



2026:KER:13173

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A. BADHARUDEEN

FRIDAY, THE 13TH DAY OF FEBRUARY 2026 / 24TH MAGHA, 1947

WP(CRL.) NO. 52 OF 2026

CRIME NO.3700/2025, 3701/2025 OF CRIME BRANCH, THIRUVANANTHAPURAM,

Thiruvananthapuram

PETITIONER:

PANKAJ BHANDARI
AGED 52 YEARS, SON OF BADAN RAJ BHANDARI
A22, KENT APARTMENTS, RITHERTON ROAD, CHENNAI, PIN -
600007
BY ADVS.
SRI.B.RAMAN PILLAI (SR.)
SRI.S.VISHNU (V-736)
SRI.V.S.VISWAMBHARAN
SHRI.NAIK CHIRAG DHANANJAY
SMT.MATHRAWALA NOOPUR VISHAL
SHRI.MAHESH BHANU S.
SRI.R.ANIL
SHRI.SUJESH MENON V.B.
SMT.LILIN LAL

RESPONDENTS:

- 1 STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF
KERALA, ERNAKULAM, PIN - 682031
- 2 THE DEPUTY SUPERINTENDENT OF POLICE
SIT CRIME BRANCH, THIRUVANANTHAPURAM, PIN - 695001
BY SRI.GRACIOUS KURIAKOSE, ADDL.DIRECTOR GENERAL OF
PROSECUTION

THIS WRIT PETITION (CRIMINAL) HAVING COME UP FOR ADMISSION ON
27.01.2026, THE COURT ON 13.02.2026 DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 13th day of February, 2026

This writ petition has been filed by Pankaj Bhandari, who is the 9th accused in Crime No.3701/2025 and 12th accused in Crime No.3700/2025, registered by Crime Branch, Kollam. The prayers are as under:

- “i. This Hon'ble Court be pleased to declare that the arrest of the Petitioner on 19.12.2025 in FIR No. 3700 of 2025 and FIR No. 3701 of 2025 registered by the Crime Branch, Kollam is illegal, unconstitutional and violative of Articles 21 and 22 of the Constitution of India.*
- ii. This Hon'ble Court be pleased to quash and set aside the remand order dated 19.12.2025 in FIR No. 3700 of 2025 and FIR No. 3701 of 2025 registered by the Crime Branch, Kollam and all consequential and subsequent remand orders passed by the Hon'ble Enquiry Commission & Special Judge (Vigilance), Kollam, and declare the same as null and void having been rendered in breach of mandatory constitutional and statutory safeguards.*
- iii. This Hon'ble Court be pleased to hold and declare that the continued custody of the Petitioner pursuant*

to the aforesaid illegal arrest and vitiated remand orders is unsustainable in law.

iv. This Hon'ble Court be pleased to direct the release of the Petitioner in FIR No. 3700 of 2025 and FIR No. 3701 of 2025 registered by the Crime Branch.

v. Any other relief(s) or order(s) that this Hon'ble Court may deem fit in the facts and circumstances of the case.”

2. Heard the learned senior counsel for the petitioner and the learned Additional Director General of Prosecution appearing for the prosecution. Perused the relevant records.

3. The learned senior counsel for the petitioner argued at length based on the decisions of the Apex Court mainly to contend that the arrest of the accused in the above crimes recorded on 19.12.2025 is illegal, since his fundamental and statutory rights as explained by the Apex Court have been violated. The argument notes filed by the learned senior counsel for the petitioner is as under:

1. *The Petitioner has challenged his (i) arrest dt. 19.12.2025, (ii) remand order dt. 19.12.2025 and (iii) all subsequent remands – praying for his forthwith release from illegal custody in view of the violation of his constitutional and statutory rights as per the law laid down by the Hon’ble Supreme Court of India in the following rulings:*

1.1. *Prabir Purkayastha v. State (NCT of Delhi), (2024) 8 SCC 254 (“Prabir Purkayastha”)*

1.2. *Vihaan Kumar v. State of Haryana, 2025 5 SCC 799 (“Vihaan Kumar”)*

1.3. *Mihir Rajesh Shah v. State of Maharashtra, 2025 SCC OnLine 256 (“Mihir Rajesh Shah”)*

1.4. *Joginder Kumar v. State of UP & Ors., 1994 4 SCC 260 (“Joginder Kumar”)*

2. *A conjoint reading of the aforesaid rulings required the Respondents to ensure that the following constitutional/statutory safeguards were adhered to in making the Petitioner’s arrest and subjecting him to subsequent remand:*

2.1. Issue-1: *The written Grounds of Arrest provided to the Petitioner are mechanical and vague and do not justify/or disclose necessity of arrest of the Petitioner. [Ground P to T/WP]*

[NOTE: See Prabir Purkayastha @ para 37 & 48]

“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 No. 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 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 tempering with such evidence in any manner.*
- 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.*
- e. As unless such person is arrested, his presence in the Court whenever required cannot be ensured.”*

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 from 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 accused and cannot be equated with the “reasons of arrest” which are general in nature.

2.1.1. Petitioner's submissions:

- 2.1.1.1. Written Grounds of Arrest are to be furnished to the arrestee in all offences at the earliest without any exception [**see: @para 19 of Prabir Purkayashta & @para 9 of Mihir Rajesh Shah**].
- 2.1.1.2. Pre-determined, Vague and cyclostyled Grounds of Arrest merely stating "your arrest is inevitable" were supplied to the Petitioner. [**see: Grounds of Arrest in FIR 3700 @ pg.114/WP & FIR 3701 @ pg 116/WP**]. The same are general and are common & applicable to any and all accused in the matter.
- 2.1.1.3. The respective Grounds of Arrest @ **pg 114/WP (FIR 3700)** and **@pg 116/WP (FIR 3701)** are verbatim identical to the reasons of arrest in the Arrest Memos @ **pgs.98-99/WP (FIR 3700) & pgs. 109-110/WP (FIR 3701)**, which is impermissible and violative of **paras 37 & 48 of Prabir Purkayashta**.

2.1.2. Respondent's Reply:

- 2.1.2.1. "With regard to Grounds P to T, it is submitted that the grounds of arrests were clearly stated in the notices given to the petitioner and to his staff and written in the language known to him and **he was also communicated orally about his specific role and the reason for his arrest and the necessity of arrest in the cases.**" [**@ Para 23; pg 6-7/Reply**].

2.1.2.2. During oral submissions on 21.01.2026, the Ld. ADGP placed reliance on **Kasireddy Upender Reddy v. State of Andra Pradesh, 2025 SCC OnLine SC 1228 (“Kasireddy”)** @ para 28 to contest that that the ground of arrest need not provide all details.

2.1.3. **Petitioner’s Rebuttal:**

2.1.3.1. While the Petitioner’s Submissions make it clear that no justification for or necessity of arrest are disclosed in the Grounds of Arrest. The Respondent @ para 23 of its own Reply/Counter Affidavit claims that the reasons and necessity of arrest were communicated orally. Which is squarely in the teeth of the law laid down in Prabir Purkayastha & Mihir Rajesh Shah.

2.1.3.2. Further, the reliance on Kasireddy is misplaced as in the said case, grounds of arrest were provided to the case petitioner, his father and also a copy of the remand application was provided to the case petitioner prior to the remand order, which is not the case the present matter.

2.2. **Issue-2:** Grounds of arrest not provided to the Petitioner’s relatives or nominated person.

[Ground N&O/WP]

[NOTE: See Vihaan Kumar @ para 41, 42]

“41. The issue on the requirement of communication of grounds of arrest to the person arrested, as mandated under Article 22(1) of the Constitution of India, which has also been

incorporated in the Prevention of Money Laundering Act, 2002 under Section 19 thereof has been succinctly reiterated in this judgment. The constitutional mandate of informing the grounds of arrest to the person arrested in writing has been explained in the case of Pankaj Bansal (supra) so as to be meaningful to serve the intended purpose which has been reiterated in Prabir Purkayastha (supra). The said constitutional mandate has been incorporated in the statute under Section 50 of the CrPC (Section 47 of BNSS). It may also be noted that the aforesaid provision of requirement for communicating the grounds of arrest, to be purposeful, is also required to be communicated to the friends, relatives or such other persons of the accused as may be disclosed or nominated by the arrested person for the purpose of giving such information as provided under Section 50A of the CrPC. As may be noted, this is in the addition of the requirement as provided under Section 50(1) of the CrPC.

42. The purpose of inserting Section 50A of the CrPC, making it obligatory on the person making arrest to inform about the arrest to the friends, relatives or persons nominated by the arrested person, is to ensure that they would be able to take immediate and prompt actions to secure the release of the arrested person as permissible under the law. The arrested person, because of his detention, may not have immediate and easy access to the legal process for securing his release,

which would otherwise be available to the friends, relatives and such nominated persons by way of engaging lawyers, briefing them to secure release of the detained person on bail at the earliest. Therefore, the purpose of communicating the grounds of arrest to the detainee, and in addition to his relatives as mentioned above is not merely a formality but to enable the detained person to know the reasons for his arrest but also to provide the necessary opportunity to him through his relatives, friends or nominated persons to secure his release at the earliest possible opportunity for actualising the fundamental right to liberty and life as guaranteed under Article 21 of the Constitution. Hence, the requirement of communicating the grounds of arrest in writing is not only to the arrested person, but also to the friends, relatives or such other person as may be disclosed or nominated by the arrested person, so as to make the mandate of Article 22(1) of the Constitution meaningful and effective failing which, such arrest may be rendered illegal.”

2.2.1. Petitioner’s submissions:

2.2.1.1. Written Grounds of Arrest are to be furnished to the arrestee’s, “friends, relatives, such other persons of the accused as may be disclosed or nominated by the arrested person” in all offences at the earliest without any exception [see: Vihaan Kumar@ para 41, 42].

2.2.1.2. Grounds of Arrest supplied to the Petitioner’s wife via email

dt. 20.12.2025 @ 2:26 pm [@pg. 117/WP] i.e. on the day following his remand.

2.2.2. Respondent's Reply:

2.2.2.1. "the written communication of the grounds of arrests were given to the petitioner and Mr. Rajasekhar, his staff, well in advance as mandated by law and in the language known to them on the same day ie, 19.12.2025, and about 5 hours before his production before the Hon'ble Enquiry Commissioner & Special Judge Court, Kollam... In addition to it, the grounds of arrests were also communicated through email to Mrs. Kala Bhandari, his wife." [@ Para 22; pg 6/Reply].

2.2.3. Petitioner's Rebuttal:

2.2.3.1. While the Petitioner's Submissions make it clear that no justification for or necessity of arrest are disclosed in the Grounds of Arrest.

2.2.3.2. The Petitioner never appointed Mr. Rajshekhar as his nominee. He could neither be treated as a "relative" nor as a meaningful nominee capable of taking steps to secure the Petitioner's liberty. He was simply accompanying the Petitioner. The alleged supply of grounds to such a person is, in law and in substance, no compliance at all. The Respondent is aware of this fact and therefore it tried to supply ground of arrest – post remand to Petitioner's wife.

2.2.3.3. There was no requirement of supplying the same to the

Petitioner's wife – had communication to Mr. Rajshekhar been enough in law. Respondent's own conduct show non-compliance.

- 2.3. **Issue-3:** *The Grounds of Arrest were not furnished to the Petitioner in sufficient time to enable him to effectively oppose the remand proceedings.*

[Ground Z-II/WP]

[NOTE: Mihir Rajesh Shah @ para 52, 53]

“52. We thus hold, that, in cases where the police are already in possession of documentary material furnishing a cogent basis for the arrest, the written grounds of arrest must be furnished to the arrestee on his arrest. However, in exceptional circumstances such as offences against body or property committed in flagrante delicto, where informing the grounds of arrest in writing on arrest is rendered impractical, it shall be sufficient for the police officer or other person making the arrest to orally convey the same to the person at the time of arrest. Later, a written copy of grounds of arrest must be supplied to the arrested person within a reasonable time and in no event later than two hours prior to production of the arrestee before the magistrate for remand proceedings. The remand papers shall contain the grounds of arrest and in case there is delay in supply thereof, a note indicating a cause for it be included for the information of the magistrate.

53. The above indicated lower limit of two hours minimum interval before the production is grounded in the functional necessity so that the right as provided to an arrestee under the Constitution and the statute is safeguarded effectively. This period would ensure that the counsel has adequate time to scrutinize the basis of arrest and gather relevant material to defend the arrestee proficiently and capably while opposing the remand. Any shorter interval may render such preparation illusory, thereby resulting in non-compliance of the constitutional and statutory mandate. The two-hour threshold before production for remand thus strikes a judicious balance between safeguarding the arrestee's constitutional rights under Article 22(1) and preserving the operational continuity of criminal investigations.”

2.3.1. Petitioner’s submissions:

2.3.1.1. The Written Grounds of Arrest were required to be furnished to the Petitioner in a case where the police were in prior possession of documentary material, upon his arrest and in any event at least 2 hours prior to his production in remand proceedings

2.3.2. Respondent’s Reply:

2.3.2.1. “With regard to Grounds A to O, the allegation of the petitioner that his arrest is illegal is not maintainable in law

because all the procedures of arrest have been complied with while making the arrest of the petitioner and the written communication of the grounds of arrests were given to the petitioner and Mr. Rajasekhar, his staff, well in advance as mandated by law and in the language known to them on the same day ie, 19.12.2025, and about 5 hours before his production before the Hon'ble Enquiry Commissioner & Special Judge Court, Kollam." [**@ Para 22; pg 6/Reply**].

2.3.3. Petitioner's Rebuttal:

2.3.3.1. The Petitioner was arrested at 4:35 PM (FIR 3701) and 4:50 PM (FIR 3700) in Trivandrum and was immediately thereafter taken for his medical examination. Post which the Petitioner was transported around 2 hours for production before the Ld. Spl. Court, Kollam.

2.3.3.2. Assuming the Respondent's case to be true and the Petitioner having been provided the ground of arrest 5 hours prior to his production at 10:00 PM. However, during that period, the Petitioner was taken for his medical examination and then transported for 2 hours. The Petitioner was also not afforded the opportunity to speak to an advocate. Thus, the exercise of providing the Petitioner with the namesake Grounds of Arrest and with no time to consult or reasonable ensure presence of counsel- was illusory. The Petitioner was produced with a dying hurry at nigh post court working hours to defeat his legal rights.

2.3.3.3. As such, the direction of the Hon'ble Supreme Court in **Mihir Rajesh Shah** [**@ Para 52 & 53**] of providing the grounds of arrest at least 2 hours prior. (that too in flagrante delicto cases, whereas the present case was documentary with investigation going on for some time) to an accused's production in remand to protect the accused's fundamental rights and provide his advocate with sufficient time to scrutinize the basis of the arrest and gather material to proficiently and capably oppose remand was defeated.

2.4. **Issue-4:** Non-supply of the Remand Application (in any case in Malayalam, a language wholly unknown to the Petitioner) to the Petitioner & the Remand Report containing altogether different grounds for the Petitioner's arrest.

[Ground Z-II/WP]

[NOTE: See Prabir Purkayastha @ para 48, 49]

"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 accused and cannot be equated with the “reasons of arrest” which are general in nature.

49. From the detailed analysis made above, there is no hesitation in the mind of the court to reach to a conclusion 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-accused or his counsel before passing of the order of remand dated 4-10-2023 which vitiates the arrest and subsequent remand of the appellant.”

2.4.1. Petitioner’s submissions:

2.4.1.1. The Petitioner was supplied only with cyclostyled grounds asserting that arrest was “inevitable”.

2.4.1.2. While the Remand application filed by the Respondent before the Ld. Spl. Court contained altogether different grounds for

the Petitioner's arrest as those contained in the purported Grounds of Arrest.

2.4.1.3. The Remand Application, which was in Malayalam, a language wholly unknown to the Petitioner (being from Chennai), was not supplied to the Petitioner during the remand proceedings.

2.4.1.4. A copy of the Remand Application was provided to the Petitioner's counsel only on 20.12.2025, i.e. the day following his remand to Judicial Custody.

2.4.2. Respondent's Reply:

*2.4.2.1. "the copy of the remand report for the petitioner was submitted before the Hon'ble Court at the time of production of the petitioner before the Court, It is learned that though the counsel of the petitioner was informed well in advance, the counsel was not present at that time. The arrest of the petitioner was informed to Advocate Mr. Satheesh.... on 19.12.2025 as per the choice of the petitioner. Later the advocate called me back and enquired about the time of production before the Hon'ble Enquiry Commissioner & Special Judge Court, Kollam for which I replied promptly. Actually the production of the accused was about two hours later than the time I convened to the Advocate." [@ **Para 25; pg 7/Reply**].*

2.4.3. Petitioner's Rebuttal:

*2.4.3.1. The so-called Grounds of Arrest [@ **Pg. 100/WP**] furnished*

to the Petitioner are merely cyclostyled, disclose no real or substantive basis for arrest, and are a verbatim reproduction of the arrest memo [**@ Pg. 98/WP**]. The detailed grounds justifying arrest, if at all, are contained only in the remand application, which was never supplied to the Petitioner. In **Prabir (Supra)**, the Hon'ble Supreme Court held that an arrest memo without disclosure of actual grounds is legally insufficient, and the present case squarely attracts the said ratio.

2.4.3.2. The Counter Affidavit also does not contend that a copy of the Remand Application was provided to the Petitioner. It is a matter of record that the Remand Application [**@pg.122-134 (FIR 3700), 135-145 (FIR3701)/WP**] was in Malayalam. Further, it has not been denied in the Counter Affidavit that the Court proceedings were in Malayalam.

2.5. Issue -5: Absence of legal consultation and representation during arrest and remand proceedings

[Ground DD-EE/WP]

[NOTE: See Mihir Rajesh Shah @ para 35 & 36]

“35. It is pertinent to note that the arrested person must be given early access to legal assistance to enable him to defend himself and oppose the remand. The early access to legal counsel becomes a quintessential object to ensure that the personal liberty of the arrested person is protected. This Court in *Suhas Chakma v. Union of India* while emphasizing

on the need of pre-litigation assistance has directed that the “Guidelines on Early Access to Justice at Pre-arrest, Arrest and Remand Stage Framework” as framed by the National Legal Services Authority, are to be diligently pursued. The guidelines provide for legal assistance to the arrested person at the stage before remand. The remand advocate shall interact with the arrestee with the objective to inform him about the allegations against him and the grounds being put by the prosecution for seeking remand. The guidelines also provide for making available the translated copy of documents to the arrested person in the language he/she understands. The purpose of securing legal assistance before remand is not merely symbolic, but it is to ensure that the accused is afforded an effective opportunity to oppose the prayer for police custody and to place before the magistrate any circumstances that may warrant refusal or limitation of such custody. If the accused is not represented through a Counsel, he/she should be made aware that he/she is entitled for legal aid. As far as possible, it shall be ensured that every accused person is represented by an advocate, if he is not able to avail such assistance, he should be given free legal aid. A three-judge Bench of this Court in Ashok v. State of Uttar Pradesh held that an accused who is not represented by an advocate is entitled for free legal aid at all material stages starting from remand.

36. This statutory safeguard of legal assistance stands also reinforced by Section 38 of the BNSS 2023, which confers upon an arrested person the right to meet an advocate of his choice during interrogation, albeit not throughout its course. The object of this provision is to ensure meaningful access to legal assistance at the earliest stage, so that the advocate, once informed, may effectively exercise the rights available in law, including representation during remand proceedings and invocation of the right to seek bail.”

2.5.1. Petitioner’s submission:

2.5.1.1. The Petitioner was not permitted to speak to/consult an advocate & was unrepresented at the time of remand, which was conducted hurriedly on the same night (which was conducted almost immediately (considering Medical and Travel time to Kollam from Trivandrum) after his arrest 04:30 pm and 04:50 pm (practically post court hours), in Malayalam a language he does not understand, defeating his right to oppose remand.

2.5.2. Respondent’s Reply:

2.5.2.1. “The arrest of the petitioner was informed to Advocate Mr. Satheesh, over his mobile phone number 9447139660 from my official mobile phone number 9497996931 on 19.12.2025 as per the choice of the petitioner. Later the advocate called me back and enquired about the time of production before the

*Hon'ble Enquiry Commissioner & Special Judge Court, Kollam for which I replied promptly. **Actually the production of the accused was about two hours late than the time I conveyed to the Advocate.**" [@ Para 25; pg 7/Reply].*

2.5.3. Petitioner's Rebuttal:

2.5.3.1. The Petitioner was hurriedly produced before the Ld. Spl. Court on the very same day, well after regular court hours and after nearly two hours of travel.

2.5.3.2. Despite the Respondent's admission that the grounds of arrest were orally communicated [@Para 23/Pg. 6-7/ Reply], the Petitioner was not afforded any opportunity to consult or speak with an advocate.

2.5.3.3. Although the Respondent claims to have informed the Petitioner's advocate, admittedly an incorrect time was conveyed [@Para 14/Pg. 4/ Reply], and the Petitioner was produced nearly two hours later. The entire process was conducted late at night, effectively preventing the Petitioner or his relatives from arranging legal representation or opposing the remand.

**2.6. Issue -6: Absence of reason or necessity for arrest
[Ground N&O/WP]**

[NOTE: See Joginder Kumar @ para 20]

"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 behaviour and is likely to commit further offences unless his movements are brought under restraint.*
- (iv) he 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 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 a heinous offence, 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."

2.6.1. Petitioner's submission:

2.6.1.1. The Petitioner, despite having cooperated with the investigation, since inception, was arrested merely on the

ground that since he has committed the offence his arrest was inevitable. Despite arresting him the Respondent did not seek the Petitioner's police custody and sought only judicial custody thereby establishing that the Petitioner's custody was not necessary for investigative purposes.

2.6.2. Respondent's Reply:

2.6.2.1. "With regard to Grounds U to Y, the contention of the petitioner that he was not taken into Police custody and the arrest was made only for judicial custody is against the facts. It is submitted that the petitioner was taken into Police custody on 31.12.2025. His further Police custody is highly necessary as the result of scientific examination from VSSC Laboratory on examination of the samples taken from the artefacts of Sabarimala Sreekovil has been received. The obtained result is subjected to analysis and assessment. There after the quantity of gold extracted from the artefacts can be assessed. Moreover, the police custody period of the petitioner is not over." [@Para 24/Pg. 7/ Reply].

2.6.3. Petitioner's Rebuttal:

2.6.3.1. The Respondent's own reply undermines its case. Despite the Petitioner being in custody since 19.12.2025 (more than one month) and having continued to cooperate with the investigation, the Investigating Officer sought police custody for only one day, demonstrating the absence of any genuine necessity for custodial interrogation and rendering the

continued deprivation of liberty mechanical, unjustified, and contrary to settled law.

3. *All in all considering the chain of events in 19.12.2025, the Respondent conducted the procedures in such a manner so as to deliberately defeat the Petitioner's fundamental rights and secure the Petitioner's illegal and unjustified custody. Thus this Hon'ble Court be pleased to direct the Petitioner's arrest and subsequent remand and illegal and direct his forthwith release.*

4. Opposing these contentions, it is argued by the learned ADGP that in this case, the contentions raised by the learned senior counsel for the petitioner stating that notice of arrest, arrest intimation and grounds of arrest were not communicated to the petitioner and other contentions raised in the argument notes are baseless and according to the learned ADGP, Exts.P8 and P9 are the notice of arrest issued to the accused. That apart, Exts.P13 and P15 are "Notice to inform the Arrestee, the Grounds and Reasons for Arrest under Section 47 & 35(1)(b)(ii) of the Bharatiya Nagarik Suraksha Sanhita, 2023" (for short, 'the BNSS' hereinafter) to highlight the grounds for arrest. It is also submitted that, as evident

from Exts.P12 and P13 arrest memos, the arrest of the accused was legal and was duly communicated to the accused as well as to Sri. Rajasekharan S., who accompanied the accused at the time of arrest. That apart Adv.Satheesh, the counsel opted by the accused, was informed of the arrest through the mobile phone of the Investigating Officer to the mobile phone of the counsel. Thus, in letter and spirit, the directions of the Apex Court relating to arrest have been complied with, and therefore, none of the contentions raised by the learned senior counsel for the petitioner would sustain.

5. The learned ADGP placed decision of the Apex Court in **Kasireddy Upender Reddy v. State of Andhra Pradesh** reported in **[2025 KHC 6542]** wherein in paragraph Nos.36 to 39 it has been held as under:

“36. If a person is arrested on a warrant, the grounds for reasons for the arrest is the warrant itself; if the warrant is read over to him, that is sufficient compliance with the requirement that he should be informed of the grounds for his arrest. If he is arrested without a warrant, he

must be told why he has been arrested. If he is arrested for committing an offence, he must be told that he has committed a certain offence for which he would be placed on trial. In order to inform him that he has committed a certain offence, he must be told of the acts done by him which amounts to the offence. He must be informed of the precise acts done by him for which he would be tried; informing him merely of the law applicable to such acts would not be enough. (See: Vimal Kishore Mehrotra (supra))

37. In the overall view of the matter more particularly having gone through the grounds of arrest we have reached the conclusion that the requirement in terms of para 21(b) as laid down in Vihaan Kumar (supra) could be said to have been fulfilled.

38. In view of the aforesaid, we do not find any merit in this appeal. The same is accordingly dismissed.

39. It is needless to clarify that it shall be open for the person arrested viz. Kessireddy Raja Shekhar Reddy and in judicial custody as on date to apply for regular bail before the competent court. If any regular bail application is pending as on date, the same shall be taken up for hearing at the earliest and be decided in accordance with law keeping in mind the well-settled principles governing the grant of regular bail.”

6. The learned ADGP also placed reliance on the decision in **Vishnu N.P. v. State of Kerala** reported in **[2025 KHC 1262]**, wherein in paragraph No.33 it has been held as under:

“33. Requirement of Article 22 is not statute specific

(a) Section 47 of the BNSS cannot have the effect of diluting the requirement of Article 22(1). If held so, Section 47 will attract the vice of unconstitutionality. Section 47 lays down the requirement of communicating the full particulars of the offence for which a person is arrested to him.

(b) The ‘other grounds for such arrest’ referred to in Section 47(1) have nothing to do with the grounds of arrest referred to in Article 22(1). Statutory restrictions do not affect the power of the court to grant bail when the violation of Articles 21 and 22 of the Constitution is established.

(c) Existence of power to arrest and justification for exercise of such power are two different aspects.

(d) Obligation to inform grounds of arrest is not mere procedural formality, it flows from personal liberty.

(e) In terms of Section 48 and 47 of BNSS the person making arrest has to inform the arrestee of his right to indicate his relative, friend or such other person for the

purpose of giving information with regard to the arrest.

(f) Person effecting arrest is liable to forthwith inform of such arrest thereafter with reasons and place where such arrested person is being held. The police officer making arrest shall make an entry as to who has been informed of such arrest in a book to be kept in police station. This is in addition to be made aware of grounds of arrest.

(g) Failure to supply the grounds in writing to the arrestee prior to or immediately after arrest would not vitiate arrest on grounds of noncompliance under Section 47 of BNSS provided grounds can be supplied in writing within reasonable time and in any case two hours prior to production of arrestee in remand proceedings. {Vide: Vihaan Kumar v. State of Haryana [(2025) 5 SCC 799] and Mihir Rajesh Shah v. State of Maharashtra and Another (2025 SCC OnLine SC 2356).”

7. A counter affidavit has been filed by Sri.Sasidharan S., IPS, the Investigating Officer, negating the contentions raised in the writ petition. Paragraph Nos.13 and 14 to 19, 22 and 25 of the counter affidavit are required to be extracted. The same read as under:

“13. In both the crime cases separate grounds of arrest notices were prepared in English, the language known to the petitioner and copies of each were supplied to the petitioner and Mr. Rajasekhar, staff of the petitioner who accompanied the petitioner at that time and the notices were acknowledged by them. The contention of the petitioner that the grounds of arrests in both the cases are practically verbatim and cyclostyle is absolutely false.

14. The arrest intimation notices in both the cases were given as per his request to Mr. Rajasekhar, staff of the petitioner who accompanied him and the same was received by him. The arrest of the petitioner was informed to Advocate Mr.Satheesh, over his mobile phone number 9447139660 from my official mobile phone number 9497996931 on 19.12.2025 as per the choice of the petitioner. Later the advocate called me back and enquired about the time of production before the Hon'ble Enquiry Commissioner & Special Judge Court, Kollam for which I replied promptly. Actually the production of the accused was about two hours late than the time I conveyed

to the Advocate. Therefore the contention of the petitioner is devoid of merit.

15. As the arrest procedures were completed, the petitioner was produced before the Hon'ble Enquiry Commissioner & Special Judge (Vigilance), Kollam on that day itself for not to keep the arrested person unnecessarily and not to cause trauma to him.

16. The petitioner was produced before the Hon'ble Enquiry Commissioner & Special Judge (Vigilance), Kollam at about 10.00 PM and he was remanded to judicial custody. The arrest intimation was informed well in advance to the petitioner, his staff and his counsel and explained to them in detail. The grounds of arrest also was provided to him and to his staff as stipulated by law. Therefore the allegation of the petitioner that he had not got enough time is in fact incorrect. A copy of the remand report for the petitioner / his legal counsel was submitted along with the original copy to the Hon'ble Court, but his counsel was not present.

17. The email intimation of the grounds of arrest was intimated to Mrs. Kala Bhandari, the petitioner's wife on 20.12.2025. The petitioner's

staff present at the Crime Branch office was given proper intimation. His another staff, Balaji also was given properly intimated. He was physically present at the office of Crime Branch. Grounds of arrest was given to the petitioner and Mr. Rajasekhar, his staff on 19.12.2025. Therefore, his right to get intimation of ground of arrest is no way curtailed.

18. Though the remand report is prepared in the regional language, the grounds of arrest was given and explained to him in English, the language known to the petitioner. The Investigation Officer has communicated the details of the case and the specific role of the petitioner also. The petitioner's counsel is well versed in Malayalam language.

19. The grounds of arrests were given to the staff of the petitioner and remand applications were submitted before the Hon'ble Enquiry Commissioner & Special Judge Court, Kollam and all the procedures of arrest were complied while making the arrest and production of the petitioner before the Hon'ble Court which is established as per the above facts. Therefore, his allegations are totally denied. The fundamental rights of the

petitioner guaranteed under Article 21 and 22 of the Constitution of India is in no way denied.

22. With regard to Grounds A to O, the allegation of the petitioner that his arrest is illegal is not maintainable in law because all the procedures of arrest have been complied with while making the arrest of the petitioner and the written communication of the grounds of arrests were given to the petitioner and Mr. Rajasekhar, his staff, well in advance as mandated by law and in the language known to them on the same day ie, 19.12.2025, and about 5 hours before his production before the Hon'ble Enquiry Commissioner & Special Judge Court, Kollam. The arrest of the petitioner was informed to Advocate Mr.Satheesh, over his mobile phone number 9447139660 from my official mobile phone number 9497996931 on 19.12.2025 as per the choice of the petitioner. Later the advocate called me back and enquired about the time of production before the Hon'ble Enquiry Commissioner & Special Judge Court, Kollam for which I replied promptly. Actually the production of the accused was about two hours late than the time I convened to the Advocate. In addition to it, the grounds of arrests

were also communicated through email to Mrs. Kala Bhandari, his wife. Therefore, the right of the petitioner is not curtailed and his contention is devoid of merit.

25. With regard to Grounds Z to II it is submitted that, the copy of the remand report for the petitioner was submitted before the Hon'ble Court at the time of production of the petitioner before the Court. It is learned that though the counsel of the petitioner was informed well in advance, the counsel was not present at that time. The arrest of the petitioner was informed to Advocate Mr.Satheesh, over his mobile phone number 9447139660 from my official mobile phone number, 9497996931 on 19.12.2025 as per the choice of the petitioner. Later the advocate called me back and enquired about the time of production before the Hon'ble Enquiry Commissioner & Special Judge Court, Kollam for which I replied promptly. Actually the production of the accused was about two hours late, than the time I convened to the Advocate. The grounds of arrests were given to the petitioner in the language known to him and handed over to him well in advance and explained to him. His staff also was provided with the

grounds of arrest. Therefore the submission of the petitioner that his remand was illegal is not maintainable.”

8. In this matter, a Special Investigation Team was constituted by the Division Bench of this Court, and the investigation would show that Dwarapalaka plates as well as on the door frames of the Sabarimala Sreekovil, which had originally been gold-cladded were taken away with a view to misappropriate the gold therefrom. In both crimes, the prosecution alleges commission of offences punishable under Sections 403, 406, 409, 466, 467 and 120B r/w 34 of the Indian Penal Code (for short, ‘the IPC’ hereinafter) and under Section 13(1)(a) r/w 13(2) of the Prevention of Corruption (Amendment) Act, 2018 (for short, ‘the PC (Amendment) Act, 2018’ hereinafter) by the accused. The arrest of the petitioner, who got arrayed as accused Nos.9 and 12 in Crime Nos.3701/2025 and 3700/2025, respectively, is under challenge, for the reasons extensively put forth in the notes of arguments filed by the learned senior counsel for the petitioner.

9. Now, the question poses for consideration is whether the arrest of the petitioner in Crime Nos.3700/2025 and 3701/2025 is illegal, as argued by the learned senior counsel for the petitioner? Otherwise, before arrest of the petitioner, the statutory requirements to safeguard the constitutional mandate and the directions issued by the Apex Court in this regard have been complied or not?

10. In this connection, it is relevant to refer paragraph No.42 of the decision in **Vihaan Kumar v. State of Haryana** reported in **[(2025) 5 Supreme Court Cases 799]** which provides as under:

“42. The purpose of inserting Section 50-A CrPC, making it obligatory on the person making arrest to inform about the arrest to the friends, relatives or persons nominated by the arrested person, is to ensure that they would be able to take immediate and prompt actions to secure the release of the arrested person as permissible under the law. The arrested person, because of his detention, may not have immediate and easy access to the legal process for securing his release, which would

otherwise be available to the friends, relatives and such nominated persons by way of engaging lawyers, briefing them to secure release of the detained person on bail at the earliest. Therefore, the purpose of communicating the grounds of arrest to the detenue, and in addition to his relatives as mentioned above is not merely a formality but to enable the detained person to know the reasons for his arrest but also to provide the necessary opportunity to him through his relatives, friends or nominated persons to secure his release at the earliest possible opportunity for actualising the fundamental right to liberty and life as guaranteed under Article 21 of the Constitution. Hence, the requirement of communicating the grounds of arrest in writing is not only to the arrested person, but also to the friends, relatives or such other person as may be disclosed or nominated by the arrested person, so as to make the mandate of Article 22(1) of the Constitution meaningful and effective failing which, such arrest may be rendered illegal.”

11. Similarly, paragraph No.40 of the decision in **Mihir Rajesh Shah** reported in **[2025 SCC OnLine SC 2356]** also is relevant and the same reads as under:

“40. The requirement of informing the arrested person the grounds of arrest, in the light of and under

Article 22(1) of the Constitution of India, is not a mere formality but a mandatory binding constitutional safeguard which has been included in Part III of the Constitution under the head of Fundamental Rights. Thus, if a person is not informed of the grounds of his arrest as soon as maybe, it would amount to the violation of his fundamental rights thereby curtailing his right to life and personal liberty under Article 21 of the Constitution of India, rendering the arrest illegal.”

12. The learned senior counsel for the petitioner while arguing non-compliance of the mandatory requirements, relied on the above decisions as well as the decision in **Prabir Purkayastha v. State (NCT of Delhi)** reported in **[(2024) 8 Supreme Court Cases 254]**. According to the learned senior counsel, the grounds of arrest were not informed to the accused either in the notice, in the intimation, or in the remand report. According to the learned senior counsel, even though some reference could be seen in paragraph No.14 of the remand report, the same is not exhaustive and also the same is not in the local language of the petitioner, who is a native of Chennai and he does not know Malayalam. It is also

submitted that, although the arrest was intimated to one Rajasekharan S., he is neither a relative nor a friend of the accused and, therefore, the mandatory requirement of serving an arrest intimation/arrest notice to a person contemplated under law has not been complied with.

13. The third contention raised by the learned senior counsel for the petitioner, which surfaces for consideration in the light of the aforesaid decisions, relates to the alleged non-compliance with the mandatory requirement of furnishing clear, specific, and meaningful grounds of arrest to the petitioner in a language known to him, so as to enable him to effectively exercise his constitutional and statutory rights, including the right to oppose the remand. In this connection, it is relevant to note that in **Prabir's** case (supra), the Apex Court held that though a contention was raised in the said case by the learned ADGP that grounds of arrest were informed through the arrest memo, that contention was not accepted by the Apex Court and the Apex Court distinguished the “reasons for arrest” and “grounds of arrest” after observing that there is a

significant difference in the above phrases and held that '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’. In **Prabir**'s case (supra), since grounds of arrest were not stated either in writing in the arrest memo and though grounds of arrest were stated in the remand application, the same failed to be provided to the accused or his counsel, the accused was released and arrest of the accused was found illegal and accordingly, he was released by the Apex Court.

14. Thus, the law regarding arrest of a person can be summarised as under:

(1) If a person is arrested on a warrant, the grounds for reasons for the arrest is the warrant itself; if the warrant is read over to him, that is sufficient compliance with the requirement that he should be informed of the grounds for his arrest.

(2) If a person is arrested without a warrant, he must be told why he has been arrested. If he is arrested for committing an offence, he must be told that he has committed a certain offence for which he would be

placed on trial. In order to inform him that he has committed a certain offence, he must be told of the acts done by him which amounts to the offence. He must be informed of the precise acts done by him for which he would be tried; informing him merely of the law applicable to such acts would not be enough.

(3) The purpose of inserting Section 50A of the CrPC, making it obligatory on the person making arrest to inform about the arrest to the friends, relatives or persons nominated by the arrested person, is to ensure that they would be able to take immediate and prompt actions to secure the release of the arrested person as permissible under the law. The arrested person, because of his detention, may not have immediate and easy access to the legal process for securing his release, which would otherwise be available to the friends, relatives and such nominated persons by way of engaging lawyers, briefing them to secure release of

the detained person on bail at the earliest. Therefore, the purpose of communicating the grounds of arrest to the detinue, and in addition to his relatives as mentioned above is not merely a formality but to enable the detained person to know the reasons for his arrest but also to provide the necessary opportunity to him through his relatives, friends or nominated persons to secure his release at the earliest possible opportunity for actualising the fundamental right to liberty and life as guaranteed under Article 21 of the Constitution. Hence, the requirement of communicating the grounds of arrest in writing is not only to the arrested person, but also to the friends, relatives or such other person as may be disclosed or nominated by the arrested person, so as to make the mandate of Article 22(1) of the Constitution meaningful and effective failing which, such arrest may be rendered illegal.

(4) The requirement of informing the arrested person the grounds of arrest, in the light of and under Article 22(1) of the Constitution of India, is not a mere formality but a mandatory binding constitutional safeguard which has been included in Part III of the Constitution under the head of Fundamental Rights. Thus, if a person is not informed of the grounds of his arrest as soon as may be, it would amount to the violation of his fundamental rights thereby curtailing his right to life and personal liberty under Article 21 of the Constitution of India, rendering the arrest illegal.

(5) There is a significant difference in the phrases “reasons for arrest” and “grounds of arrest” and it can be held that 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.

(6) Following the ratio of the decision in **Manubhai Ratilal Patel v. State of Gujarat** reported in **[(2013) 1 SCC 314]**, it is obligatory on the part of the Magistrate/the Judge concerned to satisfy himself whether the materials placed before him justify the remand.

(7) The arrested person must be well equipped with the information not only about his arrest, but also the reasons and grounds thereof, prior to his production before the Magistrate, so as to enable him to effectively defend himself and oppose police and judicial custody and even press for bail.

15. In the instant case, the main contention raised by the learned ADGP that Exts.P13 and P15, namely the notices to inform the Arrestee the Grounds and Reasons for Arrest issued under Sections 47 and 35(1)(b)(ii) of the BNSS, complies the statutory mandate. In both crimes, the grounds of arrest were duly communicated, and copies thereof were given to the accused as well

as to Sri.Rajasekharan S., S/o.Singara Babu, who accompanied the accused.

16. In view of the arguments advanced, this Court finds it appropriate to refer to the contents of Exts.P13 and P15, the notices issued to inform the Arrestee the Grounds and Reasons for Arrest under Sections 47 and 35(1)(b)(ii) of the BNSS, which read as follows:

Ext.P13

“That you, Sri. Pankaj Bhandari. Accused No 12, along with Sri Govardhan Roddom A 13, Sri Unnikrishnan Potty A1 and other accused persons, with malicious intention, hatched criminal conspiracy to criminally misappropriate the gold cladded on the copper plates of Dwarapalaka idol Plates (12 plates) and pillar plates (two plates) installed in and around the Sreekovil of the Sabarimala Temple. In furtherance of common intention and conspiracy, A1 Unnikrishnan Potty submitted an application to the Travancore Devaswom Board, offering to gold plate the dwarapalaka idols plates and pillar plates of the Sreekovil, which includes the above mentioned

articles. On the basis of this application, and as part of the conspiracy hatched, the articles (14 plates) were allowed to be inappropriately handed over by the accused Devaswom officials to A1, who took the articles to Smart Creations Chennai, being owned by you. There, the gold originally cladded on the plates was stripped by you. Despite having clear knowledge that the gold belongs to Travancore Devaswom Board, you and other accused persons concealed the fact and misappropriated the gold, thereby causing unlawful pecuniary loss to Travancore Devaswom Board and pecuniary advantage to you and other accused. Since you have committed the offences in Crime Branch Police Station Crime 3700/CB/CU-IV/D/TVPM/2025 U/s 403,406,409,466,467,120.B r/w 34 IPC and Sec 13(1) (a) r/w 13(2) of Prevention of Corruption Act 1988 (Amendment Act 2018), your arrest in this case is inevitable.”

Ext.P15

“That you, A.09 Sri.Pankaj Bhandari, along with A.10 Sri Govardhan Roddom, A1 Sri Unnikrishnan Potty and other accused persons, with malicious intention, hatched criminal conspiracy to criminally misappropriate the gold cladded on the copper plates depicting the Dasavatharas, Rasi

Symbols, top portion of the door frames, and Prabhamandalam over the door frames (7 plates) installed in and around the Sreekovil of the Sabarimala Temple. In furtherance of common intention and conspiracy, A1 Unnikrishnan Potty submitted an application to the Travancore Devaswam Board, offering to gold plate the door frames of the door of the Sreekovil, which includes the abovementioned articles. On the basis of this application, and as part of the conspiracy hatched, the articles (7 plates) were allowed to be inappropriately handed over by the accused Devaswam officials to A1, who took the articles to Smart Creations Chennai, being owned by you. There, the gold originally cladded on the plates was stripped by you. Despite having clear knowledge that the gold belongs to Travancore Devaswam Board, you and other accused persons concealed the fact and misappropriated the gold, thereby causing unlawful pecuniary loss to Travancore Devaswam Board and pecuniary advantage to you and other accused. Since you have committed the offences in Crime Branch Police Station Crime 3701/CB/CU-IV/D/TVPM/2025 U/s 403, 406, 409, 466, 467, 120.B r/w 34 IPC and Sec 13(1) (a) r/w 13(2) of Prevention

of Corruption Act 1988 (Amendment Act 2018), your arrest in this case is inevitable.”

17. The prime question to be considered is whether Exts.P13 and P15 contain valid “grounds of arrest” in terms of the law laid down by the Apex Court in the various decisions discussed hereinabove.

18. Here, if Exts.P13 and P15, as extracted hereinabove, are treated as documents whereby grounds of arrest were informed to the accused, it could be seen that the same were served upon the accused and the signature acknowledging receipt of the same also affixed in both documents. Apart from that, Sri.Rajasekharan S., S/o.Singara Babu also received copy of the above documents.

19. Before addressing as to whether Exts.P13 and P15, as extracted above would be sufficient to hold that grounds of arrest were informed to the petitioner in both crimes or at least two hours prior to his production in remand proceedings, it is necessary to address the contention raised by the learned senior counsel for the petitioner that the grounds of arrest not only to be communicated to

the accused, but also to the friends, relatives or such other persons of the accused, as may be disclosed or nominated by the arrested person for the purpose of giving such information, as provided under the Code of Criminal Procedure, 1973 (for short, 'the Cr.P.C.' hereinafter) and under the Bharatiya Nagarik Suraksha Sanhita. In fact, every police officer or other person making any arrest under the Cr.P.C. or BNSS shall forthwith give information regarding such arrest and the place where the arrested person is being held to any of his friends, relatives or such other persons, as may be disclosed or nominated by the arrested person. Section 48 of the BNSS is analogous to Section 50A of the Cr.P.C. Here, evidently, Exts.P13 and P15 served upon Sri.Rajasekharan S., who accompanied the petitioner to the Vigilance office on the date of arrest. According to the learned senior counsel for the petitioner, Sri.Rajasekharan S. is neither nominated or appointed by the accused. Further, he could not be treated as one of his friends in terms of Section 50A of the Cr.P.C. as well as under Section 48 of the BNSS. In this regard, it is relevant to refer the address of the accused shown in this writ petition itself. The same would show that the petitioner is a

native of Chennai and he came to the Vigilance office along with Sri.Rajasekharan S. In such a case, the question that arises is how far the contention raised by the learned senior counsel for the petitioner, that the said person is neither a friend nor a nominee nor a person appointed by the accused, would sustain. In this connection, it is relevant to note that, if there had been no close relationship in the nature of friendship between the petitioner and Sri.Rajasekharan S., the petitioner would not have brought Sri.Rajasekharan S. with him all along the way from Chennai to Kerala. If that be so, Sri. Rajasekharan S. could not be treated as a stranger and would, at least, come within the purview of a friend of the petitioner and therefore, regarding compliance of serving copies of grounds of arrest to one of the friends of the accused in this case could be seen from Exts.P13and P15 and non-compliance on this count would not succeed.

20. Reverting back to the main challenge, it could be seen that as observed by the Apex Court, there is subtle difference between the phrases, viz., “reasons for arrest” and “grounds of

arrest”. The Apex Court held that the reasons regarding the necessities of investigation would commonly apply to any person’s arrest on charge of a crime. Thus, the grounds of arrest as espoused by the Apex Court would be required to contain all such details in hand of the Investigating Officer which necessitated the arrest of the accused. That is to say, the grounds of arrest informed in writing must be conveyed to the arrested accused, conveying all basic facts on which he was being arrested, so as to provide him an opportunity of defending himself against custodial remand and seeking bail, and thus, grounds of arrest would invariably be personal to the accused and cannot be equated with reasons for arrest, which are general in nature.

21. Now, it is necessary to read Exts.P13 and P15, as extracted above with a view to see commission of the alleged offences by the accused as part of conspiracy hatched between the 10th accused, the 1st accused Sri.Unnikrishnan Potty, and the other accused persons with malicious intention to criminally misappropriate the gold cladded items on the Dwarapalaka plates as

well as on the door frames, could be gathered. It is also stated therein that when the 1st accused Sri.Unnikrishnan Potty submitted an application to the Travancore Devaswom Board with offer to gold plate the Dwarapalaka plates and the door frames of Sabarimala Sreekovil, the 1st accused took those items and produced the same before the petitioner herein, who owns “Smart Creations”, Chennai. Further, it is informed that the petitioner, having clear knowledge that the gold belonged to the Travancore Devaswom Board, concealed the said fact and misappropriated the gold and thereby caused unlawful pecuniary loss to the Travancore Devaswom Board and pecuniary advantage to the petitioner and the other accused persons. Therefore, he committed the offences alleged which would make his arrest inevitable. Thus, the specific allegations against the accused in both crimes, which would necessitate the accused to know the allegations against him so as to frame his defence, could be found from Exts.P13 and P15, and the contra contention raised by the learned senior counsel for the petitioner is found to be not acceptable.

22. It is true that, instead of serving the grounds of arrest separately, when the remand report is prepared in a language known to the accused and is served upon the accused before his production before the court, and when the remand report contains the grounds of arrest, the same would also amount to sufficient compliance with the requirement of informing the grounds of arrest. Here, the prosecution has no case that grounds of arrest not informed by serving copy of remand application. In fact, the remand application not served upon the accused, though the same was produced before the court with copy for the learned senior counsel for the petitioner. That apart, the remand report has been prepared in local Malayalam language, which is not known to the petitioner, who is a native of Chennai, as submitted by the learned senior counsel for the petitioner. It is relevant to note further that even though the prosecution has a case that the grounds of arrest were informed to the accused and Sri.Rajasekharan S. in compliance with Section 48 of the BNSS, the prosecution raised another contention that on the second day, it was informed to the

wife of the accused by e-mail. Thus, the learned senior counsel fervently submitted that if the prosecution's stand is firm in the matter of serving grounds of arrest to the accused and Sri.Rajasekharan S. as his friend, there is no necessity of informing the same to the wife of the accused through e-mail. In this connection, it has to be observed that merely because an email communication was given to the wife of the accused on the second day, that by itself is not a reason to set at naught Exts.P13 and P15, serving grounds of arrest to Sri.Rajasekharan S.

23. On reading Annexures P8 and P9, notices of arrest issued under Section 94 of the BNSS and arrest notices were given properly and therefore, the challenge against arrest notices found to be unsustainable. Similarly, from Ext.P13 arrest memo in Crime No.3700/2025 and Ext.P12 arrest memo in Crime No.3701/2025, it could be seen that the arrest was intimated to the accused, and Sri.Rajashekaran S. and Sri.M.Balaji were shown as witnesses. Therefore, this contention also found to be unsustainable. In reply to the grievance raised by the learned senior counsel for the

petitioner that the remand report was not served, the learned ADGP submitted that the remand report was received by the learned senior counsel on the next day.

24. In the notes of arguments filed by the petitioner, non-supply of the remand application to the petitioner and the remand report containing altogether different grounds for the petitioner's arrest is also stated as a reason to declare the arrest as illegal. In this connection, as already discussed in this case, the remand application was not served on the accused and a copy of the same was produced before the court to be given to the counsel for the accused. Anyhow, the same was taken by the counsel on the next day. Here, it is already found that the grounds of arrest were communicated in the language (English) known to the accused, as per Exts.P13 and P15. Therefore, non-supply of the remand report again to inform the grounds of arrest to the accused is not necessary and, in such view of the matter, this challenge is found to be unsustainable.

25. According to the learned senior counsel for the

petitioner, the accused was denied legal consultation and representation during arrest and remand proceedings in terms of paragraph Nos.35 and 36 of **Mihir Rajesh Shah**'s case (supra). In this connection, the specific case of the prosecution is that the arrest of the accused was informed to Adv.Satheesh from the mobile phone of the arresting officer viz., 9447139660 to the mobile phone number viz., 9497996931 to the mobile phone number of Adv.Satheesh on 19.12.2025 as per the choice of the accused. The prosecution has a further case that, thereafter, the advocate called the arresting officer and enquired about the time of production of the accused before the court, and the same was also informed. At the same time, the prosecution would concede that the accused was produced after two hours late than the time informed to the advocate. Anyhow, at the time when the accused was produced before the court at 10.00 p.m., no advocate was present to represent the accused. In the instant case, the accused was arrested in Crime No.3701/2025 at 4.35 p.m. and in Crime No.3700/2025 at 4.50 p.m. The contention of the learned senior counsel for the

accused/petitioner is that legal consultation and representation during arrest and remand proceedings were denied, in **Mihir Rajesh Shah**'s case (supra), in paragraph 35, the Apex Court discussed about the pre-litigation assistance in terms of the decision in **Suhas Chakma v. Union of India** reported in [(2024) SCC OnLine SC 3031] on par with the "*Guidelines on Early Access to Justice at Pre-arrest, Arrest and Remand Stage Framework*" as framed by the National Legal Services Authority and it was held that *the guidelines provide for legal assistance to the arrested person at the stage before remand. The remand advocate shall interact with the arrestee with the objective to inform him about the allegations against him and the grounds being put by the prosecution for seeking remand. The guidelines also provide for making available the translated copy of documents to the arrested person in the language he/she understands. The purpose of securing legal assistance before remand is not merely symbolic, but it is to ensure that the accused is afforded an effective opportunity to oppose the prayer for police custody and to place before the magistrate any*

circumstances that may warrant refusal or limitation of such custody. If the accused is not represented through a Counsel, he/she should be made aware that he/she is entitled for legal aid. As far as possible, it shall be ensured that every accused person is represented by an advocate, if he is not able to avail such assistance, he should be given free legal aid. A three-judge Bench of this Court in Ashok v. State of Uttar Pradesh held that an accused who is not represented by an advocate is entitled for free legal aid at all material stages starting from remand. In paragraph No.37, the Apex Court held that the intent behind the provision (Section 57 of the Cr.P.C. and Section 58 of the BNSS) mandating the production of accused before the Magistrate for exercise of the power of remand under this section is with the dual purpose. First, ensuring physical presence of the accused and second to afford him an opportunity to be heard. In paragraph 37, it has been observed further that the intent of this provision is not merely to be heard at the stage of remand but to be represented by the counsel of his choice.

26. In the instant case, the telephonic information given by

the arresting officer to Adv.Satheesh to his mobile phone from the mobile phone of the Investigating Officer is not disputed by the accused. But whether an opportunity was given to the accused to speak with the advocate of his choice could not be decipherable from the materials available. That apart, the accused was produced before the court two hours later than the time informed to the advocate for the accused.

27. It is not in dispute that in the absence of a counsel for an accused to submit the versions of the accused at the time when his remand was considered, it is necessary for the prosecution to provide a legal aid lawyer. But this mandate has no application in the present case, since the counsel at the choice of the accused was informed regarding arrest and production of the accused before the court.

28. When an accused was arrested after providing reasons for arrest and grounds for arrest, when the arrest was informed to the counsel opted by the accused, there is no necessity to provide a legal aid counsel. In the instant case, the only anomaly that could be seen from the proceedings adopted by the arresting officer is that

he failed to produce the accused before the Special Court and the production was delayed for about two hours, obviously for the time taken for medical examination and travelling from Thiruvananthapuram to Kollam (71 km). Now, the question is whether the same itself is a ground to declare the arrest, when all other formalities were complied with, as discussed. I do not think that the same by itself is a reason to declare the arrest as illegal. Therefore, for the said reason also, the prayer in the petition to declare the arrest as illegal cannot be illegal.

Thus, in the instant case, the non-compliance argued by the learned senior counsel for the petitioner is not found sufficient to declare the arrest as illegal, and in consequence thereof, this petition would necessarily fail.

In the result, this Writ Petition (Criminal) is dismissed.

Sd/-
A. BADHARUDEEN
JUDGE

APPENDIX OF WP (CRL.) NO. 52 OF 2026

PETITIONER'S EXHIBITS

Exhibit P1	A TRUE COPY OF FIR NO.3700/2025 DATED 11.10.2025 OF CRIME BRANCH, THIRUVANANTHAPURAM
Exhibit P2	A TRUE COPY OF FIR NO.3701/2025 DATED 11.10.2025 CRIME BRANCH, THIRUVANANTHAPURAM
Exhibit P3	A TRUE COPY OF THE PETITIONER'S TRAVEL DOCUMENTS CONFIRMING HIS TRAVEL AND STATEMENT BEFORE THE SIT DATED 09.10.2025
Exhibit P4	TRUE COPIES OF THE PETITIONER STATEMENT AND THE INVENTORY DOCUMENT PREPARED BY THE SIT DATED 14.10.2025
Exhibit P5	A COPY OF THE PETITIONER'S TRAVEL DOCUMENTS DATED 20.10.2025.
Exhibit P6	A COPY OF THE PETITIONER'S TRAVEL DOCUMENTS DATED 29.10.2025
Exhibit P7	A TRUE COPY OF THE RECEIPT ISSUED BY THE SIT DATED 25.11.2025
Exhibit P8	A TRUE COPY OF THE SIT'S NOTICE DATED 27.11.2025
Exhibit P9	A TRUE COPY OF THE SIT'S NOTICE DATED 01.12.2025
Exhibit P10	A COPY OF THE PETITIONER'S TRAVEL DOCUMENTS DATED 15.12.2025
Exhibit P11	A TRUE COPY OF THE PETITIONER'S TRAVEL DOCUMENTS DATED 19.12.2025
Exhibit P12	A TRUE COPY OF THE ARREST MEMO IN FIR 3701/2025 DATED 19.12.2025
Exhibit P13	A TRUE COPY OF THE ARREST MEMO IN FIR 3700/2025 DATED 19.12.2025
Exhibit P14	A TRUE COPY OF THE GROUND OF ARREST IN FIR 3700/2025 DATED 19.12.2025
Exhibit P15	A TRUE COPY OF THE GROUND OF ARREST IN FIR 3701/2025 DATED 19.12.2025
Exhibit P16	A TRUE COPY OF THE SIT'S EMAIL DATED 20.12.2025

Exhibit P17	A TRUE COPY OF THE REMAND REPORT IN FIR NO.3700/2025 DATED 19.12.2025
Exhibit P18	A TRUE COPY OF THE REMAND REPORT IN FIR NO.3701/2025 DATED 19.12.2025
Exhibit P19	THE TRUE COPY THE CIRCULAR ISSUED BY THE STATE POLICE CHIEF, KERALA, BEARING NO.12/2025/PHQ DATED 25.04.2025

RESPONDENTS' EXHIBITS : NIL