



2026:DHC:509



\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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*Reserved on: January 15, 2026  
Pronounced on: January 21, 2026*

+ **BAIL APPLN. 3562/2025 & CRL.M.(BAIL) 1952/2025**

**LOKESH ALIAS MANISH**

**.....Applicant**

Through: Mr. Chirag Madan, Ms. Ravleen Sabharwal, Mr. Sai Krishna Kumar, Mr. Ronit Bose and Ms. Rachael Tuli, Advs.

Versus

**STATE (GOVT. OF NCT OF DELHI) & ANR. ....Respondents**

Through: Ms. Meenakshi Dahiya, APP for the State with Ms. Vanshika Singh and Ms. Divya Bakshi, Advocates and SI Aarti Yadav, SI Amisha, Main IO and SI Kamal Kant (Arresting Officer), PS.: Kapashera.

**CORAM:**

**HON'BLE MR. JUSTICE SAURABH BANERJEE**

### **J U D G M E N T**

1. By virtue of the present bail application under *Section 483* read with *Section 528* of the Bharatiya Nagarik Suraksha Sanhita, 2023 (**BNSS**), the applicant seeks grant of regular bail in proceedings arising from FIR No.376/2024 dated 26.04.2024 registered at PS.: Nangloi, Delhi under *Sections 392/394/397/451/411/120-B/34* of the Indian Penal Code, 1860 (**IPC**).

2. As per FIR, on 26.04.2024 at about 01:30 PM, three unknown persons unlawfully entered the complainant's residence. One of the accused, armed



with a knife, threatened the complainant and demanded money and jewellery. Thereafter, the applicant herein searched the house, located the cupboard key and removed Rs.2,50,000/- in cash, consisting of five bundles of Rs.500/- denomination notes, which they kept in a black bag. When the complainant raised an alarm and attempted to resist, she was assaulted and fell down. Subsequent thereto, all the three accused attempted to flee from the spot, however, Moti/ complainant's brother, Lucky/ complainant's brother-in-law, and public persons chased them, and one accused, who was carrying the knife and the black bag containing the robbed amount, was apprehended in the street. A call was then made to the Police Control Room (**PCR**), whereafter, during the course of investigation, the robbed cash of Rs.2,50,000/- and the knife used in the commission of the offence were recovered from the possession of the apprehended accused. Upon inquiry, the said accused disclosed his name as Lokesh @ Manish, S/o Virender, aged 27 years, resident of H.No.B-81, Gali No.6, Seelampur, Shahdara, Delhi. The said accused Lokesh @ Manish was arrested by the police on the same day, i.e., 26.04.2024 and an Arrest Memo was prepared.

3. Thereafter, the accused was remanded to police custody, and all his applications seeking bail were rejected.

4. Hence, the present application seeking grant of regular bail.

5. Mr. Chirag Madan, learned counsel for the applicant primarily submitted that a bare perusal of the Arrest Memo dated 26.04.2024 demonstrates that the applicant was not informed of the grounds of arrest or reasons for arrest, either orally or in writing, at the time of his apprehension.



Such omission, as per the learned counsel, constitutes a clear violation of the mandate under *Article 22(1)* of the Constitution of India as well as *Section 47* of the BNSS. The learned counsel further submitted that *Section 47* of the BNSS casts a statutory obligation upon the arresting officers to communicate the grounds of arrest to the accused at the time of arrest and failure to adhere to this mandatory requirement renders the arrest itself illegal and unsustainable in law. Resultantly, the applicant is entitled to be released on bail on this ground alone. Be that as it may, the learned counsel further submitted that as per *Section 48* of the BNSS, it is mandatory to communicate the grounds of arrest to the relatives, friends, or any person nominated by the arrested person, however, the said statutory mandate has also not been effectuated in the present case. In support of his aforesaid submissions, the learned counsel relied upon the dicta of the Hon'ble Supreme Court in *Mihir Rajesh Shah vs. State of Maharashtra and Another*<sup>1</sup>; *Prabir Purkayastha vs. State (NCT of Delhi)*<sup>2</sup>; *Pankaj Bansal vs. Union of India & Ors.*<sup>3</sup>; *Thokchom Shyamjai Singh & Ors. vs. Union of India & Ors.*<sup>4</sup>; *Nitin Kumar vs. State Govt. of NCT of Delhi & Anr.*<sup>5</sup>; *Marfing Tamang vs. State*<sup>6</sup> and *Vihaan Kumar vs. State of Haryana*<sup>7</sup>.

6. Mr. Chirag Madan, learned counsel lastly submitted that since the co-accused/ Laxmi has already been granted regular bail *vide* order dated

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<sup>1</sup> 2025 SCC OnLine SC 2356

<sup>2</sup> (2024) 8 SCC 254

<sup>3</sup> 2023 SCC OnLine SC 1244

<sup>4</sup> W.P.(CrI) No. 1929/2024

<sup>5</sup> 2025 SCC OnLine Del 584

<sup>6</sup> 2025 SCC OnLine Del 548

<sup>7</sup> 2025 SCC OnLine SC 269



06.06.2024 passed by the learned ASJ-05, Tis Hazari Courts, Delhi thus, on the principle of parity, the applicant, who is languishing in judicial custody since 26.04.2024 i.e. for more than *fifteen months* be also granted bail.

7. *Per contra*, Ms. Meenakshi Dahiya, learned APP for the State submitted that though the Constitutional and statutory framework mandates that an arrestee be informed of the grounds of arrest, however, the mode or manner of such communication is not prescribed therein, as also that mere absence of furnishing of written grounds of arrest does not *ipso facto* render the arrest illegal, unless, it results in demonstrable prejudice or denial of fair opportunity to defend and therefore, cannot be a valid ground for grant of bail.

8. Learned APP then submitted that reliance upon the decision in ***Mihir Rajesh Shah (supra)*** is of no assistance to the applicant as the requirement of communication of the grounds of arrest prescribed therein, is only applicable prospectively. In any event, since the allegations against the applicant are grave and serious in nature, involving the offence of robbery committed under the threat of a deadly weapon like ‘knife’ as also since the robbed amount of Rs.2,50,000/- as also the ‘knife’ were recovered soon after the robbery from the applicant, the present bail application may be denied.

9. This Court has heard the learned counsel for the applicant and the learned APP for the State as also perused the Status Report and the other documents on record as also the judgments cited by them at Bar.



10. As per the law laid down by the Hon'ble Supreme Court in *Prasanta Kumar Sarkar vs. Ashis Chatterjee*<sup>8</sup>; *State of Uttar Pradesh vs. Amaramani Tripathi*<sup>9</sup> and *Deepak Yadav vs. State of Uttar Pradesh*<sup>10</sup>, while granting bail, the Court is to consider as to whether there is a *prima facie* or reasonable ground to believe that the accused had committed the offence; circumstances which are peculiar to the accused; likelihood of the offence being repeated; the nature and gravity of the accusation; severity of the punishment in the event of conviction; the danger of the accused absconding or fleeing if released on bail; reasonable apprehension of the witnesses being threatened.

11. However, since the primary issue in the present matter pertains to the non-supply of the grounds of arrest by the Police Authorities to the applicant, this Court shall deal with the same prior to adverting to considering any of the aforesaid factors.

12. The *right to life and personal liberty* guaranteed under *Article 21* of the Constitution of India is sacrosanct and extends to every person within the territory of India. It also unequivocally mandates that no person shall be deprived of his or her personal liberty except in accordance with the procedure established by law. As a necessary and auxiliary safeguard therefrom, *Article 22(1)* of the Constitution of India also imposes upon the arresting authority a mandatory constitutional obligation to inform the arrestee, as soon as may be, of the grounds of arrest, so as to enable the

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<sup>8</sup> (2010) 14 SCC 496

<sup>9</sup> (2005) 8 SCC 21

<sup>10</sup> (2022) 8 SCC 559



arrestee to effectively avail of legal remedies, including securing legal assistance, opposing police custody remand, and seeking release on bail. Any infraction, dilution, or encroachment upon this fundamental right/ protection has been consistently and sternly deprecated by the Hon'ble Supreme Court in a catena of judicial pronouncements.

13. The requirement of furnishing the 'grounds of arrest' to an arrestee, as distinct from merely citing the 'reasons for arrest' for the purpose of seeking remand, has assumed considerable significance in light of the recent pronouncements of the Hon'ble Supreme Court. In its recent decision in ***Prabir Purkayastha (supra)***, following the decision of ***Pankaj Bansal (supra)***, the Hon'ble Supreme Court has drawn a clear and unequivocal distinction between the expression 'grounds of arrest' and the 'reasons for arrest', accentuating the constitutional mandate to strictly furnish upon the arrestee the 'grounds of arrest' in writing and any violation/ infringement of Article 22(1) of the Constitution, irrespective of the Statute involved, would vitiate the arrest and the consequent remand as under:-

***“20. 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.**

21. 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.

22. **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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49. **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 tempering 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.”*

*[Emphasis supplied]*

14. In this case, where the date of arrest is, *admittedly*, 26.04.2024, the legal position in view of the aforesaid, as also since it has also further reiterated and fortified by the Hon’ble Supreme Court once again in ***Vihaan Kumar (supra)*** and ***Mihir Rajesh Shah (supra)*** as then, assumes utmost relevance.

15. Adverting to the case at hand, a perusal of the Arrest Memo dated 26.04.2024 (***Annexure P-3***) as also the application seeking police custody/





remand dated 27.04.2024 (*Annexure P-4*), it can be discerned that no ‘*grounds of arrest*’ has been supplied to the applicant. In fact, the same has not been controverted to by learned APP for the State as well. In such a situation, once such an allegation/ contention is raised by the accused (arrestee), as held by the Hon’ble Supreme Court in *Vihaan Kumar (supra)*, the onus was upon the arresting agency to establish otherwise, i.e. that there was due compliance thereof. The State, in the present case, has failed to show.

16. Hence, the whole process of arrest and subsequent remand of the applicant are contrary to the constitutional mandate as prescribed under *Article 22(1)* of the Constitution of India as also the settled law reiterated hereinabove. The non-compliance of the constitutional mandate thereof is, under such circumstances, sufficient to release the applicant on bail, without advertng to the other consideration required for consideration of grant of bail.

17. In light of the aforesaid, the applicant is granted regular bail in FIR No.376/2024 dated 26.04.2024 registered at PS.: Nangloi, Delhi under *Sections 392/394/397/451/411/120-B/34* of the IPC. Accordingly, the applicant be released, subject to him furnishing a personal bond in the sum of Rs.50,000/- [*Rupees Fifty Thousand Only*] along with one surety of the like amount by a family member/ friend having no criminal case pending against them and further subject to the satisfaction of the learned Trial Court and further subject to the following conditions:-



- a. Applicant shall appear before the learned Trial Court and/ or any other authorities on the date of each hearing(s), and/ or if, as and when called for, unless he is exempted by the learned Trial Court and/ or any other authorities concerned.
- b. Applicant shall not leave the National Capital Territory of Delhi without prior permission of this Court and shall ordinarily reside at the address as per the learned Trial Court's records. If he so wishes to change his residential address, he shall immediately intimate about the same to the I.O. by way of an affidavit.
- c. Applicant shall join the investigation as and when called by the I.O. concerned. The applicant shall not obstruct or hamper with the police investigation and shall not play mischief with the evidence collected or yet to be collected by the Police.
- d. Applicant shall provide all his mobile numbers to the I.O. concerned which shall be kept in working condition at all times and shall not switch off or change the mobile number without prior intimation to the I.O. concerned. The mobile location be kept on at all times.
- e. Applicant shall not indulge in any criminal activity and shall not communicate with or come in contact with any of the prosecution witnesses, or tamper with the evidence of the case or try to dissuade the witnesses from disclosing such facts to the Court or to any Police Officer(s)/ Official(s).



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18. Accordingly, the present application is allowed and disposed of in the aforesaid terms.

19. Copy of this order be sent to the concerned learned Trial Court for necessary information and compliance thereof.

20. Needless to say, observations made hereinabove, if any, on the merits of the matter are purely for the purposes of adjudicating the present application and shall not be construed as expressions on the merits therein.

**SAURABH BANERJEE, J.**

**JANUARY 21, 2026/Ab/DA**