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Arrest Illegal If Reasons Not Informed; When Art 22(1) Is Violated, Court Must Grant Bail Despite Statutory Restrictions : Supreme Court

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Noting that informing an arrested individual of the grounds for their arrest is a fundamental right under Article 22(1) of the Constitution, the Supreme Court today (February 7) stressed that this information must be conveyed clearly and

effectively. The Court also emphasized the magistrate's duty to ensure compliance with Article 22(1) during remand, noting that any violation could warrant the person's release or justify the granting of bail, even in cases with statutory restrictions.

"Even if statutory restrictions on grant of bail exist, the statutory restrictions do not affect the power of the court to grant bail when violation of Article 21 and 22 of the Constitution is established.", the Court observed.

A bench of **Justices Abhay S Oka and N Kotiswar Singh** delivered separate but concurring judgments discussing the mandatory nature of informing an arrested person of the grounds for their arrest, as guaranteed by Article 22(1) of the Indian Constitution.

Some of the relevant observations made by **Justice Oka** are:

"The information on 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 object of the constitutional safeguard is achieved."

"When arrested accused alleges non-compliance with the requirements of article 22(1) the burden will always be on investigating officer agency to prove compliance with requirement of 22(1.) 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 under Article 22(1) of the Constitution. Therefore, non-compliance with the requirements of Article 22(1) vitiates the arrest of the accused."

"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. When violation of Article 22(1) is

established, it is the duty of the court to forthwith order release of the accused. That will be a ground to grant bail”, the court observed.

Even Non-Compliance Of Section 50 CrPC Vitiates Arrest, Says Justice N Kotiswar Singh

In addition to the observation made by **Justice Oka**, **Justice Singh** observed that even non-compliance with Section 50 of CrPC, which mandates informing the arrested person's friends, relatives, or nominated individuals about the arrest and the location of detention, vitiates arrest. He said the provision ensures the detained person's access to legal recourse and prevents their disappearance. Failure to comply with Section 50 can also render the detention illegal.

“What I have added is that CrPC provides for Section 50 to provide forthwith information regarding such arrest and place where the arrested person is being held to. Any of his friends, relatives or such other persons may be disclosed or nominated by the arrested persons for the purpose of giving such information .So what I have added is that this in addition to the information furnished with accused... It is primarily to ensure that the accused, who is being detained, he may not have easy access or may not be expedient for him to move, etc for which it is important to give information and grounds to his relatives or friends as contemplated in Section 50. Therefore, this is in addition, this is also important to be abided by the detaining authority, failing which the detention may be also rendered illegal.”

Background

The Court heard the Appeal filed by one Vihaan Kumar against the Punjab & Haryana High Court's decision rejecting his Writ Petition alleging illegal arrest and seeking CCTV footage was dismissed. The High Court accepted the State's timeline, finding no 24-hour rule violation, and rejected Kumar's claim of not being informed of the arrest grounds.

The underlying case involved fraud allegations against Petitioner by Games Kraft Technologies' CEO.

Following the rejection of his petition by the High Court, he appealed to the Supreme Court.

Because the grounds were not communicated to the Petitioner, the Supreme Court overturned the High Court's decision and directed his immediate release.

Other reports about the judgment can be read here.
(<https://www.livelaw.in/tags/vihaan-kumar-versus-the-state-of-haryana>)

**Case Title: VIHAAN KUMAR Versus THE STATE OF HARYANA AND ANR, SLP(CrI)
No. 13320/2024**

Citation : 2025 LiveLaw (SC) 169

Click here to read/download the judgment

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