$~3

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

% ***Date of Decision: 03rd November, 2026***

\# **CNR No. DLHC010237092026**

\+ BAIL APPLN. 2025/2026

SUDDHI .....Petitioner

Through: Mr. Sikander Azam Khan, Adv.
Mob: 9891510300
Email: skndrkhan82@gmail.com

versus

THE STATE NCT OF DELHI .....Respondent

Through: Mr. Ajay Vikram Singh, APP for the State
Mob: 9868632122
Mr. Rakesh Kahiyal, SI, PS Special Cell, Delhi
Mob: 9212727223

CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA

MINI PUSHKARNA, J. *(Oral):*

1. The present bail application has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ("BNSS"), seeking grant of regular bail to the petitioner, i.e., Suddhi, S/o Pyare Lal, in connection with the First Information Report ("FIR"), being *FIR No. 266/2023,* dated 19th October, 2023, under Sections 20/25/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 ("NDPS"), registered at Police Station ("PS") Special Cell, Trans Yamuna Range ("TYR"), New Delhi.

Signature Not Verified
Digitally Signed
By:HARIOM SHARMA
Signing Date:03.11.2026
21:25:34

2. The facts of the present case, as culled out from the record, are as follows:

2.1. The present FIR came to be registered pursuant to information received from a secret informer on 19th October, 2023, that an inter-state drug syndicate was involved in smuggling of contraband from Nepal and supplied the same to major cities of the country, including Delhi and National Capital Region ("NCR").

2.2. The secret informant informed that the petitioner, an Uttar Pradesh ("UP") member of the said syndicate, was due to reach Delhi on 19th October, 2023 with a huge consignment of contraband in a car of the make and build of Maruti Suzuki Swift, bearing registration no. *UP-4234*, between 01:00 PM and 01:30 PM, at Paper Market, Gazipur, Delhi, to deliver the said consignment to another member of the said syndicate.

2.3. The secret information was lodged in General Diary ("GD") bearing no. *54A*, and a raiding team was constituted. During the raid, the petitioner was apprehended with a car bearing registration no. *UP 32 DP 4234*. Upon his instance, 15 sealed packets of transparent polyethene containing *Charas* were recovered, weighing a total of 32.230 kilograms. Subsequently, the present FIR was registered.

2.4. During the course of investigation, at the instance of the petitioner, another raid was conducted at *Arjun Nagar, Safdarjung Enclave, Delhi*, and Pahlman Budha Magar @ Pahlman @ Khali Da was apprehended, along with 29.055 kilograms of *Charas*, and Rs. 1,68,000/- (Rupees One Lac Sixty-Eight Thousand only) were recovered.

Signature Not Verified
Digitally Signed
By:HARIOM SHARMA
Signing Date:03.11.2026
21:25:34

2.5. Subsequently, at the instance of Pahlman Budha Magar @ Pahlman @ Khali Da, Kaliye Bahadur Argeja @ Dhan Bhadur was apprehended on 25th October, 2023, along with 1.438 kilograms of *Charas*.

3. The Sessions Case, being *SC 149/2024,* in connection with the present FIR, is pending adjudication before the Court of Additional Sessions Judge ("ASJ")/Special Judge (NDPS), Patiala House Court, New Delhi, and is at the stage of prosecution evidence.

4. Learned counsel appearing for the petitioner submits that the co-accused has already been granted bail *vide* judgment dated 21st January, 2026, passed by predecessor bench of this Court, in *BAIL APPLN. 4034/2025*, titled as *Pahalman Budha Magar Versus State NCT of Delhi*.

5. He further submits that the petitioner was not provided with the grounds of arrest, and therefore, like the other co-accused, he is also entitled to be released on bail. He, thus, seeks parity with the other co-accused.

6. *Per contra,* the learned Additional Public Prosecutor ("APP") for the State submits that, in the present case, the petitioner was arrested on 19th October, 2023.

7. Therefore, he submits that in terms of the judgment of the Supreme Court in the case of ***Mihir Rajesh Shah Versus State of Maharashtra and Another, (2026) 1 SCC 500***, it was held that the ground of non-supply of grounds of arrest shall only be applicable with effect from 06th November, 2025, i.e., the date of judgment in the case of ***Mihir Rajesh Shah (supra).***

8. Having heard the learned counsels appearing for the parties, this Court notes that 32 kilograms of *Charas*, i.e., commercial quantity as per the NDPS Act, was recovered from the petitioner.

Signature Not Verified
Digitally Signed
By:HARIOM SHARMA
Signing Date:03.11.2026
21:25:34

9. Furthermore, 29 kilograms of *Charas* was recovered from the co-accused, who has already been granted bail on account of non-supply of grounds of arrest.

10. It is to be noted that the petitioner in the present case was arrested on 19th October, 2023.

11. It is also to be noted that the Supreme Court in the case of ***Pankaj Bansal Versus Union of India and Others, (2023) SCC OnLine SC 1244***, which is a judgment dated 03rd October, 2023, held as follows:

> *"xxx xxx xxx*
>
> ***38.*** *In this regard, we may note that* ***Article 22(1) of the Constitution provides, inter alia, that no person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest. This being the fundamental right guaranteed to the arrested person, the mode of conveying information of the grounds of arrest must necessarily be meaningful so as to serve the intended purpose.*** *It may be noted that Section 45 PMLA enables the person arrested under Section 19 thereof to seek release on bail but it postulates that unless the twin conditions prescribed thereunder are satisfied, such a person would not be entitled to grant of bail. The twin conditions set out in the provision are that, firstly, the court must be satisfied, after giving an opportunity to the Public Prosecutor to oppose the application for release, that there are reasonable grounds to believe that the arrested person is not guilty of the offence and, secondly, that he is not likely to commit any offence while on bail.* ***To meet this requirement, it would be essential for the arrested person to 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/she is guilty of an offence punishable under the 2002 Act. It is only if the arrested person has knowledge of these facts that he/she would be in a position to plead and prove before the Special Court that there are grounds to believe that he/she is not guilty of such offence, so as to avail the relief of bail. Therefore, communication of the grounds of arrest, as mandated by Article***

Signature Not Verified
Digitally Signed
By:HARIOM SHARMA
Signing Date:03.11.2026
21:25:34

22(1) of the Constitution and Section 19 PMLA, is meant to serve this higher purpose and must be given due importance.

xxx xxx xxx

42. That being so, 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. There are two primary reasons as to why this would be the advisable course of action to be followed as a matter of principle. Firstly, in the event such grounds of arrest are orally read out to the arrested person or read by such person with nothing further and this fact is disputed in a given case, it may boil down to the word of the arrested person against the word of the authorised officer as to whether or not there is due and proper compliance in this regard. In the case on hand, that is the situation insofar as Basant Bansal is concerned. Though ED claims that witnesses were present and certified that the grounds of arrest were read out and explained to him in Hindi, that is neither here nor there as he did not sign the document. Non-compliance in this regard would entail release of the arrested person straightaway, as held in V. Senthil Balaji [V. Senthil Balaji v. State, (2024) 3 SCC 51 : (2024) 2 SCC (Cri) 1] . Such a precarious situation is easily avoided and the consequence thereof can be obviated very simply by furnishing the written grounds of arrest, as recorded by the authorised officer in terms of Section 19(1) PMLA, to the arrested person under due acknowledgment, instead of leaving it to the debatable ipse dixit of the authorised officer.

43. The second reason as to why this would be the proper course to adopt is the constitutional objective underlying such information being given to the arrested person. Conveyance of this information is not only to apprise the arrested person of why he/she is being arrested but also to enable such person to seek legal counsel and, thereafter, present a case before the court under Section 45 to seek release on bail, if he/she so chooses. *In this regard, the grounds of arrest in V. Senthil Balaji [V. Senthil Balaji v. State, (2024) 3 SCC 51 : (2024) 2 SCC (Cri) 1] are placed on record and we find that the same run into as many as six pages. The grounds of arrest recorded in the case on hand in relation to Pankaj Bansal and Basant Bansal have not been produced before this Court, but it was contended that they were*

Signature Not Verified
Digitally Signed
By:HARIOM SHARMA
Signing Date:03.11.2026
21:25:34

produced at the time of remand. However, as already noted earlier, this did not serve the intended purpose. Further, in the event their grounds of arrest were equally voluminous, it would be well-nigh impossible for either Pankaj Bansal or Basant Bansal to record and remember all that they had read or heard being read out for future recall so as to avail legal remedies. More so, as a person who has just been arrested would not be in a calm and collected frame of mind and may be utterly incapable of remembering the contents of the grounds of arrest read by or read out to him/her. ***The very purpose of this constitutional and statutory protection would be rendered nugatory by permitting the authorities concerned to merely read out or permit reading of the grounds of arrest, irrespective of their length and detail, and claim due compliance with the constitutional requirement under Article 22(1) and the statutory mandate under Section 19(1) PMLA.***

xxx xxx xxx

45. On the above analysis, to give true meaning and purpose to the constitutional and the statutory mandate of Section 19(1) PMLA of informing the arrested person of the grounds of arrest, 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. *The decisions……..*

xxx xxx xxx"

(Emphasis Supplied)

12. The aforesaid judgment in the case of ***Pankaj Bansal (supra)*** was considered in the case of ***Ram Kishor Arora Versus Directorate of Enforcement, (2024) 7 SCC 599***, wherein, the Supreme Court held as follows:

"xxx xxx xxx

23. As discernible from the judgment in Pankaj Bansal case also noticing the inconsistent practice being followed by the officers arresting the persons under Section 19 of PMLA, directed to furnish the grounds of arrest in writing as a matter of course, "henceforth", meaning thereby from

Signature Not Verified
Digitally Signed
By:HARIOM SHARMA
Signing Date:03.11.2026
21:25:34

> ***the date of the pronouncement of the judgment. The very use of the word "henceforth" implied that the said requirement of furnishing grounds of arrest in writing to the arrested person as soon as after his arrest was not the mandatory or obligatory till the date of the said judgment. The submission of the learned Senior Counsel Mr. Singhvi for the Appellant that the said judgment was required to be given effect retrospectively cannot be accepted when the judgment itself states 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. Hence non furnishing of grounds of arrest in writing till the date of pronouncement of judgment in Pankaj Bansal case could neither be held to be illegal nor the action of the concerned officer in not furnishing the same in writing could be faulted with.*** *As such, the action of informing the person arrested about the grounds of his arrest is a sufficient compliance of Section 19 of PMLA as also Article 22(1) of the Constitution of India, as held in Vijay Madanlal (supra).*
>
> *xxx xxx xxx"*
>
> (Emphasis Supplied)

13. Reading of the aforesaid judgment clearly shows that the Supreme Court has held, in categorical terms, that in case grounds of arrest are not provided to an accused, the said arrest shall be considered as illegal, from the date of the judgment of ***Pankaj Bansal (supra)***, i.e., 03rd October, 2023. Thus, it is noted that in the present case, the petitioner was arrested subsequently on 19th October, 2023.

14. Therefore, in terms of the judgment in the case of ***Ram Kishor Arora (supra)*** and ***Pankaj Bansal (supra),*** the respondent was required to provide the grounds of arrest. In the absence thereof, the arrest of the petitioner shall be considered illegal.

Signature Not Verified
Digitally Signed
By:HARIOM SHARMA
Signing Date:03.11.2026
21:25:34

15. As regards the submissions made by the learned APP for the State with regard to the grounds of arrest being mandatory only from the date of the judgment in the case of ***Mihir Rajesh Shah (supra),*** it is to be noted that the said judgment in the case of ***Mihir Rajesh Shah (supra)*** deals with all the arrests with respect to all the crimes, which are covered under the Indian Penal Code, 1860 ("IPC")/Bharatiya Nyaya Sanhita, 2023 ("BNS") and the Code of Criminal Procedure, 1973 ("CrPC")/BNSS.

16. However, the judgment in the case of ***Ram Kishore Arora (supra)*** and ***Pankaj Bansal (supra)*** dealt with Special Acts. It is also to be noted that the present case also pertains to a Special Act, i.e., the NDPS Act.

17. Therefore, the present case is clearly within the scope of the judgment of the Supreme Court in the case of ***Ram Kishore Arora (supra)*** and ***Pankaj Bansal (supra).***

18. This Court also takes note of the fact that the co-accused of the petitioner has already been enlarged on bail *vide* judgment dated 21st January, 2026, passed by this Court, in *BAIL APPLN. 4034/2025.*

19. It is to be noted that in the present case, the quantity which has been recovered from the petitioner is commercial quantity. Thus, it is to be noted that in the cases involving the rigors of Section 37 of the NDPS Act, the Court may grant bail upon satisfaction of the twined conditions, i.e., firstly, there are reasonable grounds to believe that the accused is not guilty of the alleged offence, secondly, the accused is not likely to commit any offence while on bail. However, it is to be seen that the primary issue raised by the petitioner in the present case, is with regard to non-supply of grounds of arrest.

Signature Not Verified
Digitally Signed
By:HARIOM SHARMA
Signing Date:03.11.2026
21:25:34

20. In view of the law laid down by the Supreme Court, it is clear that Article 22(1) of the Constitution of India, 1950 ("Constitution"), is a substantive constitutional safeguard and not a procedural formality.

21. Therefore, the position is clear that grounds of arrest must be communicated to an accused person, in terms of the aforesaid judgments of the Supreme Court.

22. The law laid down by the Supreme Court is very clear that in case of non-supply of the grounds of arrest, the arrest *ipso facto* would get vitiated on account of directly violating Article 22(1) of the Constitution.

23. Upon a pointed query by this Court, the learned APP for the State concedes the fact that no ground of arrest had been provided to the petitioner.

24. This Court notes that the Coordinate Bench of this Court, in a similar situation, in the judgment dated 21st January, 2026, in *BAIL APPLN. 4034/2025*, titled as *Pahalman Budha Magar Versus State NCT of Delhi*, has held as follows:

> *"xxx xxx xxx*
>
> ***19. No doubt, while granting bail in a case under Section 37 of the NDPS Act, this Court must take due note of the twin conditions elucidated hereinabove, however, the same must, be balanced with the fundamental guarantee of an accused being provided the grounds of arrest as per Article 22 (1) of the Constitution. Section 37 of the NDPS Act, and/ or the other factors for granting bail to an accused, in such a scenario, cannot eclipse/ override Article 22 (I) of the Constitution. A balance has, thus, to be drawn. Also, in light of the directions passed by the Hon'ble Supreme Court in Mihir Rajesh Shah (supra) which affirms the view rendered in Pankaj Bansal (supra) and Prabir Purkayastha (supra), the grant of bail in cases involving commercial quantity on the basis of non-supply of grounds of arrest is not barred by***

Signature Not Verified
Digitally Signed
By:HARIOM SHARMA
Signing Date:03.11.2026
21:25:34

Section 37 of the NDPS Act and once it is admitted that no grounds of arrest were given at the time of the arrest to an accused, the said arrest and the subsequent remand becomes vitiated.

20. Under such circumstances, since there were no grounds of arrest mentioned and/ or supplied to the applicant takes precedence over the other factor like gravity of the offence, the quantum of recovery, there being no videography/ photography and/ or there being no independent witnesses. *The same need not be gone into by this Court at this stage.*

xxx xxx xxx"

(Emphasis Supplied)

25. Accordingly, considering the discussions hereinabove and also on the ground of parity, the petitioner herein is granted regular bail in connection with the *FIR No. 266/2023,* dated 19th October, 2023, under Sections 20/25/29 of the NDPS Act, registered at Police PS Special Cell, TYR, New Delhi.

26. The petitioner shall be released subject to furnishing a personal bond in the sum of Rs. 1,00,000/- (Rupees One Lac only), along with one surety of the like amount, subject to the satisfaction of the Special Court/Duty Magistrate, and further subject to following conditions:

a) The petitioner shall report to the concerned Investigating Officer ("IO")/Station House Officer ("SHO"), at PS Special Cell, TYR, New Delhi, once every month, in the first week of month, unless leave for every such absence is obtained from the Special Court.

b) The petitioner shall appear before the Special Court on each and every date of hearing.

c) The petitioner shall ordinarily reside at the address as per prison records, and shall not change the address without informing the concerned IO/SHO.

Signature Not Verified
Digitally Signed
By:HARIOM SHARMA
Signing Date:03.11.2026
21:25:34

d) The petitioner shall furnish his mobile number to the concerned IO/SHO, and shall ensure that the said mobile number remains operational and switched on at all times. The mobile number shall not be changed, nor shall the phone be switched off, without prior intimation to the IO/SHO.

e) The petitioner shall not, directly or indirectly, contact/visit/offer any inducement, or threat, or promise to any of the prosecution witnesses or other persons acquainted with the facts of the case.

f) The petitioner shall not, directly or indirectly, tamper with evidence nor otherwise indulge in any act or omission that is unlawful or that would prejudice the proceedings in the pending trial.

g) The petitioner shall not commit any offence during the pendency of the proceedings.

27. It is clarified that the observations made in the present order are solely for the purpose of deciding the present bail application, and shall neither influence the trial proceedings nor be construed as an expression of opinion on the merits of the case.

28. The present application is allowed and accordingly disposed of, in the aforementioned terms.

29. A copy of this order be sent to the concerned Jail Superintendent for information and necessary compliance.

MINI PUSHKARNA, J

NOVEMBER 3, 2026/SK

Signature Not Verified
Digitally Signed
By:HARIOM SHARMA
Signing Date:03.11.2026
21:25:34