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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ W.P.(CRL) 3476/2024, CRL.M.A. 33389/2024, CRL.M.(BAIL)  
1825/2024

PRANAV KUCKREJA (IN POLICE CUSTODY) .....Petitioner

Through: Mr. Manu Sharma, Mr. Abhir Datt,  
Mr. Debayan Gangopadhyay, Mr.  
Anant Gupta, Mr. Kartik Khanna, Mr.  
Suryaketu Tomar, Advs.

versus

STATE (NCT OF DELHI) .....Respondent

Through: Mr. Rahul Tyagi, ASC for the State  
with Mr. Sangeet Sibou, Mr. Jatin, Mr.  
Anikait Singh, Advs. with SI Komal  
Shakya, PS Tughlak Road, ND

**CORAM:**  
**HON'BLE MR. JUSTICE DINESH KUMAR SHARMA**

**ORDER**  
**18.11.2024**

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1. The present petition has been filed seeking declaration of the arrest of the petitioner on 04.11.2024 and all consequential proceedings thereon in the case arising out of FIR No.4/2023 dated 12.01.2023 registered under Sections 498A/406/328/376/109/34 IPC at PS Tughlak Road as illegal, arbitrary and void.
2. The factual matrix, briefly stated, is that the FIR in the present case was registered on 12.01.2023. The complainant alleged that she began dating the petitioner in July 2019, during which they purportedly



entered into a secret marriage in Bangalore and subsequently cohabited. Over time, differences arose between the two, and the complainant alleged various instances of abuse and misconduct. According to her statement, it has been alleged that the petitioner administered drinks laced with intoxicants, rendering her unconscious. She alleged that during these instances, the petitioner's friends sexually assaulted her without her consent. The complainant has further leveled serious accusations of mental, physical, and sexual abuse against the petitioner and his parents, implicating them in acts of coercion and complicity. The detailed facts are not elaborated here as the petitioner has approached this Court primarily to challenge the legality of his arrest.

3. Sh. Manu Sharma, learned counsel for the petitioner, has submitted that the arrest of the petitioner by the investigating agency was carried out in contravention of the principles of law, as the grounds for arrest were not communicated to the petitioner. It has been submitted that the investigating agency failed to comply with the mandatory requirements of Section 50 of the Cr.P.C and the arrest memo prepared at the time of the petitioner's arrest did not disclose any grounds of arrest. In light of the clear violation of Section 50 of the Cr.P.C and in view of the judgment of the Hon'ble Supreme Court in *Prabir Purkayastha v. State (NCT of Delhi)*, (2024) 8 SCC 254, it has been submitted that the petitioner's arrest be declared illegal, and the petitioner be released forthwith.
4. Sh. Rahul Tyagi, learned Additional Standing Counsel, has vehemently



opposed the present petition. Learned ASC has very fairly stated that although the arrest memo did not explicitly state the grounds of arrest specific to the petitioner/accused but these grounds were duly conveyed to the petitioner and were elaborated in the remand application filed on 05.11.2024, a copy of which was also provided to the petitioner. It has further been submitted that the learned Metropolitan Magistrate granted the remand only after hearing submissions from both parties.

5. The learned Additional Standing Counsel does not dispute the well-established principle that the grounds of arrest must be communicated to the accused. However, he submits that subsequent to the judgment in *Pravir Purkayastha* (supra), this principle was revisited by this Court in Writ Petition (Crl.) No. 1783/2024, titled *Inder Pal Singh Gaba v. National Investigation Agency* wherein it was inter alia, held as follows:

*33. It is also necessary at this juncture to understand the facts in the case of Prabir Purkayastha (supra). In the said case, the Police Station Special Cell, Lodhi Colony, New Delhi had carried out extensive raids in connection with FIR No.224/2023 dated 17.08.2023, registered at Police Station Special Cell, Lodhi Colony, New Delhi for offences punishable under Sections 13, 16, 17, 18 and 22C of the UAPA, at the residential and official premises of the Appellant therein who was the Director of M/s PPK News click Studio Pvt. Ltd. During the course of search proceedings, numerous documents and digital devices belonging to the Appellant therein, the company and the other employees of the company were seized and the Appellant therein was arrested in connection with the said FIR. The arrest memo in that case was in a computerised format and did not contain any column regarding the grounds of arrest of the Appellant therein. The Appellant*



*therein was produced before the Ld. Additional Sessions Judge-02, Patiala House Court, New Delhi and a Remand Order was passed. In the said case a copy of the remand application had been sent over whatsapp to the learned Counsel for the Appellant therein which according to the learned ASG did provide a complete picture about the grounds of arrest of the Appellant therein. However, Paragraph No.50 of the said Judgment, which has been quoted above, does show that the Apex Court was of the opinion that the copy of the remand application in the purported exercise of communication of the grounds of arrest in writing was not provided to the Appellant therein or his Counsel which is not in the present case.*

*34. In the facts of the present case, this Court is of the opinion that the Petitioner herein has not been deprived of the information of the grounds of arrest as it was forwarded to his Advocate appointed by him by executing a proper Vakalatnama which is on record. The Ld. ASG submits that this ground has been taken by the Petitioner herein only in this Court after the Judgment of Prabir Purkayastha (supra) passed by the Hon'ble Apex Court. This contention cannot be accepted but for the reason that a Judgment of the Apex Court is declaratory in nature and, therefore, the fact that this ground was not taken by the Petitioner earlier does not preclude the Petitioner to raise this argument.*

6. The learned Additional Standing Counsel further submits that a Coordinate Bench of this Court, in the aforementioned case, held that the constitutional safeguard under Article 22(1) of the Constitution of India was duly adhered to. Specifically, it was observed that the petitioner in that case, who was arrested on 25.04.2024, was produced before the Magistrate on the same day and provided with a copy of the remand application, which explicitly stated the reasons and grounds for



the arrest. This was held to be in compliance with the constitutional mandate.

7. The learned Additional Standing Counsel also draws this Court's attention to the remand application submitted before the learned Metropolitan Magistrate in the present case. It has been submitted that the remand application explicitly outlines the specific grounds for the petitioner's arrest, ensuring procedural compliance. Further, the Court's attention is invited to the detailed status report, which elaborates on the evidence and material circumstances that necessitated the petitioner's arrest.
8. Additionally, it is submitted that while the FIR in the present case was registered in January 2023, the petitioner's arrest occurred only in November 2024 due to his non-cooperation during the investigation. The arrest was deemed necessary to facilitate the investigation's progress and to secure critical material evidence essential to the case.
9. The short question involved in the present case is whether the grounds for the petitioner's arrest were duly communicated in compliance with Section 50 of the Cr.P.C. and the Supreme Court's judgment in ***Pravir Purkayastha*** (supra).
10. The petitioner contends that, as per Section 50 of the Cr.P.C. and Supreme Court's judgment in ***Pravir Purkayastha*** (supra), the specific grounds for arrest must be communicated to the accused at the time of arrest. Failure to do so, the learned counsel for the petitioner argues, constitutes a violation of Section 50 of the Cr.P.C. and the constitutional safeguards as provided under Article 22 of the



Constitution of India.

11. *Per contra*, it has been submitted on behalf of the State that the specific grounds for the petitioner's arrest were duly communicated through the remand application, which was provided to the petitioner on the next date when the remand was sought. It has been submitted that this process satisfies the legal requirements and does not constitute any violation of the statutory or constitutional provisions cited by the petitioner.

12. Section 50 of the Cr. PC provides as under;

*"50. 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 non-bailable 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."*

13. The bare perusal of it makes it clear that the law mandates the police officer to inform the arrested individual of the full particulars of the offence or the grounds for arrest. The requirement to convey these details is not a mere formality but a fundamental safeguard to uphold the individual's right to liberty under the Constitution of India. The Courts have time and again deprecated the practice of filling up columns in proforma indicating the formal "reasons" for which the



accused was being arrested. It is also pertinent to note that Section 50 Cr. P.C. uses the word "forthwith." which implies that "grounds for such arrest" have to be communicated at the time of the arrest. This requirement is designed to ensure that the arrested individual is promptly made aware of the reasons for their detention, thereby safeguarding their legal rights.

14. There are numerous instances where arrested persons alleged serious violation of procedures enshrined in the Cr. P.C. (new BNSS, 2023) and the Courts have to carefully examine the same. It is relevant to note that the constitutional safeguards are incorporated in the procedural law as procedural safeguards and the Court have to be very careful and must keep in mind the constitutional frame work. It is pertinent to note that in the criminal trial, an individual is pitted against the might of the State and thus the Court have to interpret such provisions in the perspective of personal liberty enshrined in part-III of the Constitution.
15. Before proceeding further, it is also necessary to refer that the jurisprudence that has been evolved by Indian Constitutional Courts that fundamental rights of any person are not violated and remain fully protected. The Apex Court has consistently emphasized that arrest should only be resorted to when absolutely necessary as the personal liberty is paramount which should not be curtailed on whimsical grounds and mechanically.
16. In *Joginder Kumar v. State of U.P. and Ors* (1994) 4 SCC 260, the Supreme Court while dealing with this issue *inter alia* held as under;



17. *In England, the police powers of arrest, detention and interrogation have been streamlined by the Police and Criminal Evidence Act, 1984 based on the report of Sir Cyril Philips Committee (Report of a Royal Commission on Criminal Procedure, Command-papers 8092 1981 1).*

18. *It is worth quoting the following passage from Police Powers and Accountability by John L. Lambert, p. 93:*

*"More recently, the Royal Commission on Criminal Procedure recognised that 'there is a critically important relationship between the police and the public in the detection and investigation of crime' and suggested that public confidence in police powers required that these conform to three principal standards: fairness, openness and workability." (emphasis supplied)*

19. *The Royal Commission suggested restrictions on the power of arrest on the basis of the "necessity of (sic) principle". The two main objectives of this principle are that police can exercise powers only in those cases in which it was genuinely necessary to enable them to execute their duty to prevent the commission of offences, to investigate crime. The Royal Commission was of the view that such restrictions would diminish the use of arrest and produce more uniform use of powers. The Royal Commission Report on Criminal Procedure Sir Cyril Philips at p. 45 said:*

*"... we recommend that detention upon arrest for an offence should continue only on one or more of the following criteria:*

*(a) the person's unwillingness to identify himself so that a summons may be served upon him;*

*(b) the need to prevent the continuation or repetition of that offence;*

*(c) the need to protect the arrested person himself or other persons or property;*





*(d) the need to secure or preserve evidence of or relating to that offence or to obtain such evidence from the suspect by questioning him; and*

*(e) the likelihood of the person failing to appear at court to answer any charge made against him."*

*The Royal Commission in the above said report at p. 46 also suggested:*

*"To help to reduce the use of arrest we would also propose the introduction here of a scheme that is used in Ontario enabling a police officer to issue what is called an appearance notice. That procedure can be used to obtain attendance at the police station without resorting to arrest provided a power to arrest exists, for example to be fingerprinted or to participate in an identification parade. It could also be extended to attendance for interview at a time convenient both to the suspect and to the police officer investigating the case.....*

*20. In India, Third Report of the National Police Commission at p. 32 also suggested:*

*"An arrest during the investigation of a cognizable case may be considered justified in one or other of the following circumstances:*

*(i) The case involves a grave offence like murder, dacoity, robbery, rape etc., and it is necessary to arrest the accused and bring his movements under restraint to infuse confidence among the terror stricken victims.*

*(ii) The accused is likely to abscond and evade the processes of law.*

*(iii) The accused is given to violent behavior and is likely to commit further offences unless his movements are brought under restraint.*

*(iv) The accused is a habitual offender and unless kept in custody he is likely to commit similar offences again.*

*It would be desirable to insist through departmental instructions that a police officer making an arrest should also record in the case diary the reasons for making the*



*arrest, thereby clarifying his conformity to the specified guidelines....."*

*The above guidelines are merely the incidents of personal liberty guaranteed under the Constitution of India. No arrest can be made because it is lawful for the police officer to do so. The existence of the power to arrest is one thing. The justification for the exercise of it is quite another. The police officer must be able to justify the arrest apart from his power to do so. Arrest and detention in police lock-up of a person can cause incalculable harm to the reputation and self-esteem of a person. No arrest can be made in a routine manner on a mere allegation of commission of an offence made against a person. It would be prudent for a police officer in the interest of protection of the constitutional rights of a citizen and perhaps in his own interest that no arrest should be made without a reasonable satisfaction reached after some investigation as to the genuineness and bona fides of a complaint and a reasonable belief both as to the person's complicity and even so as to the need to effect arrest. Denying a person of his liberty is a serious matter. The recommendations of the Police Commission merely reflect the constitutional concomitants of the fundamental right to personal liberty and freedom. A person is not liable to arrest merely on the suspicion of complicity in an offence. There must be some reasonable justification in the opinion of the officer effecting the arrest that such arrest is necessary and justified. Except in heinous offences, an arrest must be avoided if a police officer issues notice to person to attend the Station House and not to leave the Station without permission would do.*

*21. Then, there is the right to have someone informed. That right of the arrested person, upon request, to have someone informed and to consult privately with a lawyer was recognised by Section 56(1) of the Police and Criminal Evidence Act, 1984 in England (Civil Actions Against the Police Richard Clayton and Hugh Tomlinson; p. 313). That section provides:*



*"[W]here a person has been arrested and is being held in custody in a police station or other premises, he shall be entitled, if he so requests, to have one friend or relative or other person who is known to him or who is likely to take an interest in his welfare told, as soon as is practicable except to the extent that delay is permitted by this section, that he has been arrested and is being detained there."*

*These rights are inherent in [Articles 21](#) and [22\(1\)](#) of the Constitution and require to be recognised and scrupulously protected. For effective enforcement of these fundamental rights, we issue the following requirements:*

- 1. An arrested person being held in custody is entitled, if he so requests to have one friend, relative or other person who is known to him or likely to take an interest in his welfare told as far as is practicable that he has been arrested and where he is being detained.*
- 2. The police officer shall inform the arrested person when he is brought to the police station of this right.*
- 3. An entry shall be required to be made in the diary as to who was informed of the arrest. These protections from power must be held to flow from [Articles 21](#) and [22\(1\)](#) and enforced strictly.*

17. Furthermore, in *Siddharth v. State of Uttar Pradesh*, 2022 1 SCC 676, it was *inter alia* held as under;

*"10. We may note that personal liberty is an important aspect of our constitutional mandate. The occasion to arrest an accused during investigation arises when custodial investigation becomes necessary or it is a heinous crime or where there is a possibility of influencing the witnesses or accused may abscond. Merely because an arrest can be made because it is lawful does not mandate that arrest must be made. A distinction must be made between the existence of the power to arrest and the justification for exercise of it. If arrest is made routine, it can cause incalculable harm to the reputation and self-esteem of a person. If the*



*Investigating Officer has no reason to believe that the accused will abscond or disobey summons and has, in fact, throughout cooperated with the investigation we fail to appreciate why there should be a compulsion on the officer to arrest the accused.”*

18. Bare perusal of the judgments of **Joginder Kumar** (supra) and **Siddharth** (supra) makes it clear that the Indian Supreme Court has always been very sensitive and conscious about the individual's rights. The jurisprudence which is being evolved is that the police may not arrest a person only because it's permissible, the arrest should be justified also and must have grounds of arrest communicated forthwith.
19. Recently, in **Prabir Purkayastha v. State** (NCT of Delhi) (2024) 8 SCC 254, the Supreme Court reaffirmed that the grounds of arrest must be communicated in writing to the accused expeditiously. The practice of filling generic reasons in proforma arrest memos was strongly deprecated.
20. It is a settled proposition that the absence of specific grounds of arrest violates statutory and constitutional rights under Section 50 of Cr.P.C. and Article 22(1) of the Constitution. Any person 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. Reliance may be placed upon *Pankaj Bansal v. Union of India* (2023 SCC OnLine 1244)

21. In *Prabir Purkayastha (supra)*, it was further inter alia held as under;

“ ....

30. Furthermore, the provisions of Article 22(1) have already been interpreted by this Court in *Pankaj Bansal* laying down beyond the pale of doubt that the grounds of arrest must be communicated in writing to the person arrested of an offence at the earliest. Hence, the fervent plea of the learned ASG that there was no requirement under law to communicate the grounds of arrest in writing to the appellant-accused is noted to be rejected.

.....

37. The interpretation given by the learned Single Judge that the grounds of arrest were conveyed to the accused in writing vide the arrest memo is unacceptable on the face of the record because the arrest memo does not indicate the grounds of arrest being incorporated in the said document. Column 9 of the arrest memo (Annexure P-7) which is being reproduced hereinbelow simply sets out the "reasons for arrest" which are formal in nature and can be generally attributed to any person arrested on accusation of an offence whereas the "grounds of arrest" would be personal in nature and specific to the person arrested.

"9. Reason for arrest

(a) Prevent the accused person from committing any further offence.

(b) For proper investigation of the offence.

(c) To prevent the accused person from causing the evidence of the offence to disappear or tampering with such evidence in any manner.

(d) To prevent such person from making any 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 police officer.*

*(e) As unless such person is arrested, his presence in the court whenever required cannot be ensured."*

*38. The remand order dated 4-10-2023 (reproduced supra) records that the copy of the remand application had been sent to the learned advocate engaged by the appellant-accused through WhatsApp. A bare perusal of the remand order is enough to satisfy us that these two lines were subsequently inserted moreover, these two lines give a clear indication of subsequent insertion. It is quite possible that the learned Remand Judge may have heard the learned counsel for the appellant after signing the remand order and thus, these lines were inserted later without intending any harm or malintention but the fact remains that the order of remand had already been passed at 6.00 a.m. and hence, the subsequent opportunity of hearing, if any, provided to the counsel was nothing but an exercise in futility.*

.....

*43. We do not feel persuaded to examine these aspects at this stage because the same would require entering into the merits of the case. This would be within the domain of the court examining the matter after the filing of the charge-sheet. The core issue in this appeal is regarding the illegality of the process whereby the appellant was arrested and remanded to police custody which does not require examining the merits of the case.*

.....

*45. We are of the firm opinion that once this Court has interpreted the provisions of the statute in context to the constitutional scheme and has laid down that the grounds of arrest have to be conveyed to the accused in writing expeditiously, the said ratio becomes the law of the land binding on all the courts in the country by virtue of Article 141 of the Constitution of India.*

*46. Now, coming to the aspect as to whether the grounds of*



*arrest were actually conveyed to the appellant in writing before he was remanded to the custody of the investigating officer.*

*47. We have carefully perused the arrest memo (Annexure P-7) and find that the same nowhere conveys the grounds on which the accused was being arrested. The arrest memo is simply a pro forma indicating the formal "reasons" for which the accused was being arrested.*

*48. 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 tampering 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."*

22. This judgment was followed by the Bombay High Court in ***Sachin Mahipati Nimbalkar v. The State of Maharashtra***, in Writ Petition (stamp) No.17029/2024 wherein it was inter alia held as under ;



*"7. It is the requirement of Section 50 of the Cr.P.C. that an accused, who is being arrested without warrant to be forthwith communicated about the full particulars of the offence for which he is arrested or the other grounds for such arrest. The petitioner has alleged non-compliance of Section 50 of the Cr.P.C. as also Article 22(1) of the Constitution of India, by relying upon law laid down by the Apex Court in this regard. Therefore, it is a specific contention of the petitioner that, there is a violation of his constitutional as well as statutory rights.*

*8. After considering the submissions as well as the documents produced on record, we do not find grounds of arrest being communicated to the petitioner as contemplated by Section 50 of the Cr.P.C. and explained by this Court as well as the Hon'ble Apex Court in its various judicial pronouncements. We are satisfied that there is a flagrant violation of Section 50 of the Cr, PC. As well as Article 22 (1) the constitution of India, and since the grounds of arrest are not communicated to the petitioner, making his arrest illegal.*

*Resultantly, the Writ Petition is allowed and we declare that the arrest of the petitioner in relation to FIR No. 1191 of 2023 dated 31.10.2023 is illegal and in gross violation of fundamental rights of the petitioner and the consequential remand order dated 01.11.2023 passed by the J.M.F.C., Karad as well as the subsequent remand orders are null and void.*

*In view of the declaration, the petitioner deserves to be released forthwith from the custody on furnishing bail bond to the satisfaction of the trial Court. The Writ Petition is disposed off in the above terms.*

*We must clarify that the observations made in the present Writ Petition would not effect the merits of the case, but are restricted to the claim raised by the petitioner about the illegality of the arrest."*





23. At this juncture, it would be advantageous to reproduce the arrest memo of the present case which is as follows;

12 A-1

Case No. I.R. No. 04/2023 Dated 12/1/23 U/s 376/377/328/498-A/406/109/506/79C  
प्र.सू.सि.सं. / दे.दे.सं. दिनांक धारान्तगत

P.S./थाना Tughlak Road Distt/जिला New Delhi Delhi/ दिल्ली

**ARREST MEMO** गिरफ्तारी पत्र

As per direction of Hon'ble Supreme Court of India (माननीय उच्चतम न्यायालय भारत के निर्देशानुसार)

|   |  |
|---|--|
| 1. Name with Alias and Parentage of the Arrestee.<br>गिरफ्तार व्यक्ति का नाम, उपनाम एवं पिता का नाम   | PRANAV KUKREJA<br>S/O SH. PRADEEP KUKREJA        |
| 2. Present Address of the Arrestee.<br>गिरफ्तार व्यक्ति का वर्तमान पता  | A-7 2ND FLOOR DEFENCE COLONY<br>NEW DELHI        |
| 3. Permanent Address of the Arrestee.<br>गिरफ्तार व्यक्ति का स्थायी पता   | 200 GOLF LINKS NEW<br>DELHI                      |
| 4. FIR No/DD No. & Sec. Of Law<br>प्र.सू.सि.सं. / दे.दे.सं. तथा विधि धारान्तगत  | 04/2023<br>U/s 376/377/328/498-A/406/109/506/79C |
| 5. Place of Arrest<br>गिरफ्तारी का स्थान  | P.S. Tughlak road                                |
| 6. Date & Time of Arrest<br>गिरफ्तारी का समय व तारीख  | 12: 40 P.M.                                      |
| 7. Name, Address & Tel. No. Whomsoever to convey the Arrest information.<br>गिरफ्तारी के संदर्भ में जिसे सूचित किया उसका नाम, पता एवं फोन नं० | FATHER PRADEEP KUKREJA<br>PHONE-NO. 9910900178   |
| 8. Name, Rank & No. of the officer who making arrest.<br>गिरफ्तार करने वाले अधिकारी का नाम, रैंक एवं नं०                                      | SI KOMAL<br>NO. D-5600                           |
| 9. Reasons of Arrest  | 1  |
| a. Prevent Accused person from committing any further offence.  | ✓  |
| b. For proper investigation of the offence  | ✓  |
| c. To Prevent the Accused person from causing the evidence of the offence to disappear or tampering with such evidence in any manner.         | ✓  |


This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.

The Order is downloaded from the DHC Server on 20/11/2024 at 13:39:04



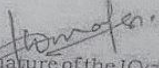
|   |  |
|---|--|
| d. To Prevent such person from making any inducement threat or promise to any person acquainted the facts of the case so as to dissuade him from disclosing such facts to the court or to the police officer. | <input checked="" type="checkbox"/>        |
| e. As unless such person is arrested, his presence in the court whenever required cannot be ensured.  | Address of the Accused yet to be verified. |

  
Signature of Arrestee/गिरफ्तार व्यक्ति के हस्ताक्षर

Witness/गवाह

1. Hulkarni  
Ct. Hukam No. 1441/ND  
P.S. 28181929  
P.S. Tughlak road  
2. Ph. - 9719264013

3. \_\_\_\_\_

  
Signature of the IO/बॉस अधिकारी के हस्ताक्षर  
SI KOMAL  
P.S./थाना Tughlak Road Delhi/दिल्ली  
Dated/दिनांक 04/11/2024  
SI KOMAL  
No. D-5600  
P.S. Tughlak Road  
New Delhi  
Date... 04/11/2024

24. It is no longer *res integra* that grounds of arrest must be communicated in writing to the arrested individual expeditiously. Providing the grounds of arrest to the person being arrested is of utmost sanctity and significance. This information serves as the fundamental basis for the arrested individual to seek legal advice, challenge the remand, and apply for bail.
25. In the context of present case, it is pertinent to mention that Section 50 Cr. P.C. uses the word "forthwith". The dictionary meaning of the word "forthwith" as defined in the Shorter Oxford English dictionary on historical principles, fifth edition, volume - 01 A-M is (1) Along with, at the same time; and (2) Immediately, at one, without delay.
26. The term 'forthwith' in legal parlance also generally implies an action



that must be taken without unreasonable delay. It suggests promptness and urgency. The expression 'forthwith' has also been defined in Black's Law Dictionary, 10th Edition as 'forthwith, adv. (14c) 1. Immediately; without delay. 2. Directly; promptly; within a reasonable time under the circumstances; with all convenient dispatch'. This implies that the "grounds for such arrest" have to be communicated at the earliest. Reading this otherwise may not justify the requirement of Section 50 Cr. PC.

27. The Courts, while examining the implementation of procedural safeguards emanating out of the constitutional rights, have to give strict interpretation. Thus, there is no doubt in the mind of this Court that the "grounds of arrest" in compliance of Section 50 Cr. P.C. has to be supplied "forthwith" as discussed above.
28. In the present case, FIR No. 4/2023, dated 12.01.2023, registered under Sections 498A/406/328/376/109/34 IPC at P.S. Tuglak Road, the arrest memo fails to communicate the grounds for arrest in relation to the petitioner. Learned Additional Standing counsel has argued that the grounds of arrest were duly mentioned in the remand application dated 05.11.2024. However, this court has gone through the remand application dated 05.11.2024 and though it details the complete facts and investigation, it does not specify the grounds of arrest at the time the arrest was effected. This omission constitutes a direct violation of Section 50 of Cr.P.C., as elaborated in *Prabir Purkayastha* (Supra) .
29. It is also relevant to note that in *Inder Pal Singh Gaba* (supra), the



petitioner was arrested on 25.04.2024 and his application for remand was moved on 25.04.2024 itself as recorded in para -25 of the order in W.P.(CRL) 1783/2024 in relation to FIR No.RC-05/2023/NIA/DLI registered by NIA. It is also relevant to note that Section 43 B of UAPA,1967 provides that any officer arresting a person under Section 43A of UAPA,1967 shall, as soon as may be, inform of the grounds of arrest. Thus, it is relevant to note that Section 43B of UAPA,1967 does not speak of the word “forthwith”. It may also be noted that in the present case, the petitioner was arrested on 04.11.2024 at 12.40 PM and remand application was moved on 05.11.2024.

30. The Court considers that the arrest of the present petitioner in case FIR No.4/2023 dated 12.01.2023 registered under Sections 498A/406/328/376/109/34 IPC at PS Tuglak Road is illegal and is required to be set aside. Let the petitioner be released forthwith if not required in any other case on furnishing a bail bond of Rs.50,000/- with two sureties of the like amount subject to the conditions to be imposed by the learned Trial Court.
31. The court makes it clear that the present order been passed for release of the petitioner on the technical non-compliance of Section 50 Cr.P.C. This court has not gone into merits of the case. The prosecution/victim shall all the necessary liberties to proceed with the investigation and take all the steps for smooth investigation of the case in accordance with law. This court has examined facts of this case only in perspective of Section 50 Cr.P.C., which is akin to Section 47 of BNSS, 2024
32. In view of the above, the present petition along with pending applications stands disposed of.



33. This court is of the opinion that there is an urgent need to update the Arrest Memo Forms being used. The Arrest Memo forms as capitulated in this case and in the case of *Prabir Purkayastha (supra)* clearly reveals that there is no column for recording the grounds of the arrest related to the accused. This court considers that a revised arrest memo form or some annexures are to be added to ensure effective compliance with Section 50 Cr.P.C. and the corresponding Section 47 of BNSS, 2023. The Commissioner of Delhi Police may ensure that necessary actions are taken for the said modification.
34. Copy of the order further be also sent to the Commissioner of Delhi Police for necessary information and compliance.

**DINESH KUMAR SHARMA, J**

**NOVEMBER 18, 2024**

*Pallavi/Smg*