

SC 724/2024
STATE Vs. NUNU LAL AND ORS.
FIR No. 249/2024
PS Kapashera
U/s 20 NDPS Act
CNR No. DLSW01-011060-2025

02.07.2025

This is an application under Section 483 BNSS moved on behalf of applicant/accused Mohd. Sohrab for grant of regular bail.

Present: Sh. Pramod Kumar, Ld. Addl. PP for the State.
Ms. Manvi Gupta, Ld. Counsel for the applicant.
SI Sachin on behalf of IO is present.

Reply filed. Copy be supplied.

The grounds on which bail has been prayed for are mentioned in the bail application but the most important ground on which bail has been prayed for is that the accused was never informed about his grounds of arrest in compliance with the judgment of the Hon'ble Supreme Court of India in *Pankaj Bansal Vs. Union of India* 2023, 12 SCR 714, 2023 INSC 866 and later judgements of the Hon'ble Apex Court and Hon'ble Delhi High Court. It is submitted that it is now settled law that accused has to be informed about his grounds of arrest as per the constitutional mandate mentioned in Article 22 of the Constitution of India. It is further submitted that it is obvious from the arrest memo of the accused that the accused was arrested on 21.05.2024 and grounds of arrest are not mentioned in the arrest memo and no document on the file/charge-sheet suggests that the accused was informed about his grounds of arrest. It is further submitted that reasons of arrest have been mentioned in the arrest memo but it is silent about the grounds of arrest which are mandatorily required to be informed to the

accused in order to allow him to prepare his defence/challenge it.

Ld. Addl. PP for the State has opposed the bail application on the basis of reply filed by the IO stating that the grounds of arrest were firstly informed to the accused in written when he was given notice u/s 50 NDPS Act to which he had replied that he did not want his search to be carried before any Gazetted Officer or Magistrate. It is further submitted that in the arrest memo the section of law under which accused was arrested has been mentioned and his reasons for arrest have also been mentioned. It is submitted that in view of the statutory bar of Section 37 NDPS Act, the application of the accused for grant of bail should be dismissed.

IO has submitted that accused was apprehended at the spot with huge commercial quantity of Ganja. It is further submitted that as per the Judgment in ***Vihaan Kumar Vs. State of Haryana & Anr.*** 2025 INSC 162, accused was informed of his grounds of arrest and accused was himself aware that he was caught with illegal commercial quantity of contraband. It is further submitted that effectively the accused was told about the reasons and grounds of arrest.

Submissions Considered. Record perused.

The Supreme Court in the recent Judgment of ***Kasireddy Upender Reddy Versus State Of Andhra Pradesh And Ors.***, Criminal appeal no. 2808 of 2025 (@ SLP (CRL.) No. 7746 of 2025) has discussed the law laid down in Vihaan Kumar (Supra) in detail and stated that :

18. Thus, the following principles of law could be said to have been laid down, rather very well explained, in Vihaan Kumar (supra):

a) The requirement of informing the person arrested of the grounds of arrest is not a formality but a mandatory constitutional condition.

b) Once a person is arrested, his right to liberty under Article 21 is curtailed. When such an important fundamental right is curtailed, it is necessary that the person concerned must understand on what grounds he has been arrested.

c) The mode of conveying the information of the grounds of arrest must be meaningful so as to serve the true object underlying Article 22(1).

d) If the grounds of arrest are not informed as soon as may be after the arrest, it would amount to a violation of the fundamental right of the arrestee guaranteed under Article 22(1).

e) On the failure to comply with the requirement of informing the grounds of arrest as soon as may be after the arrest, the arrest would stand vitiated. Once the arrest is held to be vitiated, the person arrested cannot remain in custody even for a second. 27

f) 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.

g) When an arrestee pleads before a court that the grounds of arrest were not communicated, the burden to prove the compliance of Article 22(1) is on the police authorities.

h) The grounds of arrest should not only be provided to the arrestee but also to his family members and relatives so that necessary arrangements are made to secure the release of the person arrested at the earliest possible opportunity so as to make the mandate of Article 22(1) meaningful and effective, failing which, such arrest may be rendered illegal.

In the present case, nothing has been produced by the IO or the prosecution to show that there was effective communication of the exact grounds of arrest to the accused which is against the constitutional

mandate of Article 22 (1) of Constitution of India. Mentioning of the Section of law in the arrest memo or the reasons of arrest in the arrest memo are not sufficient compliance of Article 22 (1) of Constitution of India as held in the above-mentioned Judgment of Kasireddy Upender Reddy (Supra).

Therefore, for violation of Article 22(1) Constitution of India, the application for bail is allowed. **Applicant/accused Mohd. Sohrab is admitted to bail on furnishing of personal bond in the sum of Rs. 50,000/- with one surety of the like amount subject to the following conditions:**

1. That the applicant/accused shall inform the court before leaving jurisdiction of Delhi/NCR.
2. That in case of change of his residential address, he shall intimate the court about the same.
3. That the applicant shall appear before court on each and every date.
4. The applicant shall not misuse the liberty granted by the court.

Application stands disposed of accordingly.

Copy of the order be given dasti.

No observations are made on the merits of the case.

(Bhavna Kalia)

Spl. Judge (NDPS)-01/Dwarka Courts/SW
New Delhi/02.07.2025_(RG)