



2026:DHC:2299



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

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Date of Decision: 19.03.2026

+ **BAIL APPLN. 1998/2025, CRL.M.A. 16274/2025 & CRL.M.A. 16275/2025**

SAQLAIN RAZA KHAN

.....Petitioner

Through: Mr. Meghan, Advocate.

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Amit Ahlawat, APP for State
with SI Narender Singh.

CORAM: JUSTICE GIRISH KATHPALIA

J U D G M E N T (ORAL)

1. The accused/applicant seeks regular bail in case FIR No.76/2024 of PS Crime Branch for offence under Section 20/25/29 NDPS Act.

1.1 This bail application came up for the first hearing on 26.05.2025 before the predecessor bench and thereafter continued getting adjourned before different benches. Along with 179 such old pending bail applications, this application also was transferred to this bench.

1.2 Today is the first hearing before me. I have heard learned counsel for accused/applicant and learned APP for State assisted by IO/SI Narender



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Singh.

2. Broadly speaking, the prosecution case is that on the basis of secret information, the police party intercepted a car, in which were two occupants, namely Nibash Biswas and Saurabh Singh. On being searched, 80 kg of *ganja* was recovered from that car. The accused/applicant is registered owner of that car. The role ascribed to the accused/applicant is of a conspirator under Section 29 NDPS Act and as regards evidence of the alleged conspiracy, the investigator collected material according to which the accused/applicant along with the other two co-accused made three trips to Odisha prior to being apprehended and they stayed in the same hotel.

3. Learned counsel for accused/applicant contends that there is no sufficient material to convict him. Most significantly, learned counsel for accused/applicant contends that the accused/applicant was never furnished grounds of arrest, which is a serious violation of his constitutional right under Article 22 of the Constitution of India.

4. Learned APP assisted by IO/SI Narender Singh opposes the bail application on the ground that the quantity of contraband recovered from the accused/applicant is a commercial quantity, so twin conditions under Section 37 NDPS Act would come into play. As regards supply of grounds of arrest, it is contended by learned APP that the same were supplied through the application filed before the learned trial court for first remand.



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5. In the case of *Mihir Rajesh Shah vs State of Maharashtra & Anr.*, 2025 INSC 1288, the Supreme Court recapitulated the legal position as regards the requirement to furnish grounds of arrest to an accused and held thus:

“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.

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...

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



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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.”

(emphasis supplied)

6. Going by the above cited legal position, there cannot be a dispute that failure to furnish grounds of arrest would vitiate arrest, thereby entitling the accused to bail.

7. In the present case also, prosecution does not dispute the abovementioned legal position. The stand taken by the prosecution is that grounds of arrest were duly supplied to the accused/applicant by way of the application for first remand filed before the trial court. But neither in the first remand order of the learned trial court nor even in the application for first remand, it is disclosed that copy of the application was furnished to the accused/applicant. There is no endorsement on the ordersheet of the trial court or even the first remand application reflecting that a copy thereof was supplied to the accused/applicant. That being so, it is clear that a constitutional right of the accused/applicant was violated.

8. So far as the twin conditions under Section 37 NDPS Act are concerned, of course, the statutory requirements cannot make inroads into the same. But in the present situation, it is the constitutional requirement, which stands at a footing much higher than the statutory requirements. It is the constitutional right of an arrested person to be supplied with grounds of arrest in view of the above cited law.



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9. In view of above discussion, the application is allowed and the accused/applicant is directed to be released on bail, subject to his furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like amount to the satisfaction of the Trial Court. Accompanying applications also stand disposed of.

10. A copy of this order be immediately transmitted to the concerned Jail Superintendent for informing the accused/applicant.

**GIRISH KATHPALIA
(JUDGE)**

MARCH 19, 2026/dr