

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.437 of 2025

Arising Out of PS. Case No.-743 Year-2024 Thana- CHAPRA TOWN District- Saran

Prithwiraj Das, S/O Pratap Chandra Das Resident of Sankalp II Tower 6 Flat
No. 14 and 15 F Action Area 1, P.O. and P.S.- New Town, Koklata, District-
North 24 Parganas, Pin code- 700156. West Bengal

... .. Petitioner/s

Versus

1. The State of Bihar Through the Secretary, Home Dept., Govt. of Bihar,
Patna Bihar
2. The Superintendent of Police, Saran Bihar
3. The Station House Officer, Town P.S., Chapra Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Gautam Kumar Kejriwal, Advocate
Mr. Atal Bihari Pandey, Advocate
Mr. Alok Kumar Jha, Advocate
Mr. Mukund Kumar, Advocate
Mr. Aditya Raman, Advocate
For the Respondent/s : Mr. Akash Kumar Advocate
Mr. Sunil Kumar Pandey, APP

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
CAV JUDGMENT

Date : 10-07-2025

1. The present revision has been preferred by the petitioner, assailing the order, dated 16.04.2025, passed by the Learned Chief Judicial Magistrate, Saran at Chapra, in connection with Saran Town P.S. Case No. 743 of 2024, whereby and whereunder, the petitioner was remanded to judicial custody. The petitioner has prayed for quashing and setting aside the said remand order on grounds of alleged illegality in arrest, non-



compliance with mandatory procedural safeguards and violation of constitutional and statutory rights, specifically enshrined under Article 22(1) of the Constitution of India and Section 47 of the Bhartiya Nagrik Suraksha Sanhita, 2023.

2. The genesis of the case lies in a written complaint, dated 25.12.2024, submitted by the informant, Shri Pankaj Kumar Sinha, a resident of District-Chapra, Saran, and a permanent resident of Newtown, Kolkata. On the basis of the said complaint, Saran Town P. S. Case No. 743 of 2024 was registered under appropriate sections of the Indian Penal Code (as replaced by BNSS) alleging offences of criminal breach of trust, cheating, and issuance of dishonoured cheques.

3. It was alleged that the informant had extended financial assistance of Rs. 40,00,000/- through bank transfers to the proprietors of Skyline Builders, namely, Shri Anjan Kumar Maity and Shri



Prithvi Raj Das, both residents of Kolkata, under a notarised agreement, dated 24.08.2022. The agreement promised repayment within 12 months against secured property.

4. Further, it was alleged that on 24.09.2023, the informant paid Rs. 50,00,000/- through bank transfer to Shri Prithvi Raj Das, the Proprietor of Property 360° for the purchase of a flat of 1083 sq. ft. super built-up area along with a car parking space of 135 sq. ft., against a total consideration of Rs. 72,00,000/-, under another notarised agreement. On the same day, an additional sum of Rs. 38,32,500/- was transferred for the purchase of a commercial shop measuring 182.5 sq. ft., and Rs. 50,00,000/- was allegedly paid in cash.

5. The accused persons, it is stated, failed to deliver the promised properties or refund the invested amount. When pressed, accused Shri Prithvi Raj Das issued seven cheques drawn on State Bank of India in



favour of the informant's firm "Global Solution." All the cheques were dishonoured. When further confronted, the accused allegedly used abusive language and issued threats of physical harm, including murder.

6. The petitioner was named as an accused in the said FIR. It is the categorical assertion by the petitioner that he was not informed of the registration of any such case against him and was neither served with a copy of the FIR nor informed of the grounds or reasons for arrest prior to being taken into custody.

7. On 13.04.2025, a police team from Chapra Town Police Station visited the petitioner's residence at Sankalp II, Tower 6, Flat No. 14+15F, Action Area I, Newtown, Kolkata and arrested him. The petitioner was taken to Newtown Police Station and thereafter produced on 14.04.2025 before the Learned Chief Judicial Magistrate, Sadar Court, Barasat, North 24 Parganas, where a transit remand was sought by the



Chapra police.

8. It is noteworthy that till this stage, the petitioner was allegedly neither informed of the grounds of arrest nor served with the FIR. The arrest memo handed over to the petitioner's wife was allegedly incomplete, with several columns left blank, including the "reasons for arrest."

9. A certified copy of the FIR was applied for by the petitioner's wife on 15.04.2025 through legal counsel in Chapra, and the same was obtained from the Civil Court, enabling the petitioner's legal team to understand the allegations against him.

10. Pursuant to the order, dated 14.04.2025, granting transit remand, the petitioner was transported to Chapra and produced before the Learned Chief Judicial Magistrate, Saran at Chapra on 16.04.2025, and a prayer was made by the police for judicial remand.

11. On the same day, the petitioner's



Advocate from Kolkata, Mr. Siddharth Paul, along with local lawyers, attempted to file a regular bail application under Section 437 of the Code of Criminal Procedure, 1973. The petition was prepared on the basis of the FIR copy obtained from the Civil Court. However, the Learned Chief Judicial Magistrate refused to entertain the bail application citing the inability of any official to identify the petitioner. The Court observed that unless the petitioner was first remanded to judicial custody and identified by jail authorities, his counsel could not be permitted to file or argue the bail application. Consequently, the petitioner was remanded to judicial custody on 16.04.2025. No mention of the attempted filing of the bail petition was made in the judicial order of that day.

12. The petitioner's advocate from Kolkata returned the same evening due to the impasse. Thereafter, the petitioner's wife procured the jail-authorized vakalatnama and, with the assistance of



local lawyers, filed a formal bail petition on 19.04.2025. Owing to the non-availability of the presiding officer, the matter was adjourned.

13. The bail hearing was conducted on 23.04.2025, with the petitioner's advocate from Kolkata in attendance. The matter was heard in part and concluded on 24.04.2025, when arguments were advanced by the Additional Public Prosecutor and counsel for the informant. Orders on the bail application were reserved.

14. Learned Counsel for Petitioner has consistently maintained that there was Procedural Irregularities as:

(a) He was not informed of the FIR at any stage prior to or during transit;

(b) The grounds of arrest were neither verbally communicated nor provided in writing;

(c) The arrest memo provided to his wife was materially incomplete;



(d) There was a failure by the police to comply with the mandate of Section 47 of the BNSS and Article 22(1) of the Constitution;

(e) The conduct of the remand proceedings on 16.04.2025 violated the principles laid down in *Prabir Purkayastha [2024(8) SCC 254]* and *Vihaan Kumar [2025 SCC OnLine SC 269]* requiring due compliance with constitutional safeguards in arrests and remands.

15. These factual contentions form the foundation of the present criminal revision application seeking quashing and setting aside of the judicial remand order, dated 16.04.2025.

16. The core issue in this case is the failure to provide written grounds of arrest, a pre-requisite under Article 22(1) of the Constitution of India and Section 47 of the Bhartiya Nagrik Suraksha Sanhita, 2023 (BNSS).

17. The Hon'ble Supreme Court, in



Prabir Purkayastha v. State (NCT of Delhi) [(2024) 8 SCC 254], emphasized that the accused must receive “specific facts necessitating the arrest” in writing, not just the generic "reasons" that police often list. Grounds must be provided “as a matter of course and without exception”, and cannot be rendered retrospectively valid by subsequent events (e.g., filing of charge sheet). Non-compliance renders both the arrest and remand illegal ab initio.

18. Further, BNSS Section 47 echoes this constitutional requirement; failure to comply renders the arrest illegal and without jurisdiction.

19. ***Pankaj Bansal v. Union of India*** , reported in ***(2024) 7 SCC 576*** acknowledged in *Purkayastha*, establishes a mandatory procedural safeguard: grounds must be communicated in writing, in a language understood by the accused.

20. In ***Vihaan Kumar v. State of Haryana***, reported in ***(2025) 5 SCC 799***, reinforcing the



principle, the Hon'ble Supreme Court invalidated an arrest in Haryana due to non-compliance with Article 22(1), holding that no subsequent judicial process can cure the defect.

21. Having heard the learned counsels for the petitioner and the opposite party, CBI and on perusal of the entire materials on record, this Court finds that the order of the learned Chief Judicial Magistrate, Saran at Chapra, refusing the bail petition for hearing is palpably illegal on the ground that an accused after being produced before the Magistrate, the first and foremost duty of the Magistrate is to take the accused into judicial custody. At this stage, an accused can execute Vakalatnama being identified by the Court Inspector. It is absolutely baseless to hold that the Magistrate cannot accept Vakalatnama on behalf of the accused unless it is certified and countersigned by the Superintendent of Correctional Home. If such contention is accepted, no accused would be permitted



to file bail application on the first date of production in Court.

22. Be that as it may, I am told by Mr. Gautam Kejriwal, learned Advocate for the petitioner that the accused / petitioner has already been released on bail.

23. Therefore, at this stage, entire discussions with regard to pre-arrest, obligation of the arresting officer or denial of entertainment of application for bail on the date of production of the accused before the Chief Judicial Magistrate, Saran at Chapra, become only academic without any fruitful result in the instant revision.

24. When the accused / petitioner has already been released on bail, illegality or jurisdictional irregularity committed by the learned Chief Judicial Magistrate, Saran at Chapra cannot now be an issue for adjudication.

25. At this stage, no order is warranted in the



instant revision.

Accordingly, the instant revision is disposed of without any adjudication as to the legality, validity and propriety of the impugned order, dated 16th of April, 2025.

(Bibek Chaudhuri, J)

skm/-

AFR/NAFR	NAFR
CAV DATE	24.06.2025
Uploading Date	10.07.2025
Transmission Date	10.07.2025

