

Reserved on : 05.02.2026
Pronounced on : 04.03.2026



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 04TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE M. NAGAPRASANNA

CRIMINAL PETITION No.11347 OF 2025

BETWEEN:

1 . EMEKA JAMES IWOBA @
AUSTIN NOSO IWOBA
S/O. NWOBA,
AGED ABOUT 39 YEARS,
ANAM VILLAGE,
NIGERIA COUNTRY,
PRESENTLY R/AT NO. 24/25,
2ND FLOOR, 6TH CROSS,
KOGILU LAYOUT,
BENGALURU – 560 064.

2 . UDERIKE FIDELIS
S/O. OKAFOR,
AGED ABOUT 34 YEARS,
ANAM VILLAGE,
NIGERIA COUNTRY,
PRESENTLY R/AT NO. 24/25,
2ND FLOOR, 6TH CROSS,
KOGILU LAYOUT,
BENGALURU – 560 064.

... PETITIONERS

(BY SRI M.R.BALAKRISHNA, ADVOCATE)

AND:

- 1 . THE STATE OF KARNATAKA
BY SAMPIGEHALI POLICE STATION,
REPRESENTED BY ITS
STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDING,
BENGALURU – 560 001.
- 2 . MR. SHIVAKUMAR BADNUR
POLICE SUB-INSPECTOR,
SAMPIGEHALI POLICE STATION,
BENGALURU CITY – 560 092.
- 3 . THE CHIEF SUPERINTENDENT
CENTRAL PRISON,
PARAPPANA AGRAHARA,
BENGALURU – 560 100.
4. FOREIGNERS REGIONAL REGISTRATION OFFICE
5TH FLOOR, A BLOCK, TTMC
BMTc BUS STAND BUILDING
K.H.ROAD, THANTHINAGAR
BENGALURU – 560 027.
080-22218183
E-MAIL:frroblr-ka@nic.in
REPRESENTED BY ITS DIRECTOR.

(AMENDED VIDE COURT ORDER DATED 30.01.2026)

... RESPONDENTS

(BY SRI B.N.JAGADEESHA, ADDL.SPP FOR R-1 TO R-3;
SRI H.SHANTHI BHUSHAN, DSGI FOR R-4)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 528 OF
BNSS, 2023, PRAYING TO SET ASIDE THE ORDER OF ARREST
DATED 12.05.2024 BY THE RESPONDENT NO.2 POLICE AND ORDER

OF REMAND DATED 13.05.2024 PASSED BY THE HON'BLE XLI A.C.M.M AT BENGALURU IN CR.NO.272/2024 FOR THE ALLEGED OFFENCES P/U/S 8(c), AND 22(C) OF NDPS ACT U/S 14 OF FOREIGNERS ACT AND NOW PENDING ON THE FILE OF THE HON'BLE XXXIV ADDL.CITY CIVIL AND SESSIONS JUDGE AND SPL.JUDGE FOR NDPS CASES AT BENGALURU AND SET AT LIBERTY FORTHWITH.

THIS CRIMINAL PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 05.02.2026, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:-

CORAM: **THE HON'BLE MR JUSTICE M.NAGAPRASANNA**

CAV ORDER

Petitioners, two in number, are citizens of Nigeria and are at the doors of this Court calling in question an order of remand to judicial custody on the score that the petitioners were not provided with the grounds of arrest at the time when they were taken into custody, particularly in the language known to them.

2. Heard Sri M.R.Balakrishna, learned counsel appearing for the petitioners; Sri B.N.Jagadeesha, learned Additional State Public Prosecutor appearing for respondents 1 to 3 and Sri H. Shanthi

Bhushan, learned Deputy Solicitor General of India appearing for respondent No.4.

3. Facts adumbrated are as follows: -

A crime comes to be registered in Crime No.272 of 2024 on 12-05-2024 for offences punishable under Sections 8(c) and 22(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as 'the Act' for short) and Section 14 of the Foreigners Act, 1946. The crime is registered by the 2nd respondent on the credible information received by the defacto complainant that the accused are selling contraband substances such as MDMA crystals and cocaine to their customers – software employees and college students, and are allegedly earning money out of it. The accused are arrested upon the registration of the subject crime. The informant and the panchas have recovered the contraband substance i.e., MDMA crystals weighing 400 grams and cocaine weighing 100 grams. They are said to have been taken into custody on 12-05-2024 at 7.00 p.m. and produced before the concerned Court on 13-05-2024 at about 7.15 p.m. and remanded

to judicial custody. The petitioners are accused Nos.1 and 3 in the subject crime, and are before the Court seeking setting aside of the arrest and remand on the ground that they were not informed of grounds of arrest by the law enforcing agency and were not produced before the learned Magistrate within 24 hours as contemplated under the Cr.P.C., and the Constitution of India.

SUBMISSIONS:

PETITIONERS':

4. The learned counsel appearing for the petitioners would vehemently contend that the arrest of the petitioners is illegal on the ground that no grounds of arrest were even made known to the petitioners and therefore the petitioners should be set at liberty in the light of the law laid down by the Apex Court in a plethora of judgments. The learned counsel further would contend that the arrest is illegal for yet another reason, that the petitioners were produced before the learned Magistrate with a delay of 15 minutes beyond the period of 24 hours as they were arrested on 12-05-2024 at 7.00 p.m. and produced only at 7.15 p.m. on 13-05-2024.

THE STATE:

5. Per contra, the learned Additional State Public Prosecutor would vehemently refute the submissions contending that grounds of arrest were in fact furnished to the petitioners and they have signed on the documents of receipt of grounds of arrest and the learned Magistrate while remanding the petitioners to judicial custody has clearly indicated that the petitioners were in receipt of grounds of arrest and has reasoned as to why the petitioners could not be produced within 24 hours. Therefore, he would submit that the petitioners who are alleged of crime under the Act should not be shown any indulgence, on the ground that grounds of arrest were inadequately furnished, as they were caught selling MDMA to college students and 400 grams of MDMA was a huge quantity for pardoning or setting the petitioners at liberty on the score of inadequate furnishing of grounds of arrest.

THE DEPUTY SOLICITOR GENERAL OF INDIA:

6. Since the offence alleged is also punishable under the Foreigners Act, 1946 the Union of India was directed to be

impleaded as party respondent. The learned Deputy Solicitor General of India, Sri H.Shanthi Bhushan, has placed documents before the Court to contend that these petitioners are illegally staying in this country. They have come on multiple Visas changing their identity from time to time and therefore, would contend that Article 22 of the Constitution of India must not be made applicable to these petitioners who have illegally entered and overstaying in the country. He would seek to place reliance upon a Model Standard Operating Procedure ('SOP' for short), which the learned Deputy Solicitor General of India submits that the Union of India has put in place a SOP to withdraw prosecutions against foreign nationals of certain offences and on withdrawal of the prosecution the learned Deputy Solicitor General of India submits that steps would be taken to deport them from the country. The learned Deputy Solicitor General of India submits that the SOP also directs constitution of a District Level Screening Committee, to examine all cases that would come within the purview of the SOP. Insofar as the merit of the matter is concerned, he would contend that Article 22 cannot be in *stricto sensu* made applicable to these kinds of petitioners who have been staying in the country illegally. Though Article 22 is not

citizen centric, its application should be restricted owing to the facts obtaining in each case, particularly, the case at hand.

7. I have given my anxious consideration to the submissions made by the respective learned counsel and have perused the material on record.

CONSIDERATION:

8. The issue, at this juncture, lies in a narrow compass as to whether the petitioners should be set at liberty on the alleged non-furnishing of grounds of arrest. The petitioners are admittedly citizens of a different country and have come to the shores of this nation on different kinds of Visas. The history of travel of the 1st petitioner into the shores of the nation, as projected by the learned DSGI, is as follows:

"....

Emeka James Iwoba @ Austin James Iwoba (petitioner No.1): The petitioner No.1 is the holder of two passports under two different names. The petitioner No.1 has Passport No.A06559639 under the name of **Emeka James Iwoba**. The details of the passport and Visa as per Immigration records are as follows:

- Passport No: A06559639 (Valid from 20-04-2015 till 19-04-2020);
- Visa Type: Business Visa issued for Ocean International, Mumbai.
- Business Visa No: VJ5883813 (issued on 31-07-2015, expired on 03-10-2015)
- Arrival date in India: Arrived on 25-08-2015 at Integrated Check Post (ICP)-Delhi.
- Present Status: Overstaying since 04-10-2015.
- Residential Permit/Stay Visa: Nil.

The name **Austin Noso Iwoba** does not exist in Immigration records. Petitioner No.1 has impersonated himself as **Augustine Nonso Iwoba** holding Passport No. A07320334 (appearing to be valid from 25-04-2021 till 24-04-2026) and Business Visa No. VJ5324749 (appearing to be valid from 23-07-2023 till 22-07-2024). However, petitioner No.1 has forged the photograph, date of issuance and date of expiry under the said Passport and Business Visa. The details of the Passport and Visa as per immigration records are as follows:

- Passport No: A07320334 (Valid from 25-04-2016 till 24-04-2021);
- Visa Type: Medical Visa issued for medical treatment of self at Max Super Speciality Hospital, Shalimar Bagh, New Delhi.
- Medical Visa No: VJ5324749 (issued on 03-07-2016, expired on 02-10-2016)
- Arrival date in India: Arrived on 29-07-2016 at Integrated Check Post (ICP) – Delhi.
- Present Status: Overstaying since 03-10-2016.
- Residential Permit/Stay: NIL."

The history of travel of the 2nd petitioner into the shores of the nation is as follows:

“Uderike Fidelis (Petitioner No.2): The petitioner No.2 has forged the date of issuance and date of expiry under the Passport No.A06015707 and has forged a fake Business Visa No.V19070776). The details of the Passport and Visa as per immigration records are as follows:

- Passport No: A006015707 under the name **Okafore Uderike Fidelis** (valid from 05-12-2014 till 04.12.2019)
- Visa Type: Business Visa issued for Asha Fashion, Mumbai.
- Business Visa No:VJ5884768 (Issued on 25-08-2015, expired on 24-10-2025).
- Arrival date in India: Arrived on 13-09-2015 at Integrated Check Post (ICP)- Delhi.
- Present Status: Overstaying since 25-10-2015
- Residential Permit/Stay Visa: NIL”

The record reveals a disturbing narrative. The 1st petitioner is found to be the holder of two passports under two distinct identities, the particulars whereof stand delineated hereinabove. He initially entered the country on 31-07-2015 on a business visa granted for a period of 3 months, which expired on 03-10-2015. On and from 04-10-2015 he has remained within the territory of this nation without

lawful authority. His entry was under the name Austin Noso Iwoba - a name which according to the Bureau of Immigration, finds no trace in the official records. It is alleged that the 1st petitioner simultaneously impersonated another individual, namely, Augustine Nonso Iwoba by utilising a different passport. The photographs affixed on the respective passports are stated to have been morphed, thereby giving rise to suspicion of identity fraud and deliberate deception.

9. The matter does not end there. The 1st petitioner re-entered the country on 25-04-2016, this time on a medical visa purportedly for treatment at Max Super Speciality Hospital, Shalimar Bagh, New Delhi. That visa too was valid for a period of 3 months and expired on 02-10-2016. On and from 03-10-2016, even on this account, he stands in continued illegal overstay. Such is the chequered record of the 1st petitioner. Turning to the 2nd petitioner, he entered the shores of the nation under the name Uderike Fidelis. Though his passport was valid for 5 years until 04-12-2019, the business visa granted to him for purposes connected with Asha Fashion, Mumbai was issued only for a period of 3

months. He entered India on 13-09-2015 and has ever since the expiry of that visa, continued to remain unlawfully within the country, for nearly a decade.

10. The allegations, however, transcend mere violations of immigration law. It is asserted that both petitioners were engaged in illicit sale of narcotic substances at various locations within the city, including the students of a college. More gravely still, they were apprehended allegedly redhanded with the recovery of 400 grams of MDMA crystals and 100 grams of cocaine from their possession, quantities which unmistakably fall within the realm of serious narcotic offences. **Thus, the petitioners stand accused not only of prolonged illegal overstay and identity manipulation, but also of trafficking in prohibited substances of considerable magnitude. The facts, on their face, portray conduct that strikes at the very fabric of public order and statutory discipline.**

11. On these facts, it becomes germane to examine the constitutional right of a person for furnishing of grounds of arrest.

It becomes necessary to notice Article 22(1) of the Constitution of India. It reads as follows:

"22. Protection against arrest and detention in certain cases.—(1) No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest nor shall he be denied the right to consult, and to be defended by, a legal practitioner of his choice."

Article 22(1) of the Constitution of India mandates furnishing of grounds of arrest to any accused. The issue need not detain this Court for long or delve deep into the matter, except noticing plethora of judgments rendered by the Apex Court on the issue.

JUDICIAL LANDSCAPE—ARTICLE 22(1)—GROUND OF ARREST:

12.1. The Apex Court in **PANKAJ BANSAL v. UNION OF INDIA**¹, holds as follows:

"....

38. In this regard, we may note that Article 22(1) of the Constitution provides, inter alia, that no person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest. This being the fundamental right guaranteed to the arrested person, the mode of conveying information of the grounds of arrest must necessarily be meaningful

¹ (2024) 7 SCC 576

so as to serve the intended purpose. It may be noted that Section 45 PMLA enables the person arrested under Section 19 thereof to seek release on bail but it postulates that unless the twin conditions prescribed thereunder are satisfied, such a person would not be entitled to grant of bail. **The twin conditions set out in the provision are that, firstly, the court must be satisfied, after giving an opportunity to the Public Prosecutor to oppose the application for release, that there are reasonable grounds to believe that the arrested person is not guilty of the offence and, secondly, that he is not likely to commit any offence while on bail.** To meet this requirement, it would be essential for the arrested person to be aware of the grounds on which the authorised officer arrested him/her under Section 19 and the basis for the officer's "reason to believe" that he/she is guilty of an offence punishable under the 2002 Act. It is only if the arrested person has knowledge of these facts that he/she would be in a position to plead and prove before the Special Court that there are grounds to believe that he/she is not guilty of such offence, so as to avail the relief of bail. Therefore, communication of the grounds of arrest, as mandated by Article 22(1) of the Constitution and Section 19 PMLA, is meant to serve this higher purpose and must be given due importance.

39. We may also note that the language of Section 19 PMLA puts it beyond doubt that the authorised officer has to record in writing the reasons for forming the belief that the person proposed to be arrested is guilty of an offence punishable under the 2002 Act. Section 19(2) requires the authorised officer to forward a copy of the arrest order along with the material in his possession, referred to in Section 19(1), to the adjudicating authority in a sealed envelope. **Though it is not necessary for the arrested person to be supplied with all the material that is forwarded to the adjudicating authority under Section 19(2), he/she has a constitutional and statutory right to be "informed" of the grounds of arrest, which are compulsorily recorded in writing by the authorised officer in keeping with the mandate of Section 19(1) PMLA.** As already noted hereinbefore, it seems that the mode of informing this to the persons arrested is left to the option of ED's authorised officers in different parts of the country i.e. to either furnish such

grounds of arrest in writing or to allow such grounds to be read by the arrested person or be read over and explained to such person.

....

42. That being so, there is no valid reason as to why a copy of such written grounds of arrest should not be furnished to the arrested person as a matter of course and without exception. **There are two primary reasons as to why this would be the advisable course of action to be followed as a matter of principle. Firstly, in the event such grounds of arrest are orally read out to the arrested person or read by such person with nothing further and this fact is disputed in a given case, it may boil down to the word of the arrested person against the word of the authorised officer as to whether or not there is due and proper compliance in this regard. In the case on hand, that is the situation insofar as Basant Bansal is concerned. Though ED claims that witnesses were present and certified that the grounds of arrest were read out and explained to him in Hindi, that is neither here nor there as he did not sign the document. Non-compliance in this regard would entail release of the arrested person straightaway, as held in *V. Senthil Balaji* [*V. Senthil Balaji v. State*, (2024) 3 SCC 51 : (2024) 2 SCC (Cri) 1] . Such a precarious situation is easily avoided and the consequence thereof can be obviated very simply by furnishing the written grounds of arrest, as recorded by the authorised officer in terms of Section 19(1) PMLA, to the arrested person under due acknowledgment, instead of leaving it to the debatable ipse dixit of the authorised officer.**

43. The second reason as to why this would be the proper course to adopt is the constitutional objective underlying such information being given to the arrested person. **Conveyance of this information is not only to apprise the arrested person of why he/she is being arrested but also to enable such person to seek legal counsel and, thereafter, present a case before the court under Section 45 to seek release on bail, if he/she so chooses.** In this regard, the grounds of arrest in *V. Senthil Balaji* [*V. Senthil Balaji v. State*, (2024) 3 SCC 51 : (2024) 2 SCC (Cri) 1] are

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

44. We may also note that the grounds of arrest recorded by the authorised officer, in terms of Section 19(1) PMLA, would be personal to the person who is arrested and there should, ordinarily, be no risk of sensitive material being divulged therefrom, compromising the sanctity and integrity of the investigation. In the event any such sensitive material finds mention in such grounds of arrest recorded by the authorised officer, it would always be open to him to redact such sensitive portions in the document and furnish the edited copy of the grounds of arrest to the arrested person, so as to safeguard the sanctity of the investigation.

45. On the above analysis, to give true meaning and purpose to the constitutional and the statutory mandate of Section 19(1) PMLA of informing the arrested person of the grounds of arrest, we hold that it would be necessary, henceforth, that a copy of such written grounds of arrest is furnished to the arrested person as a matter of course and without exception. The decisions of the Delhi High Court in *Moin Akhtar Qureshi* [*Moin Akhtar Qureshi v. Union of India*, 2017

SCC OnLine Del 12108] and the Bombay High Court in *Chhagan Chandrakant Bhujbal* [*Chhagan Chandrakant Bhujbal v. Union of India*, 2016 SCC OnLine Bom 9938: (2017) 1 AIR Bom R (Cri) 929], which hold to the contrary, do not lay down the correct law. **In the case on hand, the admitted position is that ED's investigating officer merely read out or permitted reading of the grounds of arrest of the appellants and left it at that, which is also disputed by the appellants. As this form of communication is not found to be adequate to fulfil compliance with the mandate of Article 22(1) of the Constitution and Section 19(1) PMLA, we have no hesitation in holding that their arrest was not in keeping with the provisions of Section 19(1) PMLA.** Further, as already noted supra, the clandestine conduct of ED in proceeding against the appellants, by recording the second ECIR immediately after they secured interim protection in relation to the first ECIR, does not commend acceptance as it reeks of arbitrary exercise of power. In effect, the arrest of the appellants and, in consequence, their remand to the custody of ED and, thereafter, to judicial custody, cannot be sustained."

12.2. In **PRABIR PURKAYASTHA v. STATE (NCT OF DELHI)**², the Apex Court holds as follows:

"....

28. The language used in Article 22(1) and Article 22(5) of the Constitution of India regarding the communication of the grounds is exactly the identical. Neither of the constitutional provisions require that the "grounds" of "arrest" or "detention", as the case may be, must be communicated in writing. Thus, interpretation to this important facet of the fundamental right as made by the Constitution Bench while examining the scope of Article 22(5) of the Constitution of India would *ipso facto* apply to Article 22(1) of the Constitution of India

² (2024) 8 SCC 254

insofar as the requirement to communicate the grounds of arrest is concerned.

29. Hence, we have no hesitation in reiterating that the requirement to communicate the grounds of arrest or the grounds of detention in writing to a person arrested in connection with an offence or a person placed under preventive detention as provided under Articles 22(1) and 22(5) of the Constitution of India is sacrosanct and cannot be breached under any situation. Non-compliance of this constitutional requirement and statutory mandate would lead to the custody or the detention being rendered illegal, as the case may be.

....

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."**

12.3. The Apex Court in **VIHAAN KUMAR v. STATE OF HARYANA**³, holds as follows:

“....

18. Therefore, as far as Article 22(1) is concerned, compliance can be made by communicating sufficient knowledge of the basic facts constituting the grounds of arrest to the person arrested. The grounds should be effectively and fully communicated to the arrestee in the manner in which he will fully understand the same. Therefore, it follows that the grounds of arrest must be informed in a language which the arrestee understands. That is how, in *Pankaj Bansal* [*Pankaj Bansal v. Union of India*, (2024) 7 SCC 576 : (2024) 3 SCC (Cri) 450] , this Court held that the mode of conveying the grounds of arrest must necessarily be meaningful so as to serve the intended purpose. However, under Article 22(1), there is no requirement of communicating the grounds of arrest in writing. Article 22(1) also incorporates the right of every person arrested to consult an advocate of his choice and the right to be defended by an advocate. **If the grounds of arrest are not communicated to the arrestee, as soon as may be, he will not be able to effectively exercise the right to consult an advocate. This requirement incorporated in Article 22(1) also ensures that the grounds for arresting the person without a warrant exist. Once a person is arrested, his right to liberty under Article 21 is curtailed. When such an important fundamental right is curtailed, it is necessary that the person concerned must understand on what grounds he has been arrested. That is why the mode of conveying information of the grounds must be meaningful so as to serve the objects stated above.**

19. Thus, the requirement of informing the person arrested of the grounds of arrest is not a formality but a mandatory constitutional requirement. Article 22 is included in Part III of the Constitution under the heading of Fundamental Rights. Thus, it is the fundamental right

³ (2025) 5 SCC 799

of every person arrested and detained in custody to be informed of the grounds of arrest as soon as possible. If the grounds of arrest are not informed as soon as may be after the arrest, it would amount to a violation of the fundamental right of the arrestee guaranteed under Article 22(1). It will also amount to depriving the arrestee of his liberty. The reason is that, as provided in Article 21, no person can be deprived of his liberty except in accordance with the procedure established by law. The procedure established by law also includes what is provided in Article 22(1). Therefore, when a person is arrested without a warrant, and the grounds of arrest are not informed to him, as soon as may be, after the arrest, it will amount to a violation of his fundamental right guaranteed under Article 21 as well. In a given case, if the mandate of Article 22 is not followed while arresting a person or after arresting a person, it will also violate fundamental right to liberty guaranteed under Article 21, and the arrest will be rendered illegal. On the failure to comply with the requirement of informing grounds of arrest as soon as may be after the arrest, the arrest is vitiated. Once the arrest is held to be vitiated, the person arrested cannot remain in custody even for a second.

20. We have already referred to what is held in paras 42 and 43 of the decision in *Pankaj Bansal* [*Pankaj Bansal v. Union of India*, (2024) 7 SCC 576 : (2024) 3 SCC (Cri) 450] . This Court has suggested that the proper and ideal course of communicating the grounds of arrest is to provide grounds of arrest in writing. Obviously, before a police officer communicates the grounds of arrest, the grounds of arrest have to be formulated. Therefore, there is no harm if the grounds of arrest are communicated in writing. **Although there is no requirement to communicate the grounds of arrest in writing, what is stated in paras 42 and 43 of the decision in *Pankaj Bansal* [*Pankaj Bansal v. Union of India*, (2024) 7 SCC 576 : (2024) 3 SCC (Cri) 450] are suggestions that merit consideration.** We are aware that in every case, it may not be practicable to implement what is suggested. If the course, as suggested, is followed, the controversy about the non-compliance will not arise at all. The police have to balance the rights of a person arrested with the

interests of the society. Therefore, the police should always scrupulously comply with the requirements of Article 22.

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23. In the present case, the first respondent relied upon an entry in the case diary allegedly made at 6.10 p.m. on 10-6-2024, which records that the appellant was arrested after informing him of the grounds of arrest. For the reasons which will follow hereafter, we are rejecting the argument made by the first respondent. **If the police want to prove communication of the grounds of arrest only based on a diary entry, it is necessary to incorporate those grounds of arrest in the diary entry or any other document. The grounds of arrest must exist before the same are informed. Therefore, in a given case, even assuming that the case of the police regarding requirements of Article 22(1) of the Constitution is to be accepted based on an entry in the case diary, there must be a contemporaneous record, which records what the grounds of arrest were. When an arrestee pleads before a court that grounds of arrest were not communicated, the burden to prove the compliance of Article 22(1) is on the police.**

...

...

...

Conclusions

26. Therefore, we conclude:

26.1. The requirement of informing a person arrested of grounds of arrest is a mandatory requirement of Article 22(1);

26.2. The information of the grounds of arrest must be provided to the arrested person in such a manner that sufficient knowledge of the basic facts constituting the grounds is imparted and communicated to the arrested person effectively in the language which he understands. The mode and method of communication must be such that the object of the constitutional safeguard is achieved;

26.3. When arrested accused alleges non-compliance with the requirements of Article 22(1), the burden will always be on the investigating officer/agency to prove compliance with the requirements of Article 22(1);

26.4. Non-compliance with Article 22(1) will be a violation of the fundamental rights of the accused guaranteed by the said Article. Moreover, it will amount to a violation of the right to personal liberty guaranteed by Article 21 of the Constitution. Therefore, non-compliance with the requirements of Article 22(1) vitiates the arrest of the accused. Hence, further orders passed by a criminal court of remand are also vitiated. Needless to add that it will not vitiate the investigation, charge-sheet and trial. But, at the same time, filing of charge-sheet will not validate a breach of constitutional mandate under Article 22(1);

26.5. When an arrested person is produced before a Judicial Magistrate for remand, it is the duty of the Magistrate to ascertain whether compliance with Article 22(1) and other mandatory safeguards has been made; and

26.6. When a violation of Article 22(1) is established, it is the duty of the court to forthwith order the release of the accused. That will be a ground to grant bail even if statutory restrictions on the grant of bail exist. The 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.

...

...

...

42. The purpose of inserting Section 50-ACrPC, 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.”

12.4. The Apex Court in **KASIREDDY UPENDER REDDY v. STATE OF ANDHRA PRADESH**⁴, holds as follows:

“ ”

18. Thus, the following principles of law could be said to have been laid down, rather very well explained, in *Vihaan Kumar* (supra):

- a) **The requirement of informing the person arrested of the grounds of arrest is not a formality but a mandatory constitutional condition.**
- b) **Once a person is arrested, his right to liberty under Article 21 is curtailed. When such an**

⁴ 2025 SCC OnLine SC 1228

important fundamental right is curtailed, it is necessary that the person concerned must understand on what grounds he has been arrested.

- c) The mode of conveying the information of the grounds of arrest must be meaningful so as to serve the true object underlying Article 22(1).**
- d) If the grounds of arrest are not informed as soon as may be after the arrest, it would amount to a violation of the fundamental right of the arrestee guaranteed under Article 22(1).**
- e) On the failure to comply with the requirement of informing the grounds of arrest as soon as may be after the arrest, the arrest would stand vitiated. Once the arrest is held to be vitiated, the person arrested cannot remain in custody even for a second.**
- f) If the police want to prove communication of the grounds of arrest only based on a diary entry, it is necessary to incorporate those grounds of arrest in the diary entry or any other document. The grounds of arrest must exist before the same are informed.**
- g) When an arrestee pleads before a court that the grounds of arrest were not communicated, the burden to prove the compliance of Article 22(1) is on the police authorities.**
- h) The grounds of arrest should not only be provided to the arrestee but also to his family members and relatives so that necessary arrangements are made to secure the release of the person arrested at the earliest possible opportunity so as to make the mandate of Article 22(1) meaningful and effective, failing which, such arrest may be rendered illegal.**

19. We must clarify one important aspect of *Vihaan Kumar* (supra). **In *Vihaan Kumar* (supra) the case was that there was an absolute failure on the part of the police to provide the grounds of arrest. In *Vihaan Kumar* (supra) reliance was placed upon the entry in the case diary which recorded that the appellant therein was arrested after informing him of the grounds of arrest. In the case at hand, it is not in dispute that the grounds of arrest were supplied to the arrestee, however, the case put up is that those grounds are not meaningful and are bereft of necessary essential information.**

20. In this appeal our endeavor would be to consider whether the grounds of arrest supplied to the appellant's son at the time of his arrest could be said to be meaningful and sufficient enough to give a broad idea to the person arrested of the accusations levelled and as to why he was being taken into custody.

21. Having looked into the grounds of arrest which were supplied to the son of the appellant at the time of his arrest, it is difficult for us to take the view that the grounds do not make any sense or are not meaningful or are just an eyewash."

12.5. In **STATE OF KARNATAKA v. SRI DARSHAN**⁵, the Apex Court holds as follows:

"....

20.1. Delay in furnishing the grounds of arrest cannot, by itself, constitute a valid ground for grant of bail.

20.1.1. The learned counsel for the respondents - accused contended that the arrest was illegal as the grounds of arrest were not furnished immediately in writing, thereby violating Article 22 (1) of the Constitution and Section 50 Cr.

⁵ 2025 SCC OnLine SC 1702

P.C. (now Section 47 of the BharatiyaNagarik Suraksha Sanhita). This submission, however, is devoid of merit.

20.1.2. Article 22(1) of the Constitution mandates that *“no person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest, nor shall he be denied the right to consult, and to be defended by, a legal practitioner of his choice”*. Similarly, Section 50 (1) Cr. P.C. requires that *“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.*

20.1.3. The constitutional and statutory framework thus mandates that the arrested person must be informed of the grounds of arrest - but neither provision prescribes a specific form or insists upon written communication in every case. Judicial precedents have clarified that substantial compliance with these requirements is sufficient, unless demonstrable prejudice is shown.

20.1.4. In *Vihaan Kumar v. State of Haryana*²², it was reiterated that Article 22(1) is satisfied if the accused is made aware of the arrest grounds in substance, even if not conveyed in writing. Similarly, in *KasireddyUpendar Reddy v. State of Andhra Pradesh*, it was observed that when arrest is made pursuant a warrant, reading out the warrant amounts to sufficient compliance. Both these post- *Pankaj Bansal* decisions clarify that written, individualised grounds are not an inflexible requirement in all circumstances.

20.1.5. While Section 50 Cr. P.C. is mandatory, the consistent judicial approach has been to adopt a prejudice-oriented test when examining alleged procedural lapses. The mere absence of written grounds does not ipso facto render the arrest illegal, unless it results in demonstrable prejudice or denial of a fair opportunity to defend.

20.1.6. The High Court, however, relied heavily on the alleged procedural lapse as a determinative factor while overlooking the gravity of the offence under Section 302 IPC and the existence of a *prima facie* case. It noted, *inter alia*, that there was no mention in the remand orders about service of memo of grounds of arrest (para 45); the arrest memos were allegedly template-based and not personalised (para 50); and eyewitnesses had not stated that they were present at the time of arrest or had signed the memos (para 48). Relying on *Pankaj Bansal v. Union of India* and *PrabirPurkayastha v. State (NCT of Delhi)* (supra), it concluded (paras 43, 49 - 50) that from 03.10.2023 onwards, failure to serve detailed, written, and individualised grounds of arrest immediately after arrest was a violation entitling the accused to bail.

20.1.7. In the present case, the arrest memos and remand records clearly reflect that the respondents were aware of the reasons for their arrest. They were legally represented from the outset and applied for bail shortly after arrest, evidencing an immediate and informed understanding of the accusations. No material has been placed on record to establish that any prejudice was caused due to the alleged procedural lapse. In the absence of demonstrable prejudice, such as irregularity is, at best, a curable defect and cannot, by itself, warrant release on bail. As reiterated above, the High Court treated it as a determinative factor while overlooking the gravity of the charge under Section 302 IPC and the existence of a *prima facie* case. Its reliance on *Pankaj Bansal* and *Prabir Purkayastha* is misplaced, as those decisions turned on materially different facts and statutory contexts. The approach adopted here is inconsistent with the settled principle that procedural lapses in furnishing grounds of arrest, absent prejudice, do not *ipso facto* render custody illegal or entitle the accused to bail."

12.6. In **MIHIR RAJESH SHAH v. STATE OF MAHARASHTRA**⁶, the Apex Court holds as follows:

"....

37. The mandate contained in Article 22(1) of the Constitution of India is unambiguous and clear in nature, it provides that the arrested person must be informed of the grounds of arrest as soon as they can be. It further provides that the arrested person has the right to defend himself by consulting a legal practitioner of his choice. This constitutional mandate has been effectuated by the legislature in Section 50CrPC (now Section 47 of BNSS 2023) which provides that an arrested person shall be forthwith communicated with the grounds of his arrest.

38. The objective enshrined in Article 22(1) of the Constitution of India for furnishing grounds of arrest stems from the fundamental principle of providing opportunity to a person to allow him to defend himself from the accusations that are levelled against him leading to his arrest. The salutary purpose of informing the grounds of arrest is to enable the person to understand the basis of his arrest and engage legal counsel to challenge his arrest, remand or seek bail and/or avail of any other remedy as may be available to him/her under law.

... ..

44. These above discussed principles embody the manifestation of the constitutional safeguard sought to be achieved in Article 22 of the Constitution of India which is that the arrested person must be well equipped with the information not only about his arrest but the reasons and grounds thereof prior to his production before the Magistrate so as to enable him to effectively defend himself and oppose the police and judicial custody and even press for bail. The obligation to inform the grounds of arrest to the arrestee is thus, not just a mere procedural formality, instead it flows from the fundamental right of personal liberty which sets the

⁶ 2025 SCC OnLine SC 2356

further course for protection from the oppressive restrictions imposed upon the free movement in the society of an arrestee during remand.

45. A plain reading of Article 22(1) of the Constitution of India shows that the intent of the Constitution makers while incorporating the provisions was not to create any exceptional circumstances, instead it reads as "*No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest....*", it casts a mandatory unexceptional duty on the State to provide the arrested person with the grounds of such arrest with the objective to enable that person to be able to defend himself by consulting a legal practitioner of his choice. This mandate of Article 22(1) is notwithstanding any exception. This Court has made it explicit that the constitutional obligation under Article 22 is not statute-specific and it is grounded in fundamental right of life and personal liberty under Article 21 of the Constitution of India, therefore making it applicable to all offences including those under the Penal Code, 1860 (now BNS 2023).

46. 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.

... ..

66. In conclusion, it is held that:

66.1. 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);

66.2. The grounds of arrest must be communicated in writing to the arrestee in the language he/she understands;

66.3. 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.

66.4. 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.

...

...

...

68. We are cognizant that there existed no consistent or binding requirement mandating 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."

(Emphasis supplied in each instance)

The elucidation of the Apex Court is unambiguous. Any individual arrested in connection with a penal offence must be informed of the grounds of such arrest. This requirement is not an empty formality, it is a constitutional imperative. The failure to communicate grounds of arrest, whether to

the accused or in appropriate circumstances to his or her relative, would amount to a violation of fundamental safeguards guaranteed under the Constitution. Thus, whether the arrest is effected under the provisions of the BNS or any other penal statute that authorises custody, the obligation to furnish grounds of arrest remains inescapable. It is a safeguard that travels with the power of arrest and operates as a constitutional check upon Executive Authority.

13. The question that then arises for consideration is, whether a foreign national, standing on the soil of this country, is entitled to protection afforded by Article 22 of the Constitution of India. Chapter III of the Constitution which enshrines fundamental rights exhibits a carefully structured duality in its application. Certain rights are conferred to citizens, while others extend to all persons. The distinction is deliberate and constitutionally significant. Article 19 which guarantees six cherished freedoms, is expressly restricted to citizens. It is citizen-centric in its design and operation. Article 22 however is not so limited. It employs the

expression 'no person', thereby expanding its protective umbrella beyond the confines of citizenship. The term person is widest amplitude. It is inclusive and unqualified. It encompasses citizens and non-citizens alike and within its sweep falls even a foreign national. Therefore, the protection against arrest and detention embodied under Article 22 is person-centric, not citizen-centric. The constitutional guarantee does not evaporate at the border nor does it diminish by reason of nationality, except an enemy alien as defined under Article 22(3)(a) which expressly makes the provision inapplicable to an enemy alien, otherwise, a foreigner within the territory of India though, subject to the regulatory regime governing entry and stay is nevertheless, entitled to the procedural safeguards mandated by Article 22 when arrested for a penal offence.

THE OFFENCES:

14. The offences alleged are the ones punishable under the Act are undoubtedly serious. It becomes germane to notice the gist

of the offence, as found in column No.10 of the FIR. It reads as follows:

“ಶ್ರೀ, ಎಂ.ಎಲ್.ಸುಬ್ರಹ್ಮಣ್ಯಸ್ವಾಮಿ ಪೊಲೀಸ್ ಇನ್ಸ್ ಪೆಕ್ಟರ್, ಮಾದಕ ದ್ರವ್ಯ ನಿಗ್ರಹ ದಳ ಸಿಸಿಬಿ ಬೆಂಗಳೂರು ರವರು ನೀಡಿರುವ ವರದಿಯ ಸಾರಾಂಶವೇನೆಂದರೆ, ದಿನಾಂಕ: 12-05-2024 ರಂದು ಬೆಳಿಗ್ಗೆ, 11-00 ಗಂಟೆ ಸಮಯದಲ್ಲಿ ನಾನು ಕಛೇರಿಯಲ್ಲಿದ್ದಾಗ ಭಾತೀದಾರರಿಂದ ಬಂದ ಖಚಿತ ಮಾಹಿತಿ ಏನೆಂದರೆ, ಬೆಂಗಳೂರು ನಗರ ಸಂಪಿಗೆಹಳ್ಳಿ, ಪೊಲೀಸ್ ಠಾಣಾ ಸರಹದ್ದಿನ ಮನೆ ನಂಬರ್ 24/25, 2ನೇ ಮಹಡಿ, 6ನೇ ಕ್ರಾಸ್, ಕೋಗಿಲು ಲೇಔಟ್, ಬೆಂಗಳೂರು-560064 ಈ ವಿಳಾಸದಲ್ಲಿ, ಅಫಿಕ್ಟನ್ ಮೂಲದ ವ್ಯಕ್ತಿಗಳು ವಾಸವಾಗಿದ್ದುಕೊಂಡು ನಿಷೇಧಿತ ಮಾದಕ ವಸ್ತುಗಳಾದ ಎಂ.ಡಿ.ಎಂ.ಎ. ಕ್ರಿಸ್ಟಲ್ ಮತ್ತು ಕೊಕೇನ್ ಅನ್ನು ತಮ್ಮ ವಶದಲ್ಲಿಟ್ಟುಕೊಂಡು ಅವುಗಳನ್ನು ತಮಗೆ ಪರಿಚಯವಿರುವ ಗಿರಾಕಿಗಳಿಗೆ, ಸಾಫ್ಟ್ ವೇರ್ ಉದ್ಯೋಗಿಗಳಿಗೆ ಮತ್ತು ಕಾಲೇಜ್ ವಿದ್ಯಾರ್ಥಿಗಳಿಗೆ ಮಾರಾಟ ಮಾಡುತ್ತಾ ಆಕ್ರಮವಾಗಿ ಹಣ ಸಂಪಾದನೆ ಮಾಡುತ್ತಿರುತ್ತಾರೆ ಎಂಬುದಾಗಿ ಈ ದಿನ ದಿನಾಂಕ: 12-05-2024 ರಂದು ಬೆಳಿಗ್ಗೆ, 11-00 ಗಂಟೆಗೆ ಭಾತೀದಾರರಿಂದ ಖಚಿತ ಮಾಹಿತಿ ಬಂದ ಮೇರೆಗೆ ಸದರಿ ಮಾಹಿತಿಯನ್ನು ಈ ದಳದ ಕಛೇರಿಯಲ್ಲಿ ನಿರ್ವಹಿಸಿರುವ ಮಾಹಿತಿ ಪುಸ್ತಕದಲ್ಲಿ ನಮೂದಿಸಿ ನಿಯಮಾನುಸಾರ ದಾಳಿ ನಡೆಸಲು ಮಾನ್ಯ ಸಹಾಯಕ ಪೊಲೀಸ್ ಆಯುಕ್ತರು, ಮಾದಕದ್ರವ್ಯ ನಿಗ್ರಹ ದಳ ರವರಿಂದ ಅನುಮತಿಯನ್ನು ಪಡೆದುಕೊಂಡು ಪಂಚರು ಮತ್ತು ಸಿಬ್ಬಂದಿಗಳೊಂದಿಗೆ ಮೇಲ್ಕಂಡ ಸ್ಥಳಕ್ಕೆ ಹೋಗಿ ಮಾಹಿತಿಯನ್ನು ಖಚಿತ ಪಡಿಸಿಕೊಂಡು ನಿಷೇಧಿತ ಮಾದಕ ವಸ್ತುಗಳಾದ ಎಂ.ಡಿ.ಎಂ.ಎ. ಕ್ರಿಸ್ಟಲ್ ಮತ್ತು ಕೊಕೇನ್ ಅನ್ನು ಪರಿಚಯಸ್ಥ ಗಿರಾಕಿಗಳಿಗೆ, ಕಾಲೇಜ್ ವಿದ್ಯಾರ್ಥಿಗಳಿಗೆ ಹಾಗೂ ಸಾಫ್ಟ್ ವೇರ್ ಉದ್ಯೋಗಿಗಳಿಗೆ ಮಾರಾಟ ಮಾಡಲು ತನ್ನ ಬಳಿ ಇಟ್ಟುಕೊಂಡಿದ್ದ ಆರೋಪಿಗಳಾದ 1.EMEKA JAMES IWOBA @ AUSTIN NOSO IWOBA S/o NWOBA, 39 Years, ANAM Village, Nigeria Country, Local Address: #24/25, 2nd floor, 6th cross, Kogilu Layout, Bengaluru-560064, Phone: 7085986284, +27834200919

2.SMART S/O EREMHEN, 34 Years, EDO State, Nigeria Country, Local Address: #4, 1st floor, MS Ramaiah Layout, Avalahalli, Singanayakanahalli Post, Yalahanka, Bengaluru-560064, Ph No: 7005820232, 8099143297

3.UDERIKE, FIDELIS s/o OKAFOR, 34 Yrs, ANAM Village, Nigeria Country, Local Address: #24/25, 2nd floor, 6th cross, Kogilu Layout, Bengaluru-560064, Phone: 9901322653, (8798945400 Whatsapp) ಎಂಬವರ ವಾಸದ ಮನೆಯ ಮೇಲೆ ದಾಳಿ ಮಾಡಿದ್ದು, ನಂತರ ಇವರುಗಳಿಗೆ ಮಾದಕವಸ್ತುಗಳ ಬಗ್ಗೆ ವಿಚಾರ ಮಾಡಲಾಗಿ ಇವರುಗಳು ತಿಳಿಸಿದ್ದೇನೆಂದರೆ ಎಲ್ಲರೂ ಅಫಿಕ್ಟಾ ಖಂಡದ ನೈಜೇರಿಯಾ ದೇಶದ ಪ್ರಜೆಗಳಾಗಿದ್ದು ಬೇರೆ ಬೇರೆ ವರ್ಷಗಳಂದು ಪಿಪೆನ್ಸ್/ಮಡಿಕಲ್ ವೀಸಾ ಅಡಿಯಲ್ಲಿ, ಭಾರತಕ್ಕೆ ಬಂದು ವಾಸವಾಗಿದ್ದುಕೊಂಡು ಮೋಜಿನ ಜೀವನ ನಡೆಸಲು ಮತ್ತು ಸುಲಭವಾಗಿ ಹಣ ಗಳಿಸುವ ಉದ್ದೇಶದಿಂದ ಗೋವಾ, ಮುಂಬೈ ಮತ್ತು

ದೆಹಲಿಯಲ್ಲಿ ವಾಸವಾಗಿರುವ ಆಫ್ರಿಕಾ ಮೂಲದವರಿಂದ ಹಾಗೂ ಹೆಚ್ಚಾಗಿ ಹಳೆ ದೆಹಲಿ ವಾಸಿ CHIEF ಎಂಬುವವರಿಂದ ಮಾದಕವಸ್ತುಗಳಾದ ಎಂ.ಡಿ.ಎಂ.ಎ ಕ್ರಿಸ್ಟಲ್ ಮತ್ತು ಕೊಕೇನ್ ಅನ್ನು ಮತ್ತು ಅಂಧ, ಓಡಿಸ್ಸಾ ಮೂಲದ ಡ್ರಗ್ಸ್, ಪೆಡ್ಲರ್ ಗಳಿಂದ ಗಾಂಜಾ ಅನ್ನು ಖರೀದಿ ಮಾಡಿ ಬೆಂಗಳೂರಿಗೆ ತಂದು ಅವುಗಳನ್ನು ಅಧಿಕ ಬೆಲೆಗೆ ಮಾರಾಟ ಮಾಡಿಕೊಂಡಿರುವುದಾಗಿ ಮತ್ತು ಗ್ರಾಹಕರುಗಳಿಗೆ ಎಂ.ಡಿ.ಎಂ.ಎ. ಕ್ರಿಸ್ಟಲ್ & ಕೊಕೇನ್ ಅನ್ನು 1 ಗ್ರಾಂಗೆ 10,000/- ದಿಂದ 12,000/-ಗಳಿಗೆ ಮಾರಾಟ ಮಾಡುತ್ತಿದ್ದುದ್ದಾಗಿ ತಿಳಿಸಿರುತ್ತಾರೆ, ಹಾಗೂ ಉಳಿದ ಎಂ.ಡಿ.ಎಂ.ಎ. ಕ್ರಿಸ್ಟಲ್ ಮತ್ತು ಕೊಕೇನ್ ಅನ್ನು ಮಾರಾಟ ಮಾಡಲು ತಾವು ವಾಸದ ಮನೆಯ ಹಾಲ್/ವಾರ್ಡ್ ರೋಬ್/ಕಿಚನ್ ನಲ್ಲಿಟ್ಟುಕೊಂಡಿರುವುದಾಗಿ ತಿಳಿಸಿದ್ದು, ಪಂಚರುಗಳ ಸಮಕ್ಷಮದಲ್ಲಿ, ನಿಯಮಾನುಸಾರ ಅಮಾನತ್ತು ಪಂಚನಾಮೆ ಮೂಲಕ 50 ಲಕ್ಷ ಬೆಲೆ ಬಾಳುವ 400 ಗ್ರಾಂ ತೂಕದ ಎಂ.ಡಿ.ಎಂ.ಎ ಕ್ರಿಸ್ಟಲ್ ಮತ್ತು 100 ಗ್ರಾಂ ತೂಕದ ಕೊಕೇನ್, ಕೃತ್ಯಕ್ಕೆ ಬಳಸಲಾಗಿದ್ದ ಎರಡು ಮೊಬೈಲ್ ಫೋನ್, ಒಂದು ಎಲೆಕ್ಟ್ರಾನಿಕ್ ತೂಕದ ಯಂತ್ರ ಹಾಗೂ ಇತರೇ ವಸ್ತುಗಳನ್ನು ವಶಕ್ಕೆ ಪಡೆದುಕೊಳ್ಳಲಾಗಿದೆ. ಇವರುಗಳ ಪಾಸ್ ಪೋರ್ಟ್ ಮತ್ತು ವೀಸಾ ಬಗ್ಗೆ ಕೇಳಲಾಗಿ ಸಮಂಜಸವಾದ ಮಾಹಿತಿ ನೀಡಿರುವುದಿಲ್ಲ.

ಸದರಿ ಆರೋಪಿತರುಗಳಿಂದ ವಶಪಡಿಸಿಕೊಂಡ ನಿಷೇಧಿತ ಮಾದಕವಸ್ತುಗಳನ್ನು ಈ ದೂರಿನೊಂದಿಗೆ ಹಾಜರು ಪಡಿಸುತ್ತಿದ್ದು, ಮೇಲ್ಕಂಡ ಆರೋಪಿತರು ಈ ದೇಶದ ಕಾನೂನಿಗೆ ಗೌರವಕೊಡದೆ, ಅಕ್ರಮವಾಗಿ ನಿಷೇಧಿತ ಮಾದಕ ವಸ್ತುವಾದ ಎಂ.ಡಿ. ಎಂ.ಎ. ಕ್ರಿಸ್ಟಲ್ ಮತ್ತು ಕೊಕೇನ್ ಅನ್ನು ತಮ್ಮ ವಶದಲ್ಲಿಟ್ಟುಕೊಂಡು ಪರಿಚಯಸ್ಥ ಗಿರಾಕಿಗಳಿಗೆ ಮಾರಾಟ ಮಾಡುತ್ತಾ ಅಕ್ರಮ ಲಾಭಗಳಿಸುತ್ತಿದ್ದುದ್ದಲ್ಲದೇ ಸಾಮಾಜಿಕ ಸ್ವಾಸ್ಥ್ಯ ಹಾಳು ಮಾಡುವ ಕೃತ್ಯದಲ್ಲಿ ತೊಡಗಿದ್ದುದರಿಂದ ಆರೋಪಿಗಳಾದ 1) EMEKA JAMES IWOBA @ AUSTIN NOSO IWOBA S/O NWOBA, 39 years 2) SMART S/O EREMHEN, 34 Years 3) UDERIKE FIDELIS s/o OKAFOR, 34 Yrs ತಲೆಮರೆಸಿಕೊಂಡಿರುವ 4) CHIEF ಹಾಗೂ ಇತರರು ಇವರುಗಳ ವಿರುದ್ಧ 8(ಅ), 22 (ಅ) ಎನ್.ಡಿ.ಪಿ.ಎಸ್. ಕಾಯ್ದೆ-1985 ಕಲಂ 14 ಅಪ್ ಫಾರಿನಾರಿನರ್ಸ್ ಆಕ್ಟ್ ರೀತ್ಯಾ ಪ್ರಕರಣ ದಾಖಲಿಸಿ ತನಿಖೆ ಕೈಗೊಳ್ಳಲು ಕೋರಿರುವ ವರದಿ ದೂರು."

On receipt of credible information, the petitioners were suspected of possession of MDMA and cocaine. They were intercepted and items were seized. The seized items are as follows:

- "300 gms of MDMA white crystals were seized from A1
- 100 gms MDMA white crystals were seized from A2
- 100 gms of cocaine was seized from A3
- One realme phone and one silver colour packet electronic pocket weighing machine were seized from A1

- One black colour oppo mobile phone was seized from A3
- One bundle plastic packing covers and green colour cello tape was also seized.

Total value of the items seized was ₹50,00,000/-"

The total value of the seized items is ₹50,00,000/-. They are in broad spectrum high potency drugs. The petitioners were arrested at 7.00 p.m. on 12-05-2024 and kept in custody as obtaining under the remand application. FIR is registered against three persons for offences punishable under Section 8(c) and 22(c) of the Act, and the offence under the Foreigners Act, 1946. The FIR and remand application indicate that they were arrested at 7.00 p.m. on 12-05-2024. They were produced before the learned Magistrate at 7.15 p.m. on 13-05-2024. Therefore, there is a delay of 15 minutes in production.

15. The petitioners were apprehended and placed in police custody and the grounds of arrest were duly communicated to them as reflected in the remand application, but was not in the language known to the petitioners. The remand application reads as follows:

“ನಿವೇದನೆ:-

ವಿಷಯ:-	ಆರೋಪಿಗಳಾದ A1. EMEKA JAMES IWOBA @ AUSTIN NOSO IWOBA S/o NWOBA, 39 Years, ANAM Village, Nigeria Country, Local Address: #24/25, 2nd floor, 6th cross, Kogilu Layout, Bengaluru-560064, Phone: 7085986284, +27834200919 2. EREMHEN SMART S/O EREMHEN, 34 Years, EDO State, Nigeria Country, Local Address: #4, 1st floor, MS Ratnaiah Layout, Avalahalli, Singanayakanahalli Post, Yalahanka, Bengaluru-560064, Ph No: 7005820232, 8099143297 3. UDERIKE FIDELIS s/o OKAFOR, 34 Yrs, ANAM Village, Nigeria Country, Local Address: #24/25, 2nd floor, 6th cross, Kogilu Layout, Bengaluru-560064, Phone: 9901322653, (ಎ1,ಎ2,ಎ3. ರವರನ್ನು ನ್ಯಾಯಾಂಗ ಬಂಧನಕ್ಕೆ ಒಳಪಡಿಸಲು ಕೋರಿ ಮನವಿ.)
ಉಲ್ಲೇಖ:-	ಸಂಪಿಗೆಹಳ್ಳಿ ಪೊಲೀಸ್ ಠಾಣೆಯ ಮೊಸಂ.:272/2024 ಕಲಂ: 8(ಸಿ), 22(ಸಿ) ಎನ್ ಡಿಪಿಎಸ್ ಆಕ್ಟ್-1985 & 14 ಆಪ್ ಫಾರಿನರ್ಸ್ ಆಕ್ಟ್ .

*_*_*_*

ಮೇಲ್ಕಂಡ ವಿಷಯ ಮತ್ತು ಉಲ್ಲೇಖದ ಸಂಬಂಧವಾಗಿ ಮಾನ್ಯ ನ್ಯಾಯಾಲಯದಲ್ಲಿ ನಿವೇದಿಸಿ ಕೊಳ್ಳುವುದೇನೆಂದರೆ, ಬೆಂಗಳೂರು ನಗರ, ಕೇಂದ್ರ ಅಪರಾಧ ವಿಭಾಗ, ಮಾದಕ ದ್ರವ್ಯ ನಿಗ್ರಹ ದಳದ ಪೊಲೀಸ್ ಇನ್ಸ್ ಪೆಕ್ಟರ್ ಎಂ.ಎಲ್. ಸುಬ್ರಹ್ಮಣ್ಯ ಸ್ವಾಮಿ ರವರು ತಾಣೆಗೆ ಹಾಜರಾಗಿ ನೀಡಿದ ದೂರಿನ ಸಾರಾಂಶವೇನೆಂದರೆ, ದಿನಾಂಕ: 15-05-2024 ರಂದು ಬೆಳಿಗ್ಗೆ 11-00 ಗಂಟೆ ಸಮಯದಲ್ಲಿ ನಾನು ಕಛೇರಿಯಲ್ಲಿದ್ದಾಗ ಭಾಷ್ಮಿದಾರರಿಂದ ಬಂದ ಖಚಿತ ಮಾಹಿತಿ ಏನೆಂದರೆ, ಬೆಂಗಳೂರು ನಗರ ಸಂಪಿಗೆಹಳ್ಳಿ ಪೊಲೀಸ್ ಠಾಣಾ ಸರಹದ್ದಿನ ಮನೆ ನಂಬರ್ 24/25, 2ನೇ ಮಹಡಿ, 6ನೇ ಕ್ರಾಸ್, ಕೋಗಿಲು ಲೇಔಟ್, ಬೆಂಗಳೂರು-560064 ಈ ವಿಳಾಸದಲ್ಲಿ ಆಫೀಕನ್ ಮೂಲದ ವ್ಯಕ್ತಿಗಳು ವಾಸವಾಗಿದ್ದುಕೊಂಡು ನಿಷೇಧಿತ ಮಾದಕ ವಸ್ತುಗಳಾದ ಎಂ.ಡಿ.ಎಂ.ಎ. ಕ್ರಿಸ್ಟಲ್ ಮತ್ತು ಕೊಕೇನ್ ಅನ್ನು ತಮ್ಮ ವಶದಲ್ಲಿಟ್ಟುಕೊಂಡು ಅವುಗಳನ್ನು ತಮಗೆ ಪರಿಚಯವಿರುವ ಗಿರಾಕಿಗಳಿಗೆ, ಸಾಫ್ಟ್‌ವೇರ್ ಉದ್ಯೋಗಿಗಳಿಗೆ ಮತ್ತು ಕಾಲೇಜ್ ವಿದ್ಯಾರ್ಥಿಗಳಿಗೆ ಮಾರಾಟ ಮಾಡುತ್ತಾ ಅಕ್ರಮವಾಗಿ ಹಣ ಸಂಪಾದನೆ ಮಾಡುತ್ತಿರುತ್ತಾರೆ ಎಂಬುದಾಗಿ ಈ ದಿನ ದಿನಾಂಕ: 12-05-2024 ರಂದು ಸಂಜೆ ಬೆಳಿಗ್ಗೆ 11-00 ಗಂಟೆಗೆ ಭಾಷ್ಮಿದಾರರಿಂದ ಖಚಿತ ಮಾಹಿತಿ ಬಂದ ಮೇರೆಗೆ ಸದರಿ ಮಾಹಿತಿಯನ್ನು ಈ ದಳದ ಕಛೇರಿಯಲ್ಲಿ -ನಿರ್ವಹಿಸಿರುವ ಮಾಹಿತಿ ಪುಸ್ತಕದಲ್ಲಿ ನಮೂದಿಸಿ ನಿಯಮಾನುಸಾರ ದಾಳಿ ನಡೆಸಲು ಮಾನ್ಯ ಸಹಾಯಕ ಪೊಲೀಸ್ ಆಯುಕ್ತರು, ಮಾದಕದ್ರವ್ಯ ನಿಗ್ರಹ ದಳ ರವರಿಂದ ಅನುಮತಿಯನ್ನು ಪಡೆದುಕೊಂಡು ಪಂಚರು ಮತ್ತು .ಸಿಬ್ಬಂದಿಗಳೊಂದಿಗೆ ಮೇಲ್ಕಂಡ ಸ್ಥಳಕ್ಕೆ ಹೋಗಿ ಮಾಹಿತಿಯನ್ನು ಖಚಿತ ಪಡಿಸಿಕೊಂಡು ನಿಷೇಧಿತ ಮಾದಕ ವಸ್ತುಗಳಾದ ಎಂ.ಡಿ.ಎಂ.ಎ.

ಕ್ರಿಸ್ಟಲ್ ಮತ್ತು ಕೊಕೇನ್ ಅನ್ನು ಪರಿಚಯಿಸ್ತ ಗಿರಾಕಿಗಳಿಗೆ, ಕಾಲೇಜ್ ವಿದ್ಯಾರ್ಥಿಗಳಿಗೆ ಹಾಗೂ ಸಾಫ್ಟ್‌ವೇರ್ ಉದ್ಯೋಗಿಗಳಿಗೆ ಮಾರಾಟ ಮಾಡಲು ತನ್ನ ಬಳಿ ಇಟ್ಟುಕೊಂಡಿದ್ದ ಆರೋಪಿಗಳಾದ

1. EMEKA JAMES IWOBA @ AUSTIN NOSO IWOBA S/O NWOBA, 39 Years, ANAM Village, Nigeria Country, Local Address: #24/25, 2nd floor, 6th cross, Kogilu Layout, Bengaluru-560064, Phone: 7085986284, +27834200919
2. EREMHEN SMART S/O EREMHEN, 34 Years, EDO State, Nigeria Country, Local Address: #4, 1st floor, MS Ramaiah Layout, Avalahalli, Singanayakanahalli Post, Yalahanka, Bengaluru-560064, Ph No. 7005820232, 8099143297 Ph No:
3. UDERIKE FIDELIS s/o OKAFOR, 34 Yrs, ANAM Village, Nigeria Country, Local Address: #24/25, 2nd floor, 6th cross, Kogilu Layout, Bengaluru-560064, Phone: 9901322653, (8798945400 Whatsapp) ಎಂಬುವರ ವಾಸದ ಮನೆಯ ಮೇಲೆ ದಾಳಿ ಮಾಡಿದ್ದು.

ನಂತರ ಇವರುಗಳಿಗೆ ಮಾದಕವಸ್ತುಗಳ ಬಗ್ಗೆ ವಿಚಾರ ಮಾಡಲಾಗಿ ಇವರುಗಳು ತಿಳಿಸಿದ್ದೇನೆಂದರೆ ಎಲ್ಲರೂ ಆಫ್ರಿಕಾ ಖಂಡದ ನೈಜೇರಿಯಾ ದೇಶದ ಪ್ರಜೆಗಳಾಗಿದ್ದು ಬೇರೆ ಬೇರೆ ವರ್ಷಗಳಂದು ವಿಜಿನೆಸ್/ಮೆಡಿಕಲ್ ವೀಸಾ ಅಡಿಯಲ್ಲಿ ಭಾರತಕ್ಕೆ ಬಂದು ವಾಸವಾಗಿದ್ದುಕೊಂಡು ಮೋಜಿನ ಜೀವನ ನಡೆಸಲು ಮತ್ತು ಸುಲಭವಾಗಿ ಹಣ ಗಳಿಸುವ ಉದ್ದೇಶದಿಂದ ಗೋವಾ, ಮುಂಬೈ ಮತ್ತು ದೆಹಲಿಯಲ್ಲಿ ವಾಸವಾಗಿರುವ ಆಫ್ರಿಕಾ ಮೂಲದವರಿಂದ ಹಾಗೂ ಹೆಚ್ಚಾಗಿ ಹಳೆ ದೆಹಲಿ ವಾಸಿ CHIEF ಎಂಬುವವನಿಂದ ಮಾದಕವಸ್ತುಗಳಾದ ಎಂ.ಡಿ.ಎಂ.ಎ ಕ್ರಿಸ್ಟಲ್ ಮತ್ತು ಕೊಕೇನ್ ಅನ್ನು ಮತ್ತು ಆಂಧ್ರ, ಓಡಿಶ್ವಾ ಮೂಲದ ಡ್ರಗ್ಸ್ ಪೆಡ್ಲರ್‌ಗಳಿಂದ ಗಾಂಜಾ ಅನ್ನು ಖರೀದಿ ಮಾಡಿ ಬೆಂಗಳೂರಿಗೆ ತಂದು ಅವುಗಳನ್ನು ಅಧಿಕ ಬೆಲೆಗೆ ಮಾರಾಟ ಮಾಡಿಕೊಂಡಿರುವುದಾಗಿ ಮತ್ತು ಗ್ರಾಹಕರುಗಳಿಗೆ ಎಂ.ಡಿ.ಎಂ.ಎ. ಕ್ರಿಸ್ಟಲ್ & ಕೊಕೇನ್ ಅನ್ನು 1 ಗ್ರಾಂಗೆ 10,000/- ದಿಂದ 12,000/-ಗಳಿಗೆ ಮಾರಾಟ ಮಾಡುತ್ತಿದ್ದುದಾಗಿ ತಿಳಿಸಿರುತ್ತಾರೆ. ಹಾಗೂ ಉಳಿದ ಎಂ.ಡಿ.ಎಂ.ಎ. ಕ್ರಿಸ್ಟಲ್ ಮತ್ತು ಕೊಕೇನ್ ಅನ್ನು ಮಾರಾಟ ಮಾಡಲು ತಾವು ವಾಸದ ಮನೆಯ ಹಾಲ್/ವಾರ್ಡ್ ರೋಬ್/ಕಿಚನ್ ನಲ್ಲಿಟ್ಟುಕೊಂಡಿರುವುದಾಗಿ ತಿಳಿಸಿದ್ದು, ಪಂಚರುಗಳ ಸಮಕ್ಷಮದಲ್ಲಿ ನಿಯಮಾನುಸಾರ ಅಮಾನತ್ತು ಪಂಚನಾಮೆ ಮೂಲಕ 40 ಲಕ್ಷ ಬೆಲೆ ಬಾಳುವ 300 ಗ್ರಾಂ ತೂಕದ ಎಂ.ಡಿ.ಎಂ.ಎ ಕ್ರಿಸ್ಟಲ್ ಮತ್ತು 100 ಗ್ರಾಂ ತೂಕದ ಕೊಕೇನ್, ಕೃತ್ಯಕ್ಕೆ ಬಳಸಲಾಗಿದ್ದ ಎರಡು ಮೊಬೈಲ್ ಫೋನ್, ಒಂದು ಎಲೆಕ್ಟ್ರಾನಿಕ್ ತೂಕದ ಯಂತ್ರ ಹಾಗೂ ಇತರೇ ವಸ್ತುಗಳನ್ನು ವಶಕ್ಕೆ ಪಡೆದುಕೊಳ್ಳಲಾಗಿದೆ. ಇವರುಗಳ ಪಾಸ್‌ಪೋರ್ಟ್ ಮತ್ತು ವೀಸಾ ಬಗ್ಗೆ ಕೇಳಲಾಗಿ ಸಮಂಜಸವಾದ ಮಾಹಿತಿ ನೀಡಿರುವುದಿಲ್ಲ.

ಸದರಿ ಆರೋಪಿತರುಗಳಿಂದ ವಶಪಡಿಸಿಕೊಂಡ ನಿಷೇಧಿತ ಮಾದಕವಸ್ತುಗಳನ್ನು ಈ ದೂರಿನೊಂದಿಗೆ ಹಾಜರ್‌ಪಡಿಸುತ್ತಿದ್ದು, ಮೇಲ್ಕಂಡ ಆರೋಪಿತರು ಈ ದೇಶದ ಕಾನೂನಿಗೆ ಗೌರವಕೊಡದೇ, ಅಕ್ರಮವಾಗಿ ನಿಷೇಧಿತ ಮಾದಕ ವಸ್ತುವಾದ ಎಂ.ಡಿ.ಎಂ.ಎ ಕ್ರಿಸ್ಟಲ್ ಮತ್ತು ಕೊಕೇನ್ ಅನ್ನು ತಮ್ಮ

ವಶದಲ್ಲಿಟ್ಟುಕೊಂಡು ಪರಿಚಯಸ್ಥ ಗಿರಾಕಿಗಳಿಗೆ ಮಾರಾಟ ಮಾಡುತ್ತಾ ಅಕ್ರಮ ಲಾಭಗಳಿಸುತ್ತಿದ್ದುದಲ್ಲದೇ ಸಾಮಾಜಿಕ ಸ್ವಾಸ್ಥ್ಯ ಹಾಳು ಮಾಡುವ ಕೃತ್ಯದಲ್ಲಿ ತೊಡಗಿದ್ದುದರಿಂದ ಆರೋಪಿಗಳಾದ 1) EMEKA JAMES IWOBA @ AUSTIN NOSO IWOBA S/o NWOBA, 39 Years 2) SMART S/O EREMHEN, 34 Years 3) UDERIKE FIDELIS s/o OKAFOR, 34 Yrs ತಲೆಮರೆಸಿಕೊಂಡಿರುವ 4) CHIEF ಹಾಗೂ ಇತರರು ಇವರುಗಳ ವಿರುದ್ಧ 8(C), 22 (C) ಎನ್.ಡಿ.ಪಿ.ಎಸ್. ಕಾಯ್ದೆ-1985 ಕಲಂ 14 ಆಪ್ ಫಾರಿನರ್ಸ್ ಆಕ್ಟ್ ರೀತ್ಯಾ ಪ್ರಕರಣ ದಾಖಲಿಸಿ ತನಿಖೆ ಕೈಗೊಳ್ಳುವಂತೆ ಕೋರಿ, ನೀಡಿದ ದೂರಿನ ಮೇರೆಗೆ ರಾಣಾ ಮೊ.ಸಂ:272/2024 ಕಲಂ: 8(C), 22 (C) ಎನ್.ಡಿ.ಪಿ.ಎಸ್. ಕಾಯ್ದೆ-1985 ಕಲಂ 14-ಆಪ್ ಫಾರಿನರ್ಸ್ ಆಕ್ಟ್ ರೀತ್ಯಾ ಪ್ರಕರಣದ ದಾಖಲಿಸಿ ಕೊಂಡಿರುತ್ತದೆ. ನಂತರ ಸಿಸಿಬಿ ಅಧಿಕಾರಿಗಳು ಸದರಿ ಪ್ರಕರಣದ ಆರೋಪಿಗಳಿಂದ ದಾಳಿಪಂಚನಾಮೆ ಮೂಲಕ ಅಮಾನತ್ತುಪಡಿಸಿಕೊಂಡು ಹಾಜರುಪಡಿಸಿದ ಮಾಲನ್ನು ರಾಣಾ ಮಾಲು ಪಟ್ಟಿ ಸಂಖ್ಯೆ 75/2024 ರಲ್ಲಿ ನಮೂದಿಸಿ ವಶಕ್ಕೆ ಪಡೆದುಕೊಂಡು, ಅಸಲು ಪಂಚನಾಮೆಯನ್ನು ಪ್ರಕರಣದ ಕಡತದಲ್ಲಿ ಅಡಗಳೊಳಿಸಿರುತ್ತದೆ.

ನಂತರ ಪ್ರಕರಣದ ಆರೋಪಿಗಳನ್ನು ವಿಚಾರಣೆಗೆ ಒಳಪಡಿಸಿ, ಮಾನ್ಯ ಸರ್ವೇಚ್ಛಾ ನ್ಯಾಯಾಲಯ ನಿರ್ದೇಶನದಂತೆ ದಸ್ತಗಿರಿ ಕ್ರಮ ಅನುಸರಿಸಿ, ಸದರಿ ಆರೋಪಿಗಳನ್ನು ಸುರಕ್ಷಿತ ಬಂಧನಲ್ಲಿ ಇರಿಸಿ ನೋಡಿಕೊಳ್ಳಲು ಸಿಬ್ಬಂದಿಗಳನ್ನು ನೇಮಕ ಮಾಡಿರುತ್ತದೆ. ದಿನಾಂಕ: 13/05/2024 ರಂದು ಪ್ರಕರಣದ ಆರೋಪಿಗಳಾದ AI EMEKA JAMES IWOBA @ AUSTIN NOSO IWOBA S/o NWOBA, 39 Years, A2. 2) SMART S/o EREMHEN, 34 Years A3. UDERIKE FIDELIS s/o OKAFOR, 34 Yrs ರವರುಗಳನ್ನು ವೈದ್ಯಕೀಯ ಪರೀಕ್ಷೆಗೆ ಒಳಪಡಿಸಿ, ವರದಿಯನ್ನು ಪಡೆದುಕೊಂಡಿರುತ್ತದೆ. ನಂತರ ಪ್ರಕರಣದ ಆರೋಪಿಗಳ ಸ್ವ ಇಚ್ಛೆ ಹೇಳಿಕೆಗಳನ್ನು ಪಡೆದುಕೊಂಡಿರುತ್ತದೆ.

ಪ್ರಕರಣದ ಆರೋಪಿಗಳನ್ನು ಮಾನ್ಯ ನ್ಯಾಯಾಲಯದ ಮುಂದೆ ಹಾಜರುಪಡಿಸುತ್ತಿದ್ದು, ಈ ಕೆಳಕಂಡ ಕಾರಣಗಳಿಗಾಗಿ ಆರೋಪಿಗಳಿಗೆ ನ್ಯಾಯಾಂಗ ಬಂಧನವನ್ನು ವಿಧಿಸಿ ಆದೇಶ ನೀಡಬೇಕಾಗಿ ಕೋರಲಾಗಿದೆ.

- 1) ಪ್ರಕರಣದ ಆರೋಪಿಗಳು ಮೂಲತಹ ವಿದೇಶಿ ಪ್ರಜೆಗಳಾಗಿರುತ್ತಾರೆ. ಸದರಿ ಪ್ರಜೆಗಳು ಬೆಂಗಳೂರುನಗರದಲ್ಲಿ ವಾಸವಿರುವ ಬಗ್ಗೆ ಯಾವುದೇ ನಿಖರವಾದ ಮಾಹಿತಿ ಇರುವುದಿಲ್ಲ. ಮಾನ್ಯ ನ್ಯಾಯಾಲಯವು ಆರೋಪಿಗಳಿಗೆ ಜಾಮೀನು ನೀಡಿದ್ದಲ್ಲಿ ತಲೆಮರೆಸಿಕೊಳ್ಳುವ ಸಂಭವವಿರುತ್ತದೆ.
- 2) ಪ್ರಕರಣದಲ್ಲಿ ಸ್ವಾಧೀನಪಡಿಸಿಕೊಂಡ ಮಾದಕ ವಸ್ತುಗಳನ್ನು ರಾಸಾಯನಿಕ ಪರೀಕ್ಷೆ ಬಗ್ಗೆ ಕಳುಹಿಸಿ ವರದಿ ಪಡೆಯ ಬೇಕಾಗಿದೆ

- 3) ಆರೋಪಿಗಳನ್ನು ಜಾಮೀನಿನಲ್ಲಿ ಹೊರ ಬಂದಲ್ಲಿ ಪುನಃ ಇಂತಹ ಕೃತ್ಯವನ್ನು ಮಾಡುವ ಸಾಧ್ಯತೆ ಇದೆ.
- 4) ಆರೋಪಿಗಳು ಜಾಮೀನಿನಲ್ಲಿ ಹೊರ ಬಂದಲ್ಲಿ ಈ ಅಕ್ರಮ ದಂಧೆಯಿಂದ ಈಗಿನ ಯುವ ಜನಾಂಗವನ್ನು ತಪ್ಪು ದಾರಿಗೆ ಎಳೆಯುವ ಸಾಧ್ಯತೆ ಇದೆ.
- 5) ಆರೋಪಿಗಳು ಮಹಜರು ಸಾಕ್ಷಿದಾರರನ್ನು ಬೆದರಿಸಿ ಪ್ರತಿಕೂಲ ಸಾಕ್ಷಿಗಳನ್ನಾಗಿ ಪರಿವರ್ತಿಸುವ ಸಾಧ್ಯತೆ ಇರುತ್ತದೆ.
- 6) ಈ ಕೇಸಿನಲ್ಲಿ ಇನ್ನೂ ಕೆಲವು ಸಾಕ್ಷಿದಾರರನ್ನು ವಿಚಾರ ಮಾಡಿ ಹೇಳಿಕೆಗಳನ್ನು ಪಡೆದುಕೊಳ್ಳಬೇಕಾಗಿದ್ದು, ಮಾನ್ಯ ನ್ಯಾಯಾಲಯವು ಜಾಮೀನು ನೀಡಿದಲ್ಲಿ, ಸಾಕ್ಷಿದಾರರಿಗೆ ಬೆದರಿಕೆ ಹಾಕುವ ಸಂಭವವಿರುತ್ತದೆ.
- 7) ಸದರಿ ಪ್ರಕರಣದ ಮಾದಕ ದ್ರವ್ಯ ಜಾಲದಲ್ಲಿನ, ಇತರೆ ಆರೋಪಿಗಳು ಶಾಮೀಲಾಗಿರುವ ಸಾದೆತೆಗಳು ಇರುವುದರಿಂದ, ಸದರಿ ಅಸಾಮಿಗಳನ್ನು ಪತ್ತೆ ಮಾಡಬೇಕಾಗಿರುತ್ತದೆ. ಸದರಿ ಅಸಾಮಿಗೆ ಜಾಮೀನು ನೀಡಿದ್ದಲ್ಲಿ, ಸದರಿ ಪ್ರಕರಣದಲ್ಲಿ ಶಾಮೀಲಾಗಿರುವ ಅಸಾಮಿಗಳು ತಲೆ ಮರೆಸಿಕೊಳ್ಳುವ ಸಾಧ್ಯತೆಗಳಿರುತ್ತವೆ.
- 8) ಪ್ರಕರಣದಲ್ಲಿ ತಲೆ ಮರೆಸಿಕೊಂಡಿರುವ ಆಪ್ತಿಕ ಮೂಲದ ಎ4.ಚೀಪ್ ಎಂಬುವನು ತಲೆ ಮರೆಸಿಕೊಂಡಿದ್ದು, ಸದರಿ ಆರೋಪಿಯನ್ನು ಪತ್ತೆ ಮಾಡಬೇಕಾಗಿರುತ್ತದೆ. ಆರೋಪಿಗಳಿಗೆ ಜಾಮೀನು ನೀಡಿದ್ದಲ್ಲಿ ತಲೆ ಮರೆಸಿಕೊಂಡಿರುವ ಆರೋಪಿಗೆ ಪ್ರಕರಣದ ಸಂಬಂಧ ಮಾಹಿತಿ ನೀಡಿ, ಎ4.ಆರೋಪಿಯು ಪೊಲೀಸ್‌ರಿಗೆ ಸಿಗದೆ ತಲೆಮರೆಸಿಕೊಳ್ಳುವ ಸಂಭವವಿರುತ್ತದೆ.

ಮೇಲ್ಕಂಡ ಎಲ್ಲಾ ಕಾರಣಗಳಿಂದ ದಸ್ತಗಿರಿಯಾದ ಎ1, ಎ2, ಎ3 ಆರೋಪಿಗಳನ್ನು ಮಾನ್ಯ ನ್ಯಾಯಾಲಯವು ಜಾಮೀನಿನು ನೀಡದೆ ಮಾನ್ಯ ನ್ಯಾಯಾಂಗ ಬಂಧನದಲ್ಲಿರಿಸಲು ಕೋರಿ ಸದರಿ ಆರೋಪಿಗಳನ್ನು ಸಿಬ್ಬಂದಿಯವರಾದ Pc14417, pc14499 ರವರ ಬೆಂಗಾವಲಿನಲ್ಲಿ ಕಳುಹಿಸಿಕೊಟ್ಟಿರುತ್ತದೆ.

ಸಹಿ/-

ಪೊಲೀಸ್ ಸಬ್ ಇನ್ಸ್‌ಪೆಕ್ಟರ್
ಸಂಪಿಗೆಹಳ್ಳಿ ಪೊಲೀಸ್ ಠಾಣೆ
ಬೆಂಗಳೂರು ನಗರ."

The afore-quoted remand application depicts that it was for the first time the grounds of arrest were made known to the petitioners, that too in a language not known to them. It ought to have been furnished in English, as the petitioners were foreign nationals who would understand English and not the vernacular. Furnishing of grounds of arrest cannot be a mere formality, only for the sake of furnishing. The mandate of the law is to furnish it immediately and in the language known to the accused or English language. The petitioners thus are entitled to be set at liberty on the ground of non-furnishing of the grounds of arrest in a manner known to law.

16. The petitioners are admittedly overstaying on the soil of this nation for more than a decade, without any valid documents for such stay. Therefore, even if the petitioners are to be set at liberty, they should be handed over to the FRRO to take steps in accordance with law. What steps to be taken is found in the statute i.e., the Foreigners Act or the SOP that is now placed on record by the learned Deputy Solicitor General of India.

THE SOP:

17. The Government of India has now ushered in a SOP dated 25-11-2025, governing the withdrawal of prosecution in cases involving foreign nationals, with the avowed objective of facilitating their deportation. The preamble to the said SOP records circumstances which necessitated its formulation. The preamble is as follows:-

"I am directed to say that misuse of legal procedures by certain foreign nationals who intentionally implicate themselves in criminal offences to delay deportation or gain prolonged stay in the India has been observed by the Law Enforcement Agencies in various States/UTs. Once the case is registered, these foreigners use various legal and procedural tactics viz., repeated adjournments sought on medical grounds, change of counsel, filing frivolous applications before the trial Court such as bail & discharge, absconding between hearings, claiming refugee status on frivolous ground during pending trial and by challenging various stages of trial procedure in higher courts. These tactics have often resulted in prolonged under trial detention or bail with restrictions, effectively allowing them to remain in India for years and expand their criminal activities, gangs and organized crimes in the country.

2. This matter came up for consideration at the DGsP/IGsP Conference, 2024, when it was inter alia decided that a comprehensive policy/legal framework to prevent misuse of judicial process by foreigners to overstay may be formulated by the Ministry of Home Affairs, in consultation with all stakeholders. It was further decided that the policy may examine withdrawal of cases where punishments were less than 7 years to facilitate deportation.

3. Accordingly, the matter regarding framing of a model Standard Operating Procedure (SOP) for withdrawal from prosecution in cases filed against foreigners to facilitate their deportation has been examined by this Ministry in consultation with various stakeholders. Based on the inputs received from various stakeholders, a model SOP has been prepared in this regard within the framework of Section 360 of Bharatiya Nagrik Suraksha Sanhita, 2023 (46 of 2023) and a copy of the same is enclosed.

4. The model SOP indicates the types of cases where withdrawal from prosecution may be considered against the foreigners, types of cases where such withdrawal from prosecution may not be considered and the detailed procedure that may be followed by State/UT prosecuting agencies and central prosecuting agencies for withdrawal from prosecution in such cases. Review of such cases by two Committees i.e., one District Level Screening Committee and another State Level Screening Committee in cases filed by State/UT prosecuting agencies is envisaged in the model SOP. In cases filed by central prosecuting agencies, it has been suggested that they may consider constituting an Agency Screening Committee to review such cases.

5. The objective of this model SOP is to prevent misuse of the judicial process by foreigners to prolong their stay in India. This will facilitate early deportation of such foreigners from the country and will also help in conservation of valuable judicial resources.

6. State/UT prosecuting agencies and central prosecuting agencies are advised to consider adopting the enclosed model SOP, by taking approval of the respective competent authorities, for withdrawal from prosecution in respect of cases filed against foreigners. Steps taken in this regard may please be intimated to this Ministry at the earliest."

(Emphasis supplied)

It is observed that certain foreign nationals have been misusing the legal process of the country by deliberately implicating themselves in criminal proceedings, so as to thwart or delay deportation and thereby prolong their stay within the territory of India. The background to bring in the SOP reads as follows:

"1. Background

Misuse of legal procedures by certain foreign nationals who intentionally implicate themselves in criminal offences to delay deportation or gain prolonged stay in India has been observed by the Law Enforcement Agencies in various States/UTs. Once the case is registered, these foreigners use various legal and procedural tactics viz., repeated adjournments sought on medical grounds, change of counsel, filing frivolous applications before the trial Court such as bail & discharge, absconding between hearings, claiming refugee status on frivolous ground during pending trial and by challenging various stages of trial procedure in higher courts. These tactics have often resulted in prolonged under-trial detention or bail with restrictions, effectively allowing them to remain in India for years and expand their criminal activities, gangs and organized crimes in the country.

In the DGsP/IGsP Conference, 2024, it was inter-alia decided as under:

"A comprehensive policy/legal framework to prevent misuse of judicial process by foreigners to overstay, to be formulated by MHA, in consultation with all stakeholders, including MEA, IB and legal officers. The policy would examine withdrawal of cases where punishments were less than 7 years, to facilitate deportation."."

The types of cases where withdrawal of prosecution is to be considered are as follows:

"3. Types of cases where withdrawal from prosecution may be considered against the foreigners.

- (i) An offence registered under the Bharatiya Nyay Sanhita, 2023 (45 of 2023) which is compoundable under Section 359 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (Act 46 of 2023).
- (ii) An offence registered under the Bharatiya Nyay Sanhita, 2023 (45 of 2023) which carries a punishment of imprisonment of up to 7 years.
- (iii) An offence registered under any Central Act, including the Immigration and Foreigners Act, 2025 (13 of 2025) and its predecessor Acts, but other than Narcotic Drugs and Psychotropic Substances (NDPS) Act, 1985 (61 of 1985) or any State Act which is compoundable and/or where the punishment provided for the offence in the Act is imprisonment of up to 7 years.
- (iv) An offence under the NDPS Act which carries a punishment of imprisonment up to ten years.**
- (v) Cases involving inexpediency of prosecution where trial is pending for more than five years."

(Emphasis supplied)

Clause (iv) of the clauses under the head 'types of cases where withdrawal from prosecution may be considered' notices that even offences under the NDPS Act which carries a punishment of imprisonment up to 10 years can become the consideration under

the SOP *supra* for withdrawal of the prosecution and consequent deportation. The procedure for the said process is found in Clause 5. It reads as follows:

"5. Procedure to be followed for withdrawal from prosecution in cases filed against foreigners

A. The following procedure may be followed by State/UT prosecuting agencies for withdrawal from prosecution in cases filed against foreigners: -

- (i) State/UT level Director of Prosecution in the State Government/UT Administration may be the Nodal Agency for this purpose and will be responsible for maintaining proper records and prompt disposal of all such cases.
- (ii) For this purpose, two Committees i.e., one District level Screening Committee and State level Screening Committee may be constituted with the following composition: -

District level Screening Committee	State level Screening Committee
(a) District Magistrate of the respective District -Chairperson	(a) Additional Chief Secretary/Principal Secretary (Home) Chairperson
(b) District SSP/SP of the respective District or Deputy Commissioner of Police/Special Branch (Intelligence Unit) in Police Commissionerate system - Member	(b) Principal Secretary (Law & Justice) - Member
(c) Chief Public Prosecutor of the District- Member	(c) IG rank officer nominated by the DGP of the State-Member
(d) Public Prosecutor in charge	(d) Jurisdictional Foreigners

of the case - Member The Committee may also co-opt - (i) retired Judicial Officers; and (ii) the Investigating Officer (IO) in charge of the case (In cases of cities of Police Commissioner system, State/UT may think of one DLSC for the city or one DLSC for each police district. In such cases DLSC can be headed by Joint CP or DCP as the case may be)	Regional Registration Officer (FRRO)- Member (e) Director of Prosecution - Member (f) Deputy Secretary (Home) as proposed by the Additional Chief Secretary/Principal Secretary (Home) - Member
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(iii) Role of District Level Screening Committee (DLSC):

- (a) DLSC may suo-moto review every quarter all such cases where withdrawal from prosecution against foreigners can be considered in terms of paras 3 and 4 above.
- (b) DLSC may invariably obtain inputs from the jurisdictional FRRO. It may also consult any other District Level Officer belonging to any Department from whom it may deem necessary to take advice/assistance and may call the officer concerned to attend its meeting and participate in its proceedings.
- (c) **DLSC may examine the cases thoroughly taking into account merits and demerits of each case. It may carefully analyse the implications, both in the national and international context.**

DLSC may record a reasoned written opinion, supported by legal grounds, public interest justification etc.

Note:-

- (1) In cases, where co-accused persons are Indian nationals and the prosecution is to be withdrawn against foreign

nationals only, the impact of such withdrawal may be carefully examined by the District Level Screening Committee taking into account the legal implications. All such cases may invariably be referred to the State Level Screening Committee for final decision along with recommendations of the DLSC.

- (2) **In case of a foreigner against whom multiple cases have been filed either in the same State / UT or in different States/ UTs, it would be preferable to take action for withdrawal from prosecution in respect of all cases together in consultation with all the States/UTs concerned. In such cases, the State/ UT where the foreigner is kept in custody or living on bail may process the matter and coordinate with the other States / UTs concerned.**
- (3) **In cases filed against a foreigner under the NDPS Act and in cases of foreigners involved in smuggling cases under the Customs Act, 1962, the DLSC may also examine as to whether the foreigner involved is a part of any organized crime syndicate having internal or international linkages before taking a decision on withdrawal from prosecution.**
- (4) While considering the cases for withdrawal from prosecution in cases filed against a foreigner, the DLSC may also consider whether the case falls in any of the following categories: -
 - Involving Interpol Notices issued by a foreign Government
 - Extradition requests from third countries
 - Treaty obligations to prosecute certain crimes under international law (e.g., torture, war crimes).

All such cases may be examined thoroughly before taking a final decision.

- (5) **In cases where there is divergence of views between jurisdictional FRRO and the District Level Committee, the matter may be escalated to the State Level Screening Committee with necessary recommendations for a final decision.**
- (d) **In cases involving offences punishable up to a period of 3 years, DLSC may take a final decision on withdrawal from prosecution. However, for cases which are covered by proviso to section 360 of the BNSS 2023 requiring prior permission from the Central Government, DLSC may obtain the consent of the Ministry/Department of the Central Government administering the particular Central Act. For example, cases relating to Passports Act to the Ministry of External Affairs, NDPS Act to the Ministry of Home Affairs, Customs Act to the Ministry of Finance (Department of Revenue), cases handled by CBI to the Department of Personnel & Training etc.**

Note

In respect of cases registered under the erstwhile Passport (Entry into India) Act, 1920, the Registration of Foreigners Act, 1939 & the Foreigners Act, 1946 and under the Immigration and Foreigners Act, 2025, the jurisdictional FRRO is authorized to give the requisite consent of the Central Government.

- (e) **Thereafter, consent for withdrawal from prosecution may be conveyed by DLSC to the public prosecutor in charge of the case who may file an application under section 360 of the BNSS, 2023 before the trial court concerned.**
- (f) **All other cases, which do not fall under the category mentioned in clause (d) above, may be referred by DLSC to the Director of Prosecution in the State Government/ UT Administration along with its due recommendation.**

- (g) **Withdrawal from prosecution shall be effective only upon consent of the competent trial court under section 360 of BNSS, 2023.**
- (iv) Role of State Level Screening Committee (SLSC):
 - (a) Cases referred by the District level Screening Committee may be placed before SLSC by the Director of Prosecution for consideration.
 - (b) **SLSC may examine the cases thoroughly taking into account the recommendation of the DLSC. It may also consult any other state level officers belonging to any Department from whom it may deem necessary to take advice/assistance and may call the officer concerned to attend its meeting and participate in its proceedings.**
 - (c) **For cases which are covered by proviso to section 360 of the BNSS 2023 requiring prior permission from the Central Government, SLSC may obtain the consent of the Ministry/Department of the Central Government administering the particular Central Act.**

Note

In respect of cases registered under the erstwhile Passport (Entry into India) Act, 1920, the Registration of Foreigners Act, 1939 & the Foreigners Act, 1946 and under the Immigration and Foreigners Act, 2025, the jurisdictional FRRO is authorized to give the requisite consent of the Central Government.

- (d) Recommendation of SLSC may be referred by the Director of Prosecution to the Home Department of the State Government/ UT Administration for final approval.
- (v) Role of Home Department of the State Government/ UT Administration

- (a) **Home Department of the State Government/ UT Administration may obtain the approval of the competent authority for withdrawal from prosecution.**
 - (b) **After obtaining the approval of the competent authority in the State Government/ UT Administration and prior permission of the Central Government wherever necessary, Home Department of the State Government/ UT Administration may convey the consent for withdrawal from prosecution to the Director of Prosecution.**
 - (c) **Director of Prosecution may thereafter convey the consent for withdrawal from prosecution to the public prosecutor in charge of the case. Thereafter, the public prosecutor may file an application under section 360 of the BNSS 2023 before the trial court concerned.**
 - (d) Withdrawal from prosecution shall be effective only upon consent of the competent trial court under section 360 of BNSS, 2023.
- B.** The following procedure may be followed by central prosecuting agencies for withdrawal from prosecution in cases filed against foreigners:-
- (i) **Director General/ Director of a central prosecuting agency may designate prosecution wing or any other wing within agency as "Nodal Wing" for this purpose and may maintain proper records of cases filed against foreigners.**
 - (ii) **Director General/ Director of a central prosecuting agency may constitute an Agency Screening Committee (ASC) to suo moto review every quarter all such cases where withdrawal from prosecution against foreigners can be considered in terms of paras 3 and 4 above. An officer, as nominated**

by Commissioner Bureau of Immigration, may be a member of such committee.

- (iii) ASC may examine the cases thoroughly taking into account merits and demerits of each case. It may carefully analyse the implications, both in the national and international context. ASC may record a reasoned written opinion, supported by legal grounds, public interest justification etc.**
- (iv) ASC may forward its recommendation to Director General/Director of the central prosecuting agency, who in turn may take final decision in cases involving offences punishable up to a period of 3 years, on withdrawal from prosecution, after the internal or any other consultations as required. The other cases may be forwarded, with due recommendations, to the Administrative Ministry/ Home Ministry, as required, for taking decision on withdrawal of cases against foreigners, based on recommendations received and after due consultations, as required.**
- (v) After decision as above, the "Nodal Wing of the central prosecuting agency may convey the consent for withdrawal from prosecution to the public prosecutor in charge of the case. Thereafter, the public prosecutor may file an application under section 360 of the BNSS 2023 before the trial court concerned.**
- (vi) Withdrawal from prosecution shall be effective only upon consent of the competent trial court under section 360 of BNSS, 2023."**

(Emphasis supplied)

In terms of the procedure stipulated, a District Level Screening Committee and State Level Screening Committee is to be constituted. The role of the District Level Screening Committee is also indicated, so is the role of the State Level Screening Committee. The role of the Home Department of the State/Union Territory administration is also indicated. It is applicable where the appeals are pending against acquittal of foreigners as well. Deportation of such persons is also dealt with under Clause 7. It reads as follows:

"7. Deportation of foreign nationals after withdrawal from prosecution

- (i) **Where consent has been given by the trial court for withdrawal from prosecution and the foreigner has a valid passport, immediate necessary action may be initiated by the State Government/ UT Administration/ FRRO/ FRO concerned to deport the foreigner within 15 days from the date of order from the trial court.**
- (ii) **Detailed procedure for deportation of a foreigner who has no valid travel document has been laid down in the instructions issued by the Ministry of Home Affairs (Foreigners Division) from time to time. According to these instructions, in all cases where the foreign national concerned does not have a valid travel document/passport, the State Government/ UT Administration/ FRRO/ FRO concerned may take up the matter regarding**

nationality verification and issuance of travel document in favour of the foreigner with the Ministry of External Affairs immediately on arrest of the foreign national or on filing of FIR.

- (iii) In cases where in the process of withdrawal from prosecution has been initiated by the DLSC or SLSC or ASC and action to procure travel document has not been initiated as per the procedure mentioned in sub-para (ii) above, document preparation like procuring travel documents, return tickets etc. may be initiated simultaneously by the concerned authority of State/UT or central prosecuting agency in consultation with the jurisdictional FRRO.**
- (iv) Pending nationality confirmation and issuance of travel document in favour of the foreigner, movements of the said foreigner may be restricted to any holding center/ camp. Necessary action may be taken to deport the foreigner immediately on receipt of the travel document within 15 days of receipt of the travel document."**

(Emphasis supplied)

The SOP, right from its preambular statement, records a disturbing trend. Foreign nationals once implicated in criminal proceedings were resorting to variety of procedural stratagems such as, repeated adjournments on medical grounds, frequent change of legal representation, filing of frivolous applications, absconding between hearings and raising untenable claims of refugee status. These tactics

often culminated in protracted trial. Recognizing the said gravity, the deliberations have led to the bringing in of the SOP. The SOP also recognizes rather prescribes, an institutional mechanism to scrutinize such cases. It mandates the constitution of District Level Screening Committee and a State Level Screening Committee to examine the feasibility of withdrawing prosecutions instituted by the State or any prosecuting agency. The Home Department of the State or the Union Territory is assigned a supervisory role.

18. Equally significant is the SOP's recognition that withdrawal of prosecution may extend even to cases where appeals against acquittals are pending. The SOP further reiterates that deportation of foreign nationals, lacking valid travel documents, must be carried out in accordance with the extant guidelines of the Ministry of Home Affairs.

19. The State Government shall now undertake the entire exercise of constituting a State Level Committee and the District Level Screening Committee, as is observed in the SOP *supra*, within

four months from the date of receipt of the copy of this order, **as the SOP and the constitution of the Committee is to ensure that valuable judicial resources are not squandered in prosecutions that ultimately serve only to facilitate overstay**s. The steps taken towards the constitution of the Committee shall be reported back to this Court, notwithstanding the disposal of the subject petition.

SUMMARY OF FINDINGS:

- *Article 22(1) of the Constitution of India mandates that every person arrested must be informed of the grounds of arrest.*
- *The requirement of informing the grounds of arrest is a mandatory Constitutional safeguard and not a procedural formality.*
- *The Constitutional protection under Article 22 extends to all persons within the territory of India including the foreign nationals, as it is not citizen centric, but person centric.*
- *The law does not prescribe a rigid form of communicating grounds of arrest. Substantial compliance is sufficient,*

provided the arrested person is made aware of the basis of the arrest.

- *The judicial review in such cases is limited to whether grounds of arrest were communicated and not the adequacy or correctness of the grounds of arrest.*
- *Finding violation of the mandate of the Apex Court qua the grounds of arrest, the petitioners are entitled to be set at liberty.*
- *The moment the petitioners are set at liberty, they must be handed over to the FRRO, to take further action, in terms of the SOP, for withdrawal of the prosecution and consequent deportation of these petitioners, as they are admittedly overstaying in this country for more than 10 years, without any valid documents, only on the score that one or the other prosecution is pending against them and the present case concerns recovery of 400 gms. of MDMA from the hands of the petitioners.*

20. For the aforesaid reasons, the following:

ORDER

- (i) Criminal Petition is **allowed in part.**

- (ii) The petitioners are entitled to be set at liberty on the grounds of arrest not being served upon them in a manner known to law.
- (iii) The petitioners on them being set at liberty be handed over to the FRRO of the jurisdiction, to take further steps against the petitioners for overstaying, without any valid documents, for more than a decade, in terms of the SOP.
- (iv) The State shall constitute the State Level Screening Committee/District Level Screening Committee, as is found in the SOP and report such constitution to this Court within 4 months from the date of receipt of the copy of this order.

This Court places its deep appreciation to the valuable assistance rendered by Sri **H Shanthi Bhushan**, learned Deputy Solicitor General of India.

Sd/-
(M.NAGAPRASANNA)
JUDGE

Bkp
CT: MJ