



APS JUDICIAL ACADEMY

UNDER THE GUIDANCE OF ABHAY SIR (FORMER JUDGE)

Mihir Rajesh Shah v. State of Maharashtra & Anr. (2025)

Bench: Supreme Court of India (Criminal Appeal No. 2195 of 2025), decided November 6, 2025 – Bench comprising Chief Justice B.R. Gavai and Justice A.G. Masih.

Facts of the Case

In July 2024, a high-profile BMW hit-and-run accident in Mumbai's Worli area resulted in a fatality. The **appellant**, Mihir Rajesh Shah, implicated as the accused, **was arrested, but the police did not provide him with a written statement of the grounds for his arrest**, instead allegedly only conveying reasons orally.

Shah challenged the legality of his arrest on the basis that the failure to furnish written grounds violated his fundamental rights under **Article 22(1) of the Constitution of India** and the statutory mandate of **Section 47 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS)**. Article 22(1) provides that an arrested person must be informed "as soon as may be" of the grounds for such arrest and has the right to consult and be defended by a lawyer of their choice. Section 47 of BNSS 2023 (analogous to Section 50 of the old Code of Criminal Procedure, 1973) similarly requires that a police officer arresting a person without warrant must immediately communicate "*the full particulars of the offence and grounds of arrest*" to the arrestee.

The **Bombay High Court**, in the proceedings below, **acknowledged a procedural lapse** on the part of the police **but nevertheless upheld the arrest**, reasoning that the gravity of the offence justified not quashing the arrest. Shah then appealed to the Supreme Court, which admitted the case to decide important questions of law about the requirements of communicating arrest grounds.



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Legal Issues

The Supreme Court framed **two primary issues**:

1. **Universality of the Right to Written Grounds: Whether in each and every arrest** – including arrests for offences under the Indian Penal Code (IPC, now replaced by the Bharatiya Nyaya Sanhita, 2023) as well as special statutes – **it is necessary to furnish the grounds of arrest to the accused, and specifically whether such grounds must be given in writing** (either before the arrest or immediately after arrest).
2. **Exceptional Situations and Validity of Arrest: Whether, in truly exceptional circumstances** where due to urgent exigencies it is not possible to immediately furnish the grounds of arrest (for example, during a swift on-the-spot arrest), **the failure to provide written grounds forthwith would automatically vitiate the arrest** – in other words, does non-compliance with the prompt notice requirement invalidate the arrest even when there are practical reasons for delay?

These issues called upon the Court to interpret the scope of the fundamental right under Article 22(1) and the statutory arrest procedure, and to clarify the mode and timing by which the grounds of arrest must be communicated to an arrestee.

Relevant Rules & Law

Constitutional Mandate (Article 22(1)): Article 22(1) of the Constitution of India is a fundamental right that **casts a mandatory, unqualified duty on authorities to inform an arrested person of the reasons for the arrest “as soon as may be”**. This provision is not a mere formality; the Supreme Court emphasized it as a *“fundamental safeguard of personal liberty”* under Article 21 (the right to life and personal liberty). The dual purpose of Article 22(1) is to ensure the person arrested can **understand the allegations immediately and exercise the right to consult counsel** and prepare a defense without delay.



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Failure to inform the grounds of arrest promptly undermines these rights and renders the safeguard illusory. Importantly, prior to this case, the Constitution did not explicitly specify **how** the communication must be made (oral or written), only that it be done promptly and in a manner the person can understand.

Statutory Requirement (Section 47, BNSS 2023): The Bharatiya Nagarik Suraksha Sanhita, 2023 – a comprehensive new criminal procedure code replacing the CrPC 1973 – reinforces the constitutional mandate. Section 47 of BNSS (corresponding to Section 50 of the old CrPC) requires that a police officer who arrests a person without a warrant “**forthwith communicate to the arrestee**” the full particulars of the offence and the grounds for arrest. This statutory rule applies to regular IPC offences (now under the Bharatiya Nyaya Sanhita, 2023) and similarly to arrests under special laws, unless those laws explicitly provide otherwise. Notably, **neither Article 22(1) nor Section 47 BNSS explicitly stated that the communication must be in writing** – prior practice often treated oral intimation as sufficient so long as the person generally understood the reason for arrest.

Related Jurisprudence: Before *Mihir Rajesh Shah*, there was some inconsistency in how courts viewed the mode of informing arrest grounds. For example, in *Pankaj Bansal v. Union of India (2024)* and *Prabir Purkayastha v. State (NCT of Delhi) (2024)*, the courts **suggested that ideally the grounds should be given in writing, but stopped short of declaring it an absolute requirement in every case.**

In a subsequent case, *Vihaan Kumar v. State of Haryana (2025)*, it was acknowledged that **providing a written note of reasons at the moment of arrest might not always be practical**, and thus there was “**no mandate to communicate the grounds of arrest in writing**” in each and every instance.

In effect, prior to the present decision, the law was understood as requiring prompt communication of reasons (often fulfilled by orally informing the accused), with a written communication being recommended as best practice but not strictly compulsory.



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Application & Analysis

1. Mandatory Nature of the Right – No Exceptions for Any Offence: The Supreme Court unequivocally held that the **constitutional mandate to inform the arrestee of the grounds of arrest applies to *all* arrests, under *all* laws, without exception.** Whether the detention is under the general criminal law (IPC/BNS 2023) or under special statutes like UAPA (Unlawful Activities Prevention Act) or PMLA, the requirement of communicating arrest reasons is equally applicable.

The Court stressed that this safeguard is intrinsic to Article 21's guarantee of personal liberty, forming part of the procedure established by law that is required to be just and fair. An arrest effectuated without promptly informing the accused of why they are being arrested is unconstitutional, as it deprives the person of liberty without due process. Thus, Shah's case was a clear example of a breach: he was not given written grounds, and mere oral statements (if any) were disputed and insufficient.

2. Mode of Communication – Written vs. Oral: In a landmark departure from the earlier understanding, the Court held that merely reading out or verbally telling the grounds of arrest is not enough to satisfy Article 22(1). The communication “must be in writing” and in a language the arrested person understands. The judgment explicitly noted that “*the objective of the constitutional mandate would not be fulfilled by mere reading out the grounds...such an approach would be antithesis to the purpose of Article 22(1)*”.

The rationale is that oral communication can be easily contested later (the arrestee might not recall or might misunderstand in the stress of arrest), and it leaves no verifiable record. Providing a written document listing the reasons for arrest serves a dual purpose: it empowers the accused by concretely informing them of the allegations (thus enabling them to seek legal counsel and prepare a defense), and it protects the investigating agency by serving as proof that the procedure was followed correctly.



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In Shah's case, the lack of written grounds meant he was effectively denied clear knowledge of the basis of his arrest at the crucial initial stage. The Court harmonized earlier precedents and firmly set a new bright-line rule: moving forward, the norm is written communication of arrest reasons** to the arrestee in all cases.

3. Exceptional Circumstances – A Balanced Framework: The Court acknowledged that **there may be practical situations where insisting on an immediate written notice at the exact moment of arrest is impractical.** For instance, if an offender is caught red-handed committing a violent crime, the priority is to swiftly restrain and neutralize the threat – the officer may not have the luxury to draft a written note on the spot. In such **genuinely exigent cases**, the Court allowed a **narrow exception**: the arresting officer can initially **convey the grounds orally** at the time of arrest. **However, this is only a temporary relaxation**, and the duty to provide written grounds is merely deferred, not dispensed with.

The Supreme Court set a strict **timeline** to fulfill this duty even in exceptional cases – the written grounds **must be supplied “within a reasonable time” and in any event no later than two hours before the arrestee is produced before a magistrate for the first remand hearing.** This two-hour prior window is designed to ensure that **before the crucial remand proceeding**, the accused and their lawyer have the document in hand and can **meaningfully exercise the right to oppose detention** or seek bail.

The Court observed that this timeframe strikes a **judicious balance** between safeguarding the arrestee's rights and preserving the operational needs of policing and investigations. In applying this to Shah's scenario, even if the police argued that immediate written notice was impractical at arrest, the fact remained that no written grounds were given even by the time of remand, which was a clear violation under the new standard.



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4. Consequences of Non-Compliance: Perhaps the most critical aspect of the judgment is the consequence it attaches to a failure to observe the above requirements. The Supreme Court declared that if the authorities **do not provide the written grounds of arrest within the stipulated timeframe (by at least two hours before the magistrate appearance)**, then **“the arrest will be rendered illegal”** and any subsequent remand would also be unlawful, entitling the arrestee to immediate release.

In Shah’s case, this principle meant that his arrest—conducted without written grounds furnished soon after—was constitutionally infirm. The Court underscored that an arrest made in violation of fundamental rights cannot be sustained in law. However, to temper this outcome with practical considerations, the Court noted that the **prosecution is not forever barred from proceeding if such a lapse occurs**. If an arrest is found illegal due to non-supply of grounds, the **investigating agency may release the person and then seek to arrest them again, but only after serving the written grounds of arrest (now complied with) along with a report explaining the reasons for the earlier delay**. The **magistrate would then scrutinize those reasons and decide whether to authorize custody, and this decision must be made within one week**.

This mechanism is meant to dissuade the police from ignoring the rule (since an arrest can fall apart and the accused go free), while still allowing that a serious offender is not granted impunity solely due to a technical lapse. It effectively forces law enforcement to prioritize constitutional procedure or face losing their case at the threshold.

Applying these principles, the Supreme Court in *Mihir Rajesh Shah* concluded that the authorities had indeed violated the appellant’s fundamental rights by not providing written grounds of arrest. The **rule of law** does not permit fundamental rights to be compromised based on the nature of the accusation. The appeal was disposed of with the Supreme Court laying down the above



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legal standards to be followed henceforth, rather than granting individual relief beyond what had already transpired in the interim.

Conclusion

The Supreme Court's judgment in *Mihir Rajesh Shah* is a **landmark ruling that transforms the arrest procedure by integrating constitutional guarantees into concrete requirements**. The Court held that **Article 22(1)** is an absolute mandate in every arrest and must be strictly complied with. It answered the issues resoundingly in favor of the accused's rights, **mandating written communication of arrest reasons** as a part of due process. In summary, the binding directives issued by the Court are:

1. **Universal Application:** The requirement to inform an arrestee of the grounds of arrest is **mandatory in every case, for all offences under all statutes**, without exceptions for special laws or serious crimes. This constitutional mandate applies across the board (IPC/BNS 2023 and special laws alike).
2. **Written Grounds in Appropriate Language:** The **grounds of arrest must be communicated in writing**, and the written document **must be in a language that the arrestee understands** (so that the information is truly conveyed effectively). Simply telling the reason orally or in a language not understood by the accused does *not* satisfy Article 22(1).
3. **Exception for Immediate Arrests (Oral intimation):** In exceptional situations where providing a written note at the moment of arrest is not practicable (for example, if a crime is ongoing or just occurred and urgent action is needed), the **officer may initially inform the accused of the reason orally. However, a written copy of the grounds must still be given within a reasonable time thereafter – in any case no later than two hours before the person is produced before the magistrate for initial remand**. This ensures that before any judicial scrutiny of detention, the accused has the written grounds.



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4. **Enforcement and Remedy: Non-compliance with the above requirements renders the arrest and subsequent remand illegal.** If the police fail to furnish written grounds as mandated, the **arrestee is entitled to be released** (freed from custody) due to the violation of fundamental rights. **The investigating agency, if it still seeks custody, must then *restart* the process** – providing the written grounds along with an explanation for the delay, which a magistrate will review and decide upon within seven days.

Additionally, the Supreme Court directed that a copy of this judgment be circulated to all High Courts and all state/UT governments to ensure uniform implementation across India. The clarity of these directions means that going forward, **police departments are expected to modify their arrest protocols** to comply, and magistrates must check for such compliance at the time of remand.

Broader Legal Implications

This decision has far-reaching implications for constitutional law and criminal procedure in India. It unequivocally **strengthens the protective scope of Article 22(1)** and aligns the arrest process with the requirements of **Article 21 (due process)**. By insisting on written communication of arrest grounds, the Supreme Court has effectively **elevated a procedural safeguard to a substantive right**, ensuring that the first interaction between state authority and citizen in the criminal justice process is documented and rights-compliant. This uniform rule applies to **all laws, including new codes and special statutes**, thereby eliminating any ambiguity that certain laws (like anti-terror or economic offense laws) could be exempt from such safeguards. It bridges a gap that previously existed, where the mode of communication was not specified, by imposing a *de facto* amendment in practice – now “informing” must ordinarily mean “*informing in writing*”.



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A notable broader implication is the message that **fundamental rights cannot be diluted by pragmatism or gravity of allegations**. The Supreme Court rejected the argument that because an offence is heinous, procedural rights could be given a backseat. This reinforces the principle that **the rule of law and rights-based safeguards operate even (and especially) in serious cases**, preventing a slide into a “ends-justify-means” approach. In practical terms, the ruling promotes **accountability in law enforcement**: police officers must now be prepared to justify arrests with written reasons from the very outset. This could lead to improved quality of arrests (discouraging arbitrary or poorly-grounded arrests, since writing the grounds forces clarity) and will serve as a check against misuse of power.

Furthermore, this case sets a precedent that future courts will rely on when examining the validity of arrests. It will likely be cited alongside classic decisions (like *DK Basu* guidelines on arrest and custody) as a **cornerstone of arrest jurisprudence**. The introduction of a clear **two-hour rule** is in itself a legal development – prior to this, no statute or judgment had quantified the timeframe in such concrete terms for providing arrest reasons. This effectively supplements **Section 47 BNSS** with a judiciary-crafted timeline.

Relevance to the Legal Profession and Constitutional Criminal Procedure

For legal practitioners, especially those preparing for judiciary exams or engaged in criminal practice, *Mihir Rajesh Shah* is a crucial case to understand as it redefines an essential procedure of arrest. **Defence lawyers** gain a powerful tool: if their client was not given written grounds of arrest, they can challenge the legality of the arrest and even seek immediate release based on this precedent. It enhances the ability of defense counsel to advocate for the accused’s rights at the earliest stage (for instance, during the remand hearing, a lawyer can argue that the arresting officer failed to meet the writing requirement, which now by law should result in the accused’s release).



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Prosecutors and law enforcement officials, on the other hand, must adapt their practices. They will need to ensure that at the time of any arrest (or at least very shortly thereafter), a written “grounds of arrest” note or memo is prepared and given to the arrestee. This might involve new training and protocols – for example, officers carrying printed forms or templates that can be quickly filled with specifics of the case. Police departments might introduce **standardized arrest memo forms** that include a section for “Grounds of Arrest (to be given to accused)”. In cases involving multiple agencies or quick operations, coordination will be required to avoid any oversight in delivering the written grounds.

From the perspective of **judicial officers (magistrates)** in the criminal procedure chain, this ruling means the magistrate at a remand hearing should actively verify whether the written grounds were provided in time. If not, the magistrate would be bound to view the custody as illegal. This could change the dynamics of first productions in court – magistrates may start asking the prosecution to submit a copy of the written grounds that were given to the accused, to satisfy themselves of compliance. In essence, it exemplifies the judiciary’s role in interpreting procedural laws in light of fundamental rights.

Questions & Answers

To solidify understanding of this case, here are some potential questions and model answers that could be useful for exam preparation:

Q1. According to the Supreme Court’s ruling in *Mihir Rajesh Shah*, when (if ever) is it permissible for police to give only an oral explanation of the grounds of arrest, and what deadline is set for providing a written explanation?

A2. The Supreme Court recognized that in **exceptional circumstances** – for example, when a crime is caught in progress and an immediate arrest is necessary to prevent harm or escape – the arresting officer may initially convey



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the reasons for arrest **orally** if giving a written note at that exact moment is impractical. However, this is only a stop-gap. The Court made it mandatory that even in such cases a **written** statement of the grounds **must be provided within a reasonable time, and in any case no later than two hours before the arrested person is produced before the magistrate for remand.** In short, oral communication can be used at the moment of an urgent arrest, but a written document must follow, and absolutely must be in the accused's hands at least 2 hours prior to the first court hearing.

Q3. What are the consequences if authorities fail to furnish the written grounds of arrest to the accused as required by the *Mihir Rajesh Shah* judgment?

A3. If the police do not provide the written grounds of arrest by the time specified (i.e. by 2 hours before the magistrate hearing), the Supreme Court has held that **the arrest and any ensuing remand are illegal.** The accused is entitled to be **released from custody** due to this violation of fundamental rights. The case does allow investigators to **cure the defect** afterward: the agency may re-arrest or seek fresh custody of that person, but **only after serving the written grounds of arrest (now complying with the rule) along with a report explaining the delay** in the initial instance. The magistrate will then consider that explanation within a week. Essentially, a failure to follow the rule gives the accused an immediate remedy (release), and puts the onus on authorities to justify themselves if they wish to detain the person again.



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