



IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

CWP No. 12201 of 2025 a/w CWP Nos. 9502, 9862, 9866, 10799, 10800, 10802, 10832, 10837, 11178, 11209, 11269 to 11273, 11357, 11360, 11667, 11721, 11724, 12178, 12181, 12184, 12247, 12434, 13474, 13277 and 14007 of 2025

Decided on : 18.11.2025

1. CWP No. 12201 of 2025	
Kabir Khan	...Petitioner
Versus	
State of Himachal Pradesh and another	...Respondents
2. CWP No. 9502 of 2025	
Pradeep Kumar	...Petitioner
Versus	
State of Himachal Pradesh and others	...Respondents
3. CWP No. 9862 of 2025	
Shokat Ali	...Petitioner
Versus	
State of Himachal Pradesh and another	...Respondents

4. CWP No. 9866 of 2025

Smt. Shamina

...Petitioner

Versus

State of Himachal Pradesh and another

...Respondents

5. CWP No. 10799 of 2025

Rohit

...Petitioner

Versus

State of Himachal Pradesh and another

...Respondents

6. CWP No. 10800 of 2025

Manjeet Singh

...Petitioner

Versus

State of Himachal Pradesh and another

...Respondents

7. CWP No. 10802 of 2025

Raman

...Petitioner

Versus

State of Himachal Pradesh and another

...Respondents

8. CWP No. 10832 of 2025

Abdul Khalik

...Petitioner

Versus

State of Himachal Pradesh and another

...Respondents

9. CWP No. 10837 of 2025

Uchechukwau Emmahulf

...Petitioner

Versus

State of Himachal Pradesh and another

...Respondents

10. CWP No. 11178 of 2025

Amit Kumar

...Petitioner

Versus

State of Himachal Pradesh and another

...Respondents

11. CWP No. 11209 of 2025

Jai Pal

...Petitioner

Versus

State of Himachal Pradesh and another

...Respondents

12. CWP No. 11269 of 2025

Vipin Basu

...Petitioner

Versus

State of Himachal Pradesh and another

...Respondents

13. CWP No. 11270 of 2025

Prem Pal

...Petitioner

Versus

State of Himachal Pradesh and another

...Respondents

14. CWP No. 11271 of 2025

Inderjeet Singh

...Petitioner

Versus

State of Himachal Pradesh and another

...Respondents

15. CWP No. 11272 of 2025

Lalik Kumar

...Petitioner

Versus

State of Himachal Pradesh and another

...Respondents

16. CWP No. 11273 of 2025

Ashish Kumar

...Petitioner

Versus

State of Himachal Pradesh and another

...Respondents

17. CWP No. 11357 of 2025

Rajinder Singh

...Petitioner

Versus

State of Himachal Pradesh and another

...Respondents

18. CWP No. 11360 of 2025

Roshal Lal

...Petitioner

Versus

State of Himachal Pradesh and another

...Respondents

19. CWP No. 11667 of 2025

Sukhwinder Singh

...Petitioner

Versus

State of Himachal Pradesh and another

...Respondents

20. CWP No. 11721 of 2025

Danial Shahi

...Petitioner

Versus

State of Himachal Pradesh and another

...Respondents

21. CWP No. 11724 of 2025

Rajmohan

...Petitioner

Versus

State of Himachal Pradesh and another

...Respondents

22. CWP No. 12178 of 2025

Vishal

...Petitioner

Versus

State of Himachal Pradesh and another

...Respondents

23. CWP No. 12181 of 2025

Vikas

...Petitioner

Versus

State of Himachal Pradesh and another

...Respondents

24. CWP No. 12184 of 2025

Rahul

...Petitioner

Versus

State of Himachal Pradesh and another

...Respondents

25. CWP No. 12247 of 2025

Arun Dhiman

...Petitioner

Versus

State of Himachal Pradesh and another

...Respondents

26. CWP No. 12434 of 2025

Som Dutt

...Petitioner

Versus

State of Himachal Pradesh and another

...Respondents

27. CWP No. 13474 of 2025

Varinder Kumar @ Bindu

...Petitioner

Versus

State of Himachal Pradesh and another

...Respondents

28. CWP No. 13277 of 2025
Guddu Ram

...Petitioner

Versus

State of Himachal Pradesh

...Respondent

29. CWP No. 14007 of 2025
Rajinder Kumar

...Petitioner

Versus

State of Himachal Pradesh

...Respondent

Coram
Hon’ble Mr. Justice Ajay Mohan Goel, Judge
Whether approved for reporting?¹ Yes

For the petitioner(s) : Mr. Kulwant Singh Gill and Mr. George, Advocates, for the petitioner(s), in respective petitions.

For the respondents : Mr. Anup Rattan, Advocate General, with Mr. Rajpal Thakur, Additional Advocate General, for respondents-State, in all the petitions.

Mr. Vijay Kumar Arora, Senior Advocate, with M/s Godawari, Gaurav Kumar, Hitansh Raj and Aastha Kohli, Advocates, for respondent No.3, in CWP No. 9502 of 2025.

¹Whether reporters of the local papers may be allowed to see the judgment?

Ajay Mohan Goel, Judge (Oral)

All these petitioners have approached this Court on the ground that as their arrests were in contravention of Article 22 of the Constitution of India because the grounds of arrest were not conveyed to them when they were arrested, therefore, their arrest be held illegal and they be ordered to be released. The petitioner in CWP No. 12201 of 2025, has been arrested in Case FIR No. 119, dated 12.08.2024, registered under Section 22 of Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as 'the NDPS Act') at Police Station Paonta Sahib, District Sirmour, the petitioner in CWP No. 9502 of 2025, has been arrested in Case FIR No. 41, dated 17.02.2025, registered under Section 20 of the NDPS Act at Police Station Paonta Sahib, District Sirmour, the petitioner in CWP No. 9862 of 2025, has been arrested in Case FIR No. 197, dated 05.12.2024, registered under Sections 22 & 29 of the NDPS Act at Police Station Majra, District Sirmour, the petitioner in CWP No. 9866 of 2025, has been arrested in Case FIR No. 197, dated 05.12.2024, registered under Sections 22 & 29 of the NDPS Act at Police Station Majra, District Sirmour, the

petitioner in CWP No. 10799 of 2025, has been arrested in Case FIR No. 22, dated 07.02.2024, registered under Sections 363, 376DA of Indian Penal Code (hereinafter referred to as 'IPC') and Section 6 of Protection of Children from Sexual Offences Act (hereinafter referred to as 'POCSO Act') at Police Station Paonta Sahib, District Sirmour, the petitioner in CWP No. 10800 of 2025, has been arrested in Case FIR No. 99, dated 28.06.2024, registered under Sections 20, 25 & 29 of the NDPS Act at Police Station Paonta Sahib, District Sirmour, the petitioner in CWP No. 10802 of 2025, has been arrested in Case FIR No. 39, dated 26.03.2024, registered under Sections 302, 323, 324 of IPC read with Section 34 of IPC at Police Station Rampur, District Shimla, the petitioner in CWP No. 10832 of 2025, has been arrested in Case FIR No. 46, dated 10.04.2024, registered under Sections 307, 452, 147, 148 & 149 of IPC at Police Station Puruwala, District Sirmour, the petitioner in CWP No. 10837 of 2025, has been arrested in Case FIR No. 28, dated 21.02.2024, registered under Sections 21, 22 & 29 of NDPS Act at Police Station Sadar Nahan, District Sirmour, the petitioner in CWP No. 11178 of 2025, has

been arrested in Case FIR No. 12, dated 22.01.2025, registered under Sections 20, 25 & 29 of NDPS Act at Police Station Nagrota Bagwan, District Kangra, the petitioner in CWP No. 11209 of 2025, has been arrested in Case FIR No. 07, dated 13.02.2025, registered under Sections 20 of NDPS Act at Police Station Kupvi, District Shimla, the petitioner in CWP No. 11269 of 2025, has been arrested in Case FIR No. 99, dated 28.06.2024, registered under Sections 20, 25 & 29 of NDPS Act at Police Station Paonta Sahib, District Sirmour, the petitioner in CWP No. 11270 of 2025, has been arrested in Case FIR No. 13, dated 09.02.2023, registered under Section 20 of NDPS Act at Police Station Majra, Tehsil Paonta Sahib, District Sirmour, the petitioner in CWP No. 11271 of 2025, has been arrested in Case FIR No. 243, dated 10.08.2023, registered under Sections 302, 120B, 382 of IPC at Police Station Nalagarh, District Solan, the petitioner in CWP No. 11272 of 2025, has been arrested in Case FIR No. 148, dated 11.10.2023, registered under Section 302 read with Section 34 of IPC at Police Station Nahan, District Sirmour, the petitioner in CWP No. 11273 of 2025, has been arrested in Case FIR No. 99,

dated 28.06.2024, registered under Sections 20, 25 & 29 of NDPS Act at Police Station Paonta Sahib, District Sirmour, the petitioner in CWP No. 11357 of 2025, has been arrested in Case FIR No. 178, dated 14.09.2022, registered under Sections 342, 328, 420, 465, 468, 471 & 201 of IPC at Police Station Sadar Solan, District Solan, the petitioner in CWP No. 11360 of 2025, has been arrested in Case FIR No. 28, dated 21.02.2024, registered under Sections 21, 22 & 29 of NDPS Act at Police Station Sadar Nahan, District Sirmour, the petitioner in CWP No. 11667 of 2025, has been arrested in Case FIR No. 321, dated 06.12.2022, registered under Sections 302, 323, 504 of IPC read with Section 34 of IPC at Police Station Nalagarh, District Solan, the petitioner in CWP No. 11721 of 2025, has been arrested in Case FIR No. 66, dated 09.07.2023, registered under Sections 302, 307, 376, 452 & 201 of IPC at Police Station Chirgaon, District Shimla, the petitioner in CWP No. 11724 of 2025, has been arrested in Case FIR No. 80, dated 24.10.2024, registered under Sections 20 & 29 of NDPS Act at Police Station Chirgaon, District Shimla, the petitioner in CWP No. 12178 of 2025, has been

arrested in Case FIR No. 126, dated 27.08.2024, registered under Sections 332(c), 115(2), 118(1), 351(2) & 3(5) of Bharatiya Nyaya Sanhita (hereinafter referred to as 'BNS') at Police Station Paonta Sahib, District Sirmour, the petitioner in CWP No. 12181 of 2025, has been arrested in Case FIR No. 126, dated 27.08.2024, registered under Sections 332(c), 115(2), 118(1), 351(2) & 3(5) of BNS at Police Station Paonta Sahib, District Sirmour, the petitioner in CWP No. 12184 of 2025, has been arrested in Case FIR No. 126, dated 27.08.2024, registered under Sections 332(c), 115(2), 118(1), 351(2) & 3(5) of BNS at Police Station Paonta Sahib, District Sirmour, the petitioner in CWP No. 12247 of 2025, has been arrested in Case FIR No. 17, dated 07.03.2024, registered under Sections 22 & 29 of NDPS Act at Police Station Rainuka, District Sirmour, the petitioner in CWP No. 12434 of 2025, has been arrested in Case FIR No. 119, dated 10.12.2023, registered under Section 20 of NDPS Act at Police Station Rajgarh, District Sirmour, the petitioner in CWP No. 13474 of 2025, has been arrested in Case FIR No. 125, dated 15.09.2023, registered under Sections 20, 25 & 29 of NDPS Act

at Police Station Gagret, District Una, the petitioner in CWP No. 13277 of 2025, has been arrested in Case FIR No. 157, dated 10.12.2023, registered under Sections 302, 307, 324 read with Section 34 of IPC at Police Station Dharampur, District Mandi and the petitioner in CWP No. 14007 of 2025, has been arrested in Case FIR No. 87, dated 08.12.2023, registered under Sections 21 & 22 of NDPS Act at Police Station Dalhousie, District Chamba.

2. Hon'ble Supreme Court of India in ***Mihir Rajesh Shah Versus State of Maharashtra and another***, 2025 INSC 1288, has recently deliberated on this aspect of the matter. The following questions were formulated for consideration by the Hon'ble Supreme Court in the said case:-

- “(a) *Whether in each and every case, even arising out of an offence under Indian Penal Code, 1860 ("IPC 1860") now Bharatiya Nayaya Sanhita, 2023 (BNS 2023) would it be necessary to furnish grounds of arrest to an accused either before arrest or forthwith after arrest, and*
- (b) *Whether, even in exceptional cases, where on account of certain exigencies it will not be possible to furnish the grounds of arrest either before arrest or*

immediately after arrest, the arrest would be vitiated on the ground of non-compliance with the provisions of Section 50 of the Cr. PC 1973 (now Section 47 of BNSS 2023)."

3. Hon'ble Supreme Court has taken into consideration its earlier judgment on the issue i.e. decision of the Hon'ble Supreme Court of India in ***Pankaj Bansal Versus Union of India and others***, (2024) 7 Supreme Court Cases 576, ***Prabir Purkayastha Versus State (NCT of Delhi)***, (2024) 8 Supreme Court Cases, 254 and ***Vihaan Kumar Versus State of Haryana and another***, (2025) 5 Supreme Court Cases 799 and after taking into consideration what was held by the Hon'ble Supreme Court in its previous judgments, it has held that the legal position which emerges from catena of judgments is that Constitutional mandate provided in Article 22(1) of the Constitution of India is not a mere procedural formality but a Constitutional safeguard in the form of Fundamental Rights. The intent and purpose of Constitutional mandate is to prepare the arrested person to defend himself. If the provisions of Article 22(1) of the Constitution of India are read in restrictive manner, its intended purpose of securing personal liberty would

not be achieved rather curtailed and put to misuse.

4. Hon'ble Supreme Court has also held that the mode of communicating the grounds of arrest must be such that it effectively serves the intended purpose as envisioned under the Constitution of India which is to enable the arrested person to get legal counsel, oppose the remand and effectively defend himself by exercising his rights and safeguards, as provided in law. The grounds of arrest be provided to the arrestee in such a manner that sufficient knowledge of facts constituting grounds is imparted and communicated to arrested person effectively in a language which he/she understands.

5. Conclusions which have been culled out by the Hon'ble Supreme Court in Para-56 of the said judgment are quoted hereinbelow:-

"56. In conclusion, it is held that:

i) The constitutional mandate of informing the arrestee the grounds of arrest is mandatory in all offences under all statutes including offences under IPC 1860 (now BNS 2023);

ii) The grounds of arrest must be communicated in writing to the arrestee in the language he/she

understands;

iii) In case(s) where, the arresting officer/person is unable to communicate the grounds of arrest in writing on or soon after arrest, it be so done orally. The said grounds be communicated in writing within a reasonable time and in any case at least two hours prior to production of the arrestee for remand proceedings before the magistrate.

iv) In case of non-compliance of the above, the arrest and subsequent remand would be rendered illegal and the person will be at liberty to be set free."

6. Thereafter, in Para-58 of the said judgment, Hon'ble Supreme Court has been pleased to hold as under:-

"58. We are cognizant that there existed no consistent or requirement mandating binding written communication of the grounds of arrest for all the offences. Holding as above, in our view, would ensure implementation of the constitutional rights provided to an arrestee as engrafted under Article 22 of the Constitution of India in an effective manner. Such clarity on obligation would avoid uncertainty in the administration of criminal justice. The ends of fairness and legal discipline therefore demand that this procedure as affirmed above shall govern arrests henceforth."

7. In light of the fact that in the said judgment, Hon'ble Supreme Court has been pleased to clearly hold that as previously there existed no consistent or binding requirements mandating written communication of the grounds of arrest for all the offences, the ends of fairness and legal discipline, therefore, demand that this procedure as affirmed shall govern arrests henceforth, this means that the Hon'ble Supreme Court has been pleased to make directions issued therein prospective.

8. In light of this fact, this Court is of the considered view that the present petitioners cannot assail their arrest on the grounds as are agitated by way of these petitions on the strength of the verdicts of the Hon'ble Supreme Court, which have been referred to by the Hon'ble Supreme Court in its latest judgment i.e. ***Mihir Rajesh Shah Versus State of Maharashtra and another (supra)*** because Hon'ble Supreme Court has been pleased to make the said judgment prospective in nature. Of course, henceforth, any arrest which is made in violation of the mandate, as stands declared by the Hon'ble Supreme Court in the above-said judgment shall be vitiated but

the arrests which have been made before this judgment cannot be said to be bad on the tests laid down by the Hon'ble Supreme Court of India in ***Mihir Rajesh Shah Versus State of Maharashtra and another (supra)***.

9. It is observed that this Court has not gone into the merits of either of the cases and has not examined as to whether the arrest of the petitioners in their respective petition was indeed in contravention of Article 22(1) of the Constitution of India or not, therefore, it should not be construed that any observation in the affirmative in this regard has been made by this Court.

10. In view of the above discussion, these petitions are dismissed. Pending miscellaneous application(s), if any, also stand disposed of accordingly.

(Ajay Mohan Goel)
Judge

November 18, 2025
(Shivank Thakur)