HC-KAR

NC: 2026:KHC:60797
CRL.P No. 13177 of 2026

CNR: KAHC010592902026

R

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 2ND DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE S VISHWAJITH SHETTY

CRIMINAL PETITION NO. 13177 OF 2026

BETWEEN:

NAVEEN

...PETITIONER

(BY SRI UTSAV GOWDA P.S, ADV.)

AND:

STATE OF KARNATAKA
BY ALDUR PS, REP. BY SPP
HIGH COURT OF KARNATAKA
AT BENGALURU - 01.

...RESPONDENT

(BY SRI JAGADEESHA B.N, SPP A/W
SRI CHANNAPPA ERAPPA, HCGP)

Digitally signed by NANDINI D
Location: HIGH COURT OF KARNATAKA

THIS CRL.P IS FILED U/S 439 CR.PC (FILED U/S 483 BNSS) PRAYING TO ENLARGE THE PETITIONER ON BAIL IN CR.NO.155/2025 FOR THE OFFENCE P/U/S 352,351(2),85,49,103 R/W 3(5) OF BNS AND SEC.4 OF D.P ACT BEFORE RESPONDENT ALDUR P.S. PENDING STATION PENDING ON THE FILE OF THE LEARNED PRL.CIVIL JUDGE AND J.M.F.C CHIKKAMAGALURU IN CR.NO.155/2025.

THIS PETITION HAVING BEEN HEARD AND RESERVED ON 28.10.2026, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE S VISHWAJITH SHETTY

CAV ORDER

1. This petition under Section 483 of BNSS, 2023, is filed by accused no.1 with a prayer to enlarge him on bail in S.C.No.98/2026 pending before the Court of II Addl. District & Sessions Judge, Chikkamagaluru, arising out of Crime No.155/2025 registered by Aldur Police Station, Chikkamagaluru District, for the offences punishable under Sections 352, 351(2), 85, 49, 103 read with 3(5) of BNS, 2023 and Section 4 of the Dowry Prohibition Act.

2. Heard the learned Counsel for the parties.

3. FIR in Crime No.155/2025 was registered by Aldur Police Station, Chikkamagaluru District, for the aforesaid offences against the petitioner and two others based on the first information dated 12.10.2025 received from Shubha - mother of deceased Netharavathi. In the said case, petitioner was arrested on 14.10.2025 and subsequently remanded to judicial custody. His bail application filed before the jurisdictional Sessions Court in Crl. Misc. No.159/2026 was rejected on 09.04.2026. Therefore, petitioner is before this Court.

4. Learned Counsel for the petitioner having reiterated the grounds urged in the petition, submits that the records would reveal that petitioner was in custody of the police in the present case from 11.00 a.m. on 14.10.2025 onwards. He was produced before the jurisdictional Magistrate on 15.10.2025 at 5.45 p.m. Since the petitioner was not produced before the jurisdictional Magistrate within 24 hours from the time of his arrest, his detention becomes illegal. There is violation of Articles 21 & 22(2) of the Constitution of India, and therefore, petitioner is entitled for bail as a matter of right. In support of his arguments, he has placed reliance on the judgment of the Hon'ble Supreme Court in the case of **DIRECTORATE OF ENFORCEMENT VS SUBHASH SHARMA - 2025 INSC 141**, and in the judgment of the High Court of Kerala in the case of **BISWAJIT MANDAL VS INSPECTOR, NARCOTIC CONTROL BUREAU, COCHIN (Bail Application No.8581/2025 disposed of on 12.08.2025)**.

5. Per contra, learned SPP who has opposed the bail application, submits that petitioner had voluntarily appeared

before the police on 14.10.2025 at 11.00 a.m., but he was arrested on the said date only at 9.45 p.m. Though petitioner had voluntarily appeared before the police, he had not cooperated for the purpose of investigation, and therefore, he was not arrested immediately. He submits that merely for the reason that petitioner was in the police station from 11.00 a.m. on 14.10.2025, it cannot be said that he was arrested and was in detention. In support of his arguments, he has placed reliance on the judgment of the Hon'ble Supreme Court in the case of **SUBHASHREE DAS ALIAS MILLI VS STATE OF ORISSA & OTHERS - (2012)9 SCC 729**, and also on the judgment of the High Court of Judicature of Bombay in the case of **MANOHAR SHARAD PATHARE VS THE STATE OF MAHARASHTRA & ORS. (W.P.No.3221/2026 disposed of on 21.08.2026)**. Accordingly, he prays to dismiss the petition.

6. The undisputed facts of the case are, FIR was registered against the petitioner and his parents in the present case on 12.10.2025 for the offences punishable under Sections 352, 351(2), 85, 49, 103 read with 3(5) of BNS, 2023, based on the first information received from the mother of deceased

Nethravathi, who was the wife of the petitioner herein. During the course of investigation of the said case, petitioner had voluntarily surrendered before the police on 14.10.2025 at about 11.00 a.m. He was shown as arrested in the present case at 9.45 p.m. on 14.10.2025 and produced before the jurisdictional Magistrate on 15.10.2025 at 5.45 p.m.

7. Article 22 of the Constitution of India, which provides for protection against arrest and detention in certain cases, reads as under:

> ***"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.*
>
> *(2). Every person who is arrested and detained in custody shall be produced before the nearest magistrate within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place of arrest to the court of the magistrate and no such person shall be detained in custody beyond the said period without the authority of a magistrate.*
>
> *(3) Nothing in clauses (1) and (2) shall apply—*

(a) to any person who for the time being is an enemy alien; or

(b) to any person who is arrested or detained under any law providing for preventive detention.

(4) No law providing for preventive detention shall authorise the detention of a person for a longer period than three months unless—

(a) an Advisory Board consisting of persons who are, or have been, or are qualified to be appointed as, Judges of a High Court has reported before the expiration of the said period of three months that there is in its opinion sufficient cause for such detention:

Provided that nothing in this sub-clause shall authorise the detention of any person beyond the maximum period prescribed by any law made by Parliament under sub-clause (b) of clause (7); or

(b) such person is detained in accordance with the provisions of any law made by Parliament under sub-clauses (a) and (b) of clause (7).

(5) When any person is detained in pursuance of an order made under any law providing for preventive detention, the authority making the order shall, as soon as may be, communicate to such person the grounds on which the order has been made and shall afford him the earliest opportunity of making a representation against the order.

(6) Nothing in clause (5) shall require the authority making any such order as is referred to in that clause to disclose facts which such authority considers to be against the public interest to disclose.

(7) Parliament may by law prescribe—

(a) the circumstances under which, and the class or classes of cases in which, a person may be detained for a period longer than three months under any law providing for preventive detention without obtaining the opinion of an Advisory Board in accordance with the provisions of sub-clause (a) of clause (4);

(b) the maximum period for which any person may in any class or classes of cases be detained under any law providing for preventive detention; and

(c) the procedure to be followed by an Advisory Board in an inquiry under sub-clause (a) of clause (4)."

8. Section 58 of BNSS, 2023, which is corresponding to Section 57 of Cr.PC, provides that person arrested not to be detained more than twenty-four hours. Section 58 of BNSS, 2023, reads as under:

*"**58. Person arrested not to be detained more than twenty-four hours.-** No police officer shall detain in custody a person arrested without warrant for a longer period than under all circumstances of the case is reasonable, and such period shall not, in the absence of a special order of a Magistrate under section 187, exceed twenty-four hours exclusive of the time necessary for the journey from the place of arrest to the Magistrate's Court, whether having jurisdiction or not."*

9. Article 22(2) of the Constitution of India mandates that every person who is arrested and detained in police custody shall be produced before the nearest magistrate within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place of arrest to the court of the magistrate and no such person shall be detained in custody beyond the said period without the authority of the Magistrate.

10. Section 58 of BNSS, 2023, which is incorporated in terms of the above Article, mandates that no police officer shall detain a person in custody without warrant for a longer period than under all the circumstances of the case was reasonable, and such period shall not, in the absence of a special order of a Magistrate under Section 187, exceed twenty-four hours excluding the time necessary for journey from the place of arrest to the Court of Magistrate.

11. Section 43 of BNSS, 2023, which is corresponding to Section 46 of Cr.PC, provides for power to arrest. Section 43 of BNSS, 2023, reads as under:

"43. Arrest how made.- *(1) In making an arrest the police officer or other person making the same shall actually touch or confine the body of the person to be arrested, unless there be a submission to the custody word or action:*

Provided that where a woman is to be arrested, unless the circumstance indicate to the contrary, her submission to custody on an oral intimation of arrest shall be presumed and, unless the circumstances otherwise require or unless the police officer is a female, the police officer shall not touch the person of the woman for making her arrest.

(2) If such person forcibly resists the endeavour to arrest him or attempts to evade the arrest, such police officer or other person may use all means necessary to effect the arrest.

(3) The police officer may, keeping in view the nature and gravity of the offence, use handcuff while making the arrest of a person or while producing such person before the court who is a habitual or repeat offender, or who escaped from custody, or who has committed offence of organised crime, terrorist act, drug related crime, or illegal possession of arms and ammunition, murder, rape, acid attack, counterfeiting of coins

and currency-notes, human trafficking, sexual offence against childre, or offence against the State.

(4) Nothing in this section gives a right to cause the death of a person who is not accused of an offence punishable with death or with imprisonment for life.

(5) Save in exceptional circumstances, no woman shall be arrested after sunset and before sunrise, and where such exceptional circumstance exist, the woman police officer shall by making a written report, obtain the prior permission of the Magistrate of the fir class within whose local jurisdiction the offence is committed or the arrest is to be made."

12. In Biswajit Mandal's case supra, the High Court of Kerala, in paragraph nos.15 & 16 has observed as under:

"15. ..... The erstwhile Section 46 of Cr.P.C. was considered by the Supreme Court in ***State of Haryana and Others v. Dinesh Kumar*** *[(2008) 3 SCC 222} and after referring to an earlier decision, observed that "the word 'arrest' when used in its ordinary and natural sense, means the apprehension or restraint or the deprivation of one's personal liberty. The question whether the*

person is under arrest or not, depends not on the legality of the arrest, but on whether he has been deprived of his personal liberty to go where he pleases."

16. In an earlier decision in Directorate of Enforcement v. Deepak Mahajan and Another [(1994)3 SCC 440], the Supreme Court had observed that "the word 'arrest' when used in its ordinary and natural sense, means the apprehension or restraint or the deprivation of one's personal liberty. The question whether the person is under arrest or not, depends not on the legality of the arrest, but on whether he has been deprived of his personal liberty to go wherever he pleases. When used in the legal sense in connection with criminal offences, an 'arrest' consists in the taking into custody of another person under authority empowered by law, for the purpose of holding or detaining him to answer a criminal charge or of preventing the commission of a criminal offence. The essential elements to constitute an arrest in the above sense are that there must be an intent to arrest under the authority, accompanied by seizure or detention of the person in the manner known to law, which is so understood by the person arrested.""

13. In the case of **NIRANJAN SINGH & ANOTHER - PRABHAKAR RAJARAM KHAROTE & OTHERS - (1980)2 SCC 559)**, the Hon'ble Supreme Court in paragraph no.7, has observed as under:

> *"7. When is a person in custody, within the meaning of Section 439 CrPC? When he is in duress either because he is held by the investigating agency or other police or allied authority or is under the control of the court having been remanded by judicial order, or having offered himself to the court's jurisdiction and submitted to its orders by physical presence."*

14. The argument addressed by the learned SPP that accused was formally detained for interrogation, but not actually arrested, was considered in Niranjan Singh's case supra, and the Hon'ble Supreme Court has observed as under:

> *"The equivocatory quibblings and hide and seek niceties sometimes heard in court that the police have taken a man into informal custody but not arrested him, have detained him for interrogation but not taken him into formal custody and other like terminoligical dubieties are unfair evasions of the straightforwardness of the law."*

15. In the case of **STATE OF UTTAR PRADESH VS DEOMAN UPADHYAYA - AIR 1960 SC 1125**, the Hon'ble Supreme Court has observed as under:

> *"When a person not in custody approaches a police officer investigating an offence and offers to give information leading to the discovery of a fact, having a bearing on the charge which may be made against him, he may appropriately be deemed to have surrendered himself to the police. Section 46 of the Code of Criminal Procedure does not contemplate any formality before a person can be said to be taken in custody: submission to the custody by word or action by a person is sufficient."*

16. In Biswajit Mandal's case supra, the High Court of Kerala, in paragraph nos.17 to 20, has observed as under:

> *"17. The etymological derivation of the word 'arrest' is from the French term 'Arreter' meaning to stop or stay'. The term denotes a restraint of the person. Thus, whenever there is a complete restraint on the freedom of movement or a person is held against his interests in curtailment of his liberty by a person in authority, it can be said that the said person is under arrest. Actual restraint either by word or action or conduct would suffice. When a person is prevented by a person in authority from*

engaging in his activities at his free will the former can be said to have been arrested. The failure, refusal or omission to record an arrest or continuation of an interrogation for prolonged periods without recording arrest, shall not preclude those periods of curtailed liberty as constitution arrest.

18. The Constitution mandates that the person arrested be produced before the nearest Magistrate within twenty-four hours of the arrest and other that the time necessary to reach the court of the Magistrate from the place of than the time necessary to reach the court of the Magistrate from the place of arrest, there is a peremptory prohibition that the person arrested shall not be detained beyond the said period without the authority of the Magistrate.

19. The above views are fortified by the decisions of the Bombay High Court in ***Hanumant Jagganath Nazirkar v. State of Maharashtra*** *[2025 SCC Online 2508] and in* ***Ashak Hussain Allah Detha @ Siddique and Another v. Assistant Collector of Customs*** *[1990 SCC Online Bom 3] and thatof the Telengana High Court in* ***Smt. T Ramadevi v. The State of Telengana*** *[W.P. No.21912/2024].*

> *20. Hence the period of twenty-four hours to produce an accused before the Magistrate commences not when the actual time of arrest is recorded by the police, but runs from the time when the accused was effectively detained or his liberty was curtailed."*

17. In the case of **ASHAK HUSSAIN ALLAH DETHA @ SIDDIQUE & ANOTHER VS THE ASSISTANT COLLECTOR OF CUSTOMS (P) BOMBAY & ANOTHER - 1990 SCC OnLine Bom 3**, the Bombay High Court, in paragraph 10 has observed as under:

> *"10. It is thus clear that arrest being a restraint on the personal liberty, it is complete when such restraint by an authority, commences. [The Law Lexicon-P. Ramanatha Aiyar Reprint Edition 1987, page 85.] Whether a person is arrested or not does not depend on the legality of the act. It is enough if an authority clothed with the power to arrest, actually imposes the restraint by physical act or words. Whether a person is arrested depends on whether he has been deprived of his personal liberty to go where he pleases. [Section 37(1) of the N.O.P.S. Act.] It stands to reason, therefore, that what label the Investigating Officer affixes to his act of restraint is irrelevent. For the same*

reason, the record of the time of arrest is not an index to the actual time of arrest, The arrest commences with the restraint placed on the liberty of the accused and not with the time of "arrest" recorded by the Arresting Officers."

18. In the case of **MRS. IQBAL KAUR KWATRA VS THE DIST. GENERAL OF POLICE, RAJASTHAN STATE, JAIPUR - 1996(1) A.P.L.J. 370 (HC)**, in paragraph no.19, has observed as under:

"19. It is well settled that "police custody" does not necessarily mean custody after formal arrests. It also includes "some form of police surveillance and restriction on the movements of the person concerned by the police". The word "custody" does not necessarily mean detention or confinement. A person is in custody as soon as he comes into the hands of a police officer."

19. The provisions of BNSS, 2023, do not authorize detention of accused by the police beyond 24 hours of arrest. Sections 57, 58 & 187(1) of BNSS, 2023, which are corresponding to Sections 60, 61 & 167(1) of Cr.PC., respectively, conjointly provide that unless a police officer considers that he can complete the investigation within a period of twenty-four hours, it is his duty to produce the accused forthwith before a

Magistrate. A police officer cannot detain any person in custody without arresting him and any such detention will amount to wrongful confinement within the meaning of Section 340 of IPC. Actual arrest and detention do not appear to be necessary. A person in custody cannot be detained without producing him before a Magistrate under the colourable pretension that no actual arrest is made.

20. In Subhashree Das Alias Milli's case supra, the accused had claimed compenstion on the ground that she was detained beyond the period of 24 hours after her arrest. The Hon'ble Supreme Court having regard to the facts and circumstances of the said case, had held that since disputed questions of facts were involved, the High Court was not justified in exercise of its power under Article 226 of the Constitution of India, in arriving at a conclusion that the accused was detained beyond 24 hours after her arrest and granting compensation. It is under these circumstances, the order passed by the High Court was set aside. In the said case, the Hon'ble Supreme Court having regard to Section 57 of Cr.PC also observed that the travel time from the place the accused was arrested to the Court of

Magistrate is also required to be excluded and it is under the said circumstances, it was held that it cannot be said that the accused had remained in detention well beyond 24 hours from her arrest till she was produced before the Court of Magistrate.

21. In the present case, FIR was registered against the petitioner for the offence punishable under Section 103 of BNS, 2023, on 12.10.2025. He had voluntarily surrendered before the police on 14.10.2025 at 11.00 a.m. and ever since then, he was in custody. It is not the case of the prosecution that if the travel time from the police station to the jurisdictional Court of Magistrate is taken into consideration, the petitioner was produced well within 24 hours from the time he was under detention.

22. In Manohar Sharad Pathare's case supra, the Bombay High Court taking into consideration that the accused who had appeared before the police in response to the inquiry notice received by him, could not be inquired by the police because the Investigation Officer was involved in another investigation where the accused in the said case had suffered health issues

and was taken to the hospital and also taking consideration that the accused was in touch with others over phone when he was in police station, has observed that the same is a distinguished feature as far as the said case is concerned, and held that it cannot be accepted that the moment the detenue stepped into the police station he was under arrest.

23. The same is not the situation in the present case. Though learned SPP has produced CDR of the petitioner's phone to show that petitioner was in possession of a phone while in the police station, undisputedly he had not made any phone calls after he had surrendered before the police nor had he received any phone calls. Therefore, the judgment in Manohar Sharad Pathare's case supra, cannot be made applicable to the facts and circumstances of the present case.

24. In the case of **ANUJ KUMAR SINGH VS UNION OF INDIA - 2026 SCC OnLine P&H 5458**, in paragraph nos.11 & 12, it is observed as under:

> *"11. In cases of arrest by a police officer/investigating agency, otherwise than by way of execution of a warrant, one such safeguard, requiring*

production of individual detained, before the nearest Magistrate, within a reasonable time and by the latest within twenty four hours of arrest, stands as the primary bulwark against the dark peril of incommunicado detention. As observed by the Supreme Court in Manoj (supra) that the police officer arresting the individual cannot obviate this legal obligation as statutorily mandated. This procedural exigency, enshrined in Section 57 CrPC/Section 58 of the BNSS and anchored in the bedrock of Article 22(2) of the Constitution, is designed to facilitate an instantaneous judicial audit of the executive's action. The procedural mandate contained in Section 57 CrPC/Section 58 BNSS/Artcile 22(2) of the Constitution serves a dual, sacrosanct purpose : firstly, to verify the vires and legality of the arrest; and secondly, to submit the necessity of further detention for judicial scrutiny. However, for this Constitutional shield to be effective, the law must resolve a question of profound temporal significance : What should be the terminus a quo for computation of twenty-four-hour limit?; which requires for us to determine the meaning of "arrest" as employed in Section 57 CrPC/Section 58 BNSS/Article 22(2) of the Constitution.

11.1. The term "arrest" is neither defined in the CrPC/BNSS nor in the constitutional framework; however, when interpreted in its ordinary and natural sense, it signifies a state of apprehension, restraint or the total deprivation of an individual's liberty. The

dictionary meaning of "arrest" as contained in different dictionaries, reads thus:

The Oxford Dictionary (online) *defines custody as imprisonment, detention, confinement, incarceration, internment, captivity; remand, duress, and durance.*

Chambers Dictionary (online) *clarifies that custody is "the condition of being held by the police; arrest or imprisonment; to take someone into custody to arrest them."*

Chambers Thesaurus *supplies several synonyms, such as detention, confinement, imprisonment, captivity, arrest, formal incarceration.*

The Collins Cobuild English Dictionary for Advance Learners *states in terms of that someone who is in custody or has been taken into custody or has been arrested and is being kept in prison until they get tried in a court or if someone is being held in a particular type of custody, they are being kept in a place that is similar to a prison.*

The Corpus Juris Secundum under the topic of Escape & Related Offenses; *Rescue adumbrates that "Custody, within the meaning of statutes defining the crime, consists of the detention or restraint of a person against his or her will, or of the exercise of control over another to confine the other person within certain physical limits or a restriction of ability or freedom of movement."*

This is how Custody is dealt with in ***Black's Law Dictionary*** *(5th Edn. 2009):*

Custody - The care and control of a thing or person. The keeping, guarding, care, watch, inspection, preservation or security of a thing, carrying with it the idea of the thing being within the immediate personal care and control of the person to whose custody it is subjected. Immediate charge and control, and not the final, absolute control of ownership, implying responsibility for the protection and preservation of the thing in custody. Also the detainer of a mans person by virtue of lawful process or authority.

Ergo, the term "arrest" is a term of art representing a state of affairs where an individual's autonomy is subsumed under the control and supervision of an authority acting under the colour of law. For the purposes of Section 57 CrPC/58 BNSS/Article 22(2), whether an individual has been "arrested" or not, depends upon the factual imposition of restraint through physical acts or verbal commands. The quintessential test remains one of volition : whether the individual has been deprived of his/her personal liberty to move where he/she pleases? As observed by a Division Bench of the Andhra Pradesh High Court in the Iqbal Kaur Kwatra (supra) that the term does not necessarily mean custody after formal arrest but also includes some form of surveillance/restriction on the movement by the police. It is thus clear that "arrest" being a restrain on the personal liberty, it is complete when such restraint by the authority commences. The moment some form of police surveillance and restriction on the movements of the individual concerned by the

police/investigating agency begins, he is said to have been arrested and detained in custody. An "arrest" is crystallized the moment the individual's ambulatory providence is extinguished and his volition is subsumed by the coercive power of authority detaining him.

11.2. Consequently; the nomenclature assigned by the investigating agency, such as; "detention for questioning", "custody for inquiry" or similar expression is wholly immaterial and legally irrelevant for the purposes of determining whether the individual has been arrested or not and rather weightage has to be given to the factual aspects of the matter as have truly transpired. The time recorded in the arrest memo or other police records is a mere procedural formality that cannot be treated as a definitive or infallible index of actual time of arrest. To grant such records a status of absolute verity would be to allow the concerned authorities (investigating agency) to act as the sole auditor of its own compliance, thereby reducing a constitutional safeguard to a matter of administrative whim. Whether an individual is under "arrest" is a question of fact, not of nomenclature. To hold otherwise would be to allow the Rule of Law to be defeated by a semantic sleight of hand. The record is merely a post facto declaration; it is the de facto restraint that triggers the clock of liberty. Pertinently, in Niranjan Singh (supra) the Supreme Court pointed out this prevalent practice of using of disingenuous subtitles and linguistic evasions by the investigating agency whereby an effort is made to distinguish between informal detention and

statutory arrest/preliminary inquiry and de facto custody. These are hollow terminological conceits.

Having said so, lest the above analysis be perceived as an absolute embargo upon the investigative functions of the State, this Court must hasten to offer a necessary caveat. A clear distinction must be carved out between the coercive subsumption of volition and the genuine investigative functions. There are instances where an individual is summoned for merely joining investigation, production of documents, recording of statement. In such instances, where there is no palpable fetter upon the ambulatory providence of the individual and he remains at liberty to depart the precincts of the police station at his own will; retains unhindered access to his mobile phone to communicate with the world at large; and may be accompanied by friends and legal acquaintances, it cannot be termed as coercive detention. In such like cases/circumstances, it would be a legal misconception to suggest that the clock of liberty has commenced. The twenty-four-hour mandate is not a reflexive trap for a diligent investigating officer, but a shield against overbearing captor.

11.3. It is a settled principle of jurisprudence that while interpreting provisions that intend to safeguard fundamental human rights, the Court must adopt a Pro Homine approach. A narrow and pedantic interpretation of "arrest" would not merely be a legal error; it would be a constitutional apostasy. It would defeat the very purpose of the provision, which is to prevent

clandestine/illegal detentions. It would tantamount to condoning an illegality that perpetuates under the colour of authority and granting the concerned authorities a temporal immunity to operate in a vacuum where the individual detained is neither free nor yet under the protective aegis of statutory safeguards. Such a vacuum is abhorred by the law as the same is antithetical for a system governed by the Rule of Law.

Ergo, for the twenty-four-hour mandate, as provided under Section 57 CrPC/58 BNSS/Article 22(2) of the Constitution, it must be reckoned from the exact moment of physical deprivation of personal liberty, for any delay beyond this window, however, seemingly minute, constitutes a constitutional trespass that the law cannot and must not condone. As observed by the Bombay High Court Ashak Hussain Allah Detha (supra) it and the Telangana High Court in T. Ramadevi (supra), the period of twenty-four hours is not to be computed from the official time of arrest as shown in the arrest memo but from the time, actual restraint was put upon the individual's volition to move.

It goes without saying that it is neither pragmatic nor feasible to lay any universal exhaustive yardstick or inexorable set of guidelines for adjudication of this aspect as every case has its own unique factual conspectus, which has to be taken into account by the Court which is seisin of the mater in question. It was said by Lord Denning, an observation which met with approval by the Supreme Court, that:

> *".....Each case depends on its own facts, and a close similarity between one case and another is not enough, because even a single significant detail may alter the entire aspect. In deciding such case, one should avoid the temptation to decide case (As saidby Cardozo) by matching the colour of one case against the colour of another. To decide, therefore, on which side of the line a case falls, its broad resemblance to another case is not all decisive."*

It must be underscored that the mandate enshrined under Section 57 CrPC/Section 58 BNSS/Article 22(2) is not a surplusage of legal prose; rather a peremptory command, and the violation thereof cannot be cured by the subsequent passing of remand order. As observed by the Supreme Court in Subhash Sharma (supra), in such like cases, the arrest itself stands vitiated and the individual concerned, deserves to be enlarged on bail.

11.4. This court must hasten to add a word of caution herein.

The duty of the Magistrate or court, before whom an arrestee is produced is not a mere ministerial act of recording presence, but a solemn, judicial interrogation of the arresting authority's narrative. The Magistrate/court concerned must act as the sentinel on the qui vive; recognizing that the production of the accused is a jurisdictional gateway designed to bring the coercive power of arresting authority under direct judicial scrutiny. It is incumbent upon the concerned

Court/Magistrate to proactively pierce the veil of documentation and look past the self-serving entries contained in the police record to identify the actual terminus a quo of the detention, which requires pragmatic and rigorous examination of the factual substratum of the arrest, stripping away any administrative curtain that the investigating agency may have drawn to mask a prior de facto apprehension. The Magistrate/Court concerned is duty bound to inquire into the where, when and how of the capture to ensure that twilight zone of illegal detention is not regularized through sanitized police record/arrest memo.

12. As a sequitur to the above rumination, the following postulates emerge:

(i) The twenty-four-hour period under Section 57 CrPC/Section 58 BNSS begins from exact moment of physical arrest. The clock of liberty begins the moment an individual's volition is subsumed by the arresting authority's coercive power and he/she is no longer free to depart, regardless of when a formal declaration is made.

(ii) There is no straight-jacket formula for determining the moment of arrest as it is a question of fact that depends upon the facts/circumstances of a particular case, including but not limited to, whether the individual concerned was kept in the police station/office of the investigating agency overnight, whether such individual had freedom to get his own food, etc. whether the individual was freely permitted to

> *meet his friend(s)/relative(s), whether the petitioner could leave the police station/office of the investigating agency on his own discretion, etc. No universal guidelines or parameters can possibly be enumerated for this exercise of power by the Magistrate/concerned Court as every case has its own unique factual conspectus.*
>
> *(iii) Entry(s) contained in police records or arrest memos are merely declaratory and do not constitute infallible or conclusive proof of the time of arrest.*
>
> *(iv) The Magistrate/Court before which the arrestee/detained person is produced bears a non-delegable solemn duty to act proactively piercing the documentary veil of the timeline provided by the arresting authority."*

25. Even in the case of Anuj Kumar Singh, a contention was raised that the detenue was in possession of his mobile phone, and therefore, it cannot be said that his movements were restricted and he was under detention. Answering the said contention, in paragraph 13 of the said judgment, it is observed as under:

> *"From the totality of factual milieu of the case in hand; especially the prosecution narrative of the petitioner having accompanied the NCB team from Dehradun to Chandigarh in an NCB vehicle; the*

petitioner remaining continuously with NCB officials from about 10.45 p.m. on 31-10-2025 till preparation of arrest memo at 09.00 p.m. on 1-11-2025; the petitioner, even if having access to his mobile phone as stated by the NCB, but not calling any of the friend(s)/relative(s)/lawyer to the NCB office; does, indubitably, reflect that the petitioner was actually in coercive custody of NCB right from about 10.45 p.m. on 31-10-2025. It is, thus, clear that preparation of arrest memo of the petitioner at about 09.00 p.m. on 1-11-2025 is merely a paper transaction. Since this Court has found that the petitioner was in coercive NCB detention since at about 11.00 p.m. on 31-10-2025 till about 02.00 p.m. on 2-12-2025 (when he was produced before the concerned Court), arrest/detention of the petitioner is clearly beyond the prescribed period in Section 58 of BNSS, 2023 which renders his arrest/custody illegal."

26. Article 21 of the Constitution of India provides for protection of life and personal liberty of a person. Article 22 provides for protection against arrest and detention in certain cases. Arrest and detention violative of Article 22 would infringe the right to liberty guaranteed under Article 21 of the Constitution of India. Courts being the guardian of rights guaranteed to a person under the Constitution of India are required to strictly uphold the same notwithstanding the gravity

of offence or the rigor provided for grant of bail under certain special enactments.

27. In the present case, petitioner was in the police station from 11.00 a.m. on 14.10.2025 till he was produced before the jurisdictional Magistrate on 15.10.2025 at 5.45 p.m. His movements and personal liberty were restricted to the four corners of the police station. His liberty to go where he pleases was effectively curtailed. Detention for the purpose of interrogation is unknown to law. Arrest commences with the restraint placed on the liberty of the accused and not with the time of arrest recorded by the police officer. Right to liberty is guaranteed under Article 21 of the Constitution of India and Courts are required to protect the same. If the Courts fail to check these wrongs, the detention prior to recording of formal arrest can be the source of human rights violations. The liberty of the petitioner was effectively curtailed from 11.00 a.m. on 14.10.2025 and from that period onwards he was under the control and authority of the police. The period of twenty four hours to produce an accused before the Magistrate commences from the time when the accused was detained or his liberty was

curtailed, and not from the time of arrest as recorded by the police. Article 22(2) of the Constitution of India mandates that the person arrested and detained in custody shall be produced before the nearest Magistrate within 24 hours of such arrest, excluding the time of journey from the place of arrest to the court of nearest Magistrate. Article 22(3) provides for two contingencies in which the said mandate be obviated. One is when the person arrested is an "enemy alien" and other is when the arrest is under any law providing for preventive detention.

28. Learned SPP has fairly submitted that in the case diary, there is no such mention why the petitioner was not interrogated immediately after he had surrendered before the police and why he was shown as arrested only at 9.45 p.m. on 14.10.2025. Therefore, it can be clearly said that petitioner was not produced before the jurisdictional Magistrate within 24 hours from the time he was detained, and therefore, his detention becomes illegal and arrest gets vitiated. Under the circumstances, I am of the opinion that petitioner is required to be enlarged on bail subject to the principles laid down by the

Hon'ble Supreme Court in the case of **JASKARAN JEET SINGH DEOL VS STATE OF PUNJAB - 2026 SCC OnLine SC 1939**, by imposing appropriate conditions. Accordingly, the following order:

29. The petition is allowed. The petitioner is directed to be enlarged on bail in S.C.No.98/2026 pending before the Court of II Addl. District & Sessions Judge, Chikkamagaluru, arising out of Crime No.155/2025 registered by Aldur Police Station, Chikkamagaluru District, for the offences punishable under Sections 352, 351(2), 85, 49, 103 read with 3(5) of BNS, 2023 and Section 4 of the Dowry Prohibition Act, subject to the following conditions:

> a) Petitioner shall execute personal bond for a sum of Rs.1,00,000/- with two sureties for the likesum, to the satisfaction of the jurisdictional Court;
>
> b) The petitioner shall appear regularly on all the dates of hearing before the Trial Court unless the Trial Court exempts his appearance for valid reasons;

c) The petitioner shall not directly or indirectly threaten or tamper with the prosecution witnesses;

d) The petitioner shall not involve in similar offences in future;

e) The petitioner shall not leave the jurisdiction of the Trial Court without permission of the said Court until the case registered against him is disposed off.

Sd/-
(S VISHWAJITH SHETTY)
JUDGE

KK