



Serial No. 01
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

BA. No. 9 of 2026

Date of Decision: 23.03.2026

Shri Labius Areng
Son of Shri Sudid Sangma
Of Dangar Dope, P.O- Dangar
P.S- Mawsynram, East Khasi Hills
District, Meghalaya
Presently lodged in District Prison
& Correctional Home at Shillong

..... **Petitioner**

- Vs-

The State of Meghalaya
Represented by its Commissioner
and Secretary (Home), Shillong

..... **Respondent**

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner/Appellant(s) : Mr. S. Pandit, Adv with
Ms. S. D. Sangma, Adv.

For the Respondent(s) : Mr. N.D. Chullai, AAG with
Mr. R. Gurung, GA.
Ms. R. Colney, GA

i)	Whether approved for reporting in Law journals etc.:	Yes/No
ii)	Whether approved for publication in press:	Yes/No



JUDGMENT AND ORDER (ORAL)

1. Heard Mr. S. Pandit, learned counsel for the petitioner, who has submitted that the brief story of the case involving petitioner herein is that on 03.09.2025, a vehicle bearing registration No. ML-05-R-6828 was intercepted by the police at Sawlad Madanriting, Shillong. On search being made, about 30 (thirty) numbers of small black packets containing 200 (two hundred) pieces of orange color tablets suspected to be Yaba (amphetamine) which is a contraband substance was recovered, the total weight is the same being 595.07 grams.

2. The driver and the other occupant of the said vehicle were detained by the police in this connection. The said vehicle is said to belong to Smti. Griti Areng, who is running a hotel at Lapalang, Shillong (Hotel City Palace Inn), it was his said cousin sister, who has requested the petitioner to enquire as to what happened to the said vehicle, and accordingly, the petitioner went to the place where the said vehicle had been detained. However, on his arrival at the place of occurrence (PO), the police have immediately arrested him without disclosing any reasons for doing so.

3. The learned counsel has also submitted that when the police had arrested the petitioner on 03.09.2025, however, according to the Arrest Memo, he was shown to have been arrested at 10:30 AM on 04.09.2025. Admittedly, a format indicating the grounds of arrest have also been furnished to the petitioner



and he has put his signature thereon.

4. In the said format (grounds of arrest) which is practically a checklist, only two grounds of arrest have been marked as against the petitioner, the first being “ you have committed a cognizable offence in the presence of the police officer” and secondly, that “you are suspected of being involved in a cognizable offence punishable with imprisonment for a term that may be less than seven years or which may extend to seven years, whether with or without a fine”.

5. It is the submission of the learned counsel that, apart from the fact that the petitioner is nowhere connected to the offence alleged to have been committed, the mode and manner and the contents of the format of intimation of the grounds of arrest, is totally illegal and is a complete violation of the rights of the petitioner guaranteed to him under Article 22 (1) of the Constitution of India, read with Section 52 (1) of the NDPS Act.

6. The learned counsel has further submitted that, even, if it is said that the petitioner has committed a cognizable offence for which punishment is less than seven years or to the extent of seven years, then the mandatory requirement of law with regard to issuance of prior notice as prescribed and provided under Section 35 (3) BNSS has not been complied with.

7. The learned counsel has however stress on the fact that since the proper grounds of arrest have not been intimated to the petitioner, therefore, his



arrest and detention is contrary to law for which, he may be immediately released from custody.

8. The learned counsel has also submitted that the law in this regard is well settled, the Hon'ble Supreme Court in a number of judgments has emphasized that, grounds of arrest must be provided to the arrested person in such a manner as to sufficiently conveyed knowledge of the basic facts constituting the grounds to the arrested person in a language he or she understand which has not been done so in this case.

9. In this regard, the learned counsel has referred to the case of Prabir Purkayastha v. State (NCT of Delhi), (2024) 8 SCC 254, para 19, 21 28, 29, and also the case of Vihaan Kumar v. State of Haryana and Anr, (2025) 5 SCC 799, para 21, 42, also the case of Mihir Rajesh Shah v. State of Maharashtra and Anr., Criminal Appeal No. 2195 of 2025 (order dated 06.11.2025) para 39, 40, 45. The case of Shri. Robinus Ripnar v. State of Meghalaya, BA No. 38 of 2025 (order dated 26.08.2025) para 21, 22, 24, 29 and 32, and has submitted that in all the above cited cases, the principle and legal proposition that grounds of arrest must be effectively and legally intimated to the arrested person, has been reiterated by the courts.

10. The second limb of argument advanced by the learned counsel is that, though the charge sheet has since been filed in this case, however, as has been



held in the authorities cited above, that since there has been a violation of the rights of the arrested person, particularly in respect of the provision of Article 22 (1), therefore, as has been held at para 21 in the case of Prabir Purkayastha (supra), “*Mere fact that a charge sheet has been filed in the matter, would not validate the illegality and the unconstitutionality committed at the time of arresting the accused and the grant of initial police custody remand to the accused*”. In the case of the petitioner herein, the filing of the charge sheet would not be an impediment for releasing him on bail under the facts and circumstances of his arrest.

11. It is prayed that this Court may be pleased to enlarge the petitioner/accused on bail with any conditions to be imposed which will be duly complied with.

12. Per contra, Mr. N.D. Chullai, learned AAG along with Ms. R. Colney, learned GA, while opposing the submission and contention made by the learned counsel for the petitioner, has submitted that from the FIR, it is seen that the case involved seizure of a large number of contraband substances, 6000 (Six thousand) numbers of Yaba (amphetamine) tablets weighing about 600 (Six hundred) grams which constituted commercial quantity. Therefore, the allegations being serious in nature, the petitioner have been found to be involved as he is a worker in the said hotel, that is, Hotel City Palace Inn, and as such, he



is aware of what is going on in that hotel.

13. The learned AAG has further submitted that the main ground relied upon by the petitioner in this case is that, since the grounds of arrest have not been intimated to him, his arrest is unconstitutional, that is, his fundamental rights have been violated, for which illegal arrest he is entitled to be enlarged on bail.

14. As to whether the petitioner/accused was aware or was intimated of the grounds of arrest, the learned AAG has led this Court to the document annexed at page 16 of this petition which is the copy of the intimation of grounds of arrest. What is seen therein is that the petitioner has been informed that he is suspected of being involved in a cognizable offence punishable with imprisonment for a term that may be less than 7(seven) years or which may extend to 7(seven) years. He has also subscribed his signature thereto, as such, he cannot claim that he was never intimated of the grounds of arrest.

15. The learned AAG has also submitted that in a similar case, this Court has dealt with this issue, such order being found in the case of Shri. Ronaldo Khongwir v. State of Meghalaya, BA No. 6 of 2026 (order dated 26.02.2026) wherein at para 13, 19, and 21 of the same, this Court relying on the authority of the case of State of Karnataka v. Sri Darshan 2025 SCC Online SC 1702, has observed that the accused person in that case has been duly intimated of the



grounds of arrest, since he has penned his signature in such intimation form, and secondly, since the charge sheet has been filed, being aware of the specific allegation made against him, and further, that no apparent prejudice has been caused to the accused person in this regard, therefore, it cannot be said that the accused person has not been intimated of the grounds of arrest. The prayer made therein was rejected.

16. The case of the petitioner herein being similar in facts and circumstances, this petition is devoid of merits and the same may be rejected, submits the learned AAG.

17. This Court has carefully considered the case of the parties. The fact that an FIR was filed necessitating the registration of the said FIR as ANTF PS Case No. 10(9)2025 under Section 22 (c)/25/29 NDPS Act, is not disputed by the parties. The fact that the petitioner herein has also been arrested in connection with such case is also admitted.

18. That the case, on investigation being completed, the Investigating Officer (I/O) has since submitted the charge sheet, finding a prima facie case made out against the accused persons involved, including the petitioner herein. Charges are yet to be framed by the Trial Court.

19. The petitioner has now approached this Court with a prayer for grant of bail, the primary ground for such prayer being that his arrest initially is



violative of his constitutional rights, inasmuch as, at the time when he was arrested, he was not intimated of the grounds of arrest which is a clear violation of Article 22 (1) and other related provisions of law.

20. The contention of the petitioner is that what was produced before him at the time of his arrest was a format under the heading “*Intimation of grounds of arrest*” which appears to be a prepared format with a checklist of accusations/charges said to have been committed by the accused person. In the said format presented to the petitioner, two check boxes have been ticked to indicate the said charges against the petitioner, the relevant one as has been pointed out is that, he is suspected of being involved in a cognizable offence, the punishment of which is less than seven years which may extend to seven years.

21. What is relevant to note in the context of this case is the observations of the Hon’ble Supreme Court in the case of Vihaan Kumar (supra) at para 26 (series) which is reproduced herein below as:

“**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.”

22. When the FIR was registered, the offence said to have been committed by the accused person including the petitioner herein are under Section 22 (c)/25/29 of the NDPS Act 1985, which provides for punishment for an offence involving possession etc., of commercial quantity of contraband substances. The punishment for such offence is imprisonment for a period of ten years minimum which may extend to twenty years with fine.

23. If one goes by the intimation of grounds of arrest presented to the petitioner, there is indeed no indication that the charges against him entails a



punishment of ten years or so. This shows that sufficient knowledge of facts constituting grounds of arrest, has not been effectively communicated to the petitioner herein in clear terms.

24. As observed, since the charge sheet have been filed in the meantime, the petitioner is aware of the charges against him, being initially communicated of the grounds of arrest for having committed an offence carrying a punishment of seven years or so, but was ultimately informed that he is charged for having committed an offence prescribing a minimum punishment of ten years, therefore, it can be said that prejudice has been caused to him as far as his defense is concerned.

25. Under the peculiar facts and circumstances of this case, this Court is convinced that the petitioner has been able to make out a case of not having been effectively communicated the grounds of arrest upon his arrest.

26. Accordingly, as has been observed in the case of Vihaan Kumar (supra) at para 26.6 (supra), the prayer for grant of bail irrespective of the statutory restrictions is found acceptable by this Courts.

27. The petitioner is hereby directed to be released on bail on the following conditions:

- i) That he shall not abscond or tamper with the evidence or witnesses;



- ii) That he shall attend court as and when called for;
- iii) That he shall not leave the jurisdiction of Meghalaya, except with due permission of the court concerned; and
- iv) That he shall bind himself on a personal bond of ₹ 50,000/- (Rupees fifty thousand) with one surety of like amount to the satisfaction of the Trial Court.

28. Before parting, this Court having seen the format, wherein, the intimation of grounds of arrest have been drawn out, would observe that such format is contrary to law, since it has been clearly indicated that specific facts have to be spelled out for the accused person to understand the allegations against him, as such, such kind of format is found not compatible. The authorities concerned would do well to rectify this situation.

29. Petition disposed of. No Costs.

Judge