the explanation for non-supply thereof within the above stipulated schedule. On receipt of such an application, the magistrate shall decide the same expeditiously and preferably within a week of submission thereof by adhering to the principles of natural justice.

On the basis of the aforementioned discussions, the hon'ble Court held as under:-

Para 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 IPC 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.

Para 57: After having come to the above conclusion, it is pertinent to note that the provision of law under Section 50 of CrPC 1973 (Section 47 of BNSS 2023) does not provide for a specific mode of or time frame for communication of the grounds of arrest to the person arrested. This Court in **Prabir Purkayastha (supra)**, held that the grounds of arrest be conveyed to the arrestee in writing in all



offences at the earliest, which means it need not be given at the time of arrest but within a reasonable time thereafter, for offences under all the statutes, which period would be as has been laid down above in this order.

Para 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.

Finally, with regard to the instant case the court decided as under:

Para 60: As far as the Criminal Appeal No. 2189 of 2025 and Criminal Appeal No. 2190 of 2025 are concerned, this Court while granting leave on 22.04.2025 had by way of ad interim relief directed the Appellants to be released on bail during pendency of these Appeals, the same shall continue. However, the prosecution may move an application for remand or custody, if required, along with the reasons and necessity for the same, after the supply of the grounds of arrest in writing to the accused, before the magistrate if the case has not been committed for trial and in case the trial having commenced before the Trial Court as the case may be.

The Appeals were disposed of in the above terms.

