

THE HIGH COURT OF MADHYA PRADESH : JABALPUR

NOTIFICATION

No. A/5666 /
III-2-9/40 Pt-I F.No.15

dated 20th September, 2023

Pursuant to the Judgment dated 31 July, 2023 of the Hon'ble Supreme Court of India in Criminal Appeal No. 2207 of 2023 (Md. Asfak Alam Vrs. The State of Jharkhand & Anr) arising out of SLP (Crl) No.3433 of 2023, the Hon'ble High Court has been pleased to issue the following guidelines in the light of Hon'ble Supreme Court's judgment in Arnesh Kumar Vs. State of Bihar [2014] 8 SCR 128 as well as other directions, to ensure that the Police Officer(s) shall not arrest the accused(s) unnecessarily and the Magistrate(s) shall not authorize his/their detention casually and mechanically;


- (1) The State Government shall instruct its Police Officers not to automatically arrest the accused(s) when a case under Section 498-A IPC is registered but to satisfy themselves about the necessity for arrest under the parameters laid down under Section 41 Cr.P.C;
- (2) The State Government shall ensure that all Police Officers be provided with a check list containing specified sub-clauses under Section 41(1)(b)(ii) of the Cr.P.C.;
- (3) The Police Officer shall forward the check list duly filled and furnish the reasons and materials which necessitated the arrest of the accused(s) while forwarding/producing the accused before the Magistrate for further detention;
- (4) The Magistrate while authorizing detention of the accused(s) shall peruse the report furnished by the Police Officer in terms aforesaid and only after recording its satisfaction, the Magistrate will authorize detention;
- (5) The decision not to arrest an accused shall be forwarded by the Police Officer concerned to the Magistrate within two

weeks from the date of the institution of the case with a copy to the Magistrate, which may be extended by the Superintendent of Police of the district for the reasons to be recorded in writing;

- (6) Notice of appearance in terms of Section 41-A Cr.P.C. be served on the accused(s) within two weeks from the date of institution of the case, which may be extended by the Superintendent of Police of the District for the reasons to be recorded in writing;
- (7) Failure to comply with the directions aforesaid shall apart from rendering the Police Officers concerned liable for departmental action, shall also render them liable to be punished for contempt of court to be instituted before the High Court having territorial jurisdiction.
- (8) The Judicial Magistrate authorizing detention without recording reasons as aforesaid shall be liable for departmental action by the High Court.
- (9) The directions aforesaid shall not only apply to the cases under Section 498-A IPC or Section 4 of the Dowry Prohibition Act, but also to such cases where offence is punishable with imprisonment for a term which may be less than seven years or which may extend to seven years, whether with or without fine.

The above guidelines shall be strictly adhered to by all the Sessions and other Criminal Courts dealing with various offences in the State.


(RAMKUMAR CHOUBEY)
REGISTRAR GENERAL


A0 (u-)
20.7.23


Endorsement No. A/5667

Jabalpur, dated 20/09/2023

Copy forwarded to;

1. The Secretary General, Supreme Court of India, New Delhi.
2. The Advocate General, Madhya Pradesh, High Court of Madhya Pradesh.
3. The Principal Secretary to the Govt. of Madhya Pradesh, Department of Law & Legislative Affairs, Bhopal.
4. The Registrar cum PPS of Honourable Chief Justice for kind information of His Lordship;
5. Secretary to Honourable Shri Justice High Court of M.P., Jabalpur, for kind information of His Lordship;
6. Secretary to Honourable Shri Justice High Court of M.P., Bench at Indore, for kind information of His Lordship;
7. Secretary to Honourable Shri Justice High Court of M.P., Bench at Gwalior, for kind information of His Lordship;
8. The Registrar General,
9. The Registrar General, the Principal Registrar (Judicial), the Principal Registrar (Vigilance) and the Principal Registrar (Examination & ILR) High Court of Madhya Pradesh Jabalpur for information and necessary action;
10. The Principal District and Sessions Judges, all in the State, With a request to bring the same into the knowledge of all the Judicial Officers under your kind control for information and necessary compliance;
11. District Judge, (Inspection), Jabalpur, Indore and Gwalior for information and necessary action;
12. The Principal Registrar, Bench at Indore and Gwalior High Court of Madhya Pradesh, Jabalpur for information;
13. The Director, Madhya Pradesh State Judicial Academy, Jabalpur for information;

14. The Member Secretary, Madhya Pradesh State Legal Services Authority, High Court of Madhya Pradesh, Jabalpur for information;
15. The Member Secretary, SCMS, Jabalpur for information;
16. Registrar (Judicial-I), (Judicial-II), (Administration), (Vigilance), (Inspection & Litigation), (Examination and Labour Judiciary) for information;
17. The Registrar Confidential and the Administrative Officer, Checker Section, High Court of Madhya Pradesh, Jabalpur for information.


(SANTOSH PRASAD SHUKLA)
REGISTRAR District Establishment