

HIGH COURT OF MANIPUR
AT IMPHAL

NOTIFICATION

Imphal the 11th September, 2023

No. HCM/R-46/2019-Estt.I/ : Pursuant to the directions issued by the Hon'ble Supreme Court of India in its Judgment dated 31.07.2023 passed in Criminal Appeal No(s).2207 of 2023 [*Md. Asfak Alam V. The State of Jharkhand & Anr.*] arising out of Special Leave Petition (Crl.) No. 3433/2023, the High Court of Manipur hereby issues the following guidelines in-line with the directions contained in *Arnesh Kumar v. State of Bihar and Another* (2014) 8 SCR 128 as well as other directions, for ensuring that police officers do not arrest the accused unnecessarily and Magistrate do not authorise detention casually and mechanically, as under:-

- 1) The State Government is to instruct its police officers not to automatically arrest when a case under Section 498-A IPC is registered but to satisfy themselves about the necessity for arrest under the parameters laid down above flowing from Section 41 Cr.P.C;
- 2) All police officers be provided with a check list containing specified sub-clauses under Section 41(1)(b)(ii) Cr.P.C;
- 3) The police officer- shall forward the check list duly filled as speed and furnish the reasons and materials which necessitated the arrest, while forwarding/producing the accused before the Magistrate for further detention;
- 4) The Magistrate while authorizing detention of the accused 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, be forwarded 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 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, they shall also be liable to be punished for contempt of court to be instituted before the High Court having territorial jurisdiction;
- 8) Authorizing detention without recording reasons as aforesaid by the Judicial Magistrate concerned shall be liable for departmental action by the appropriate High Court.
- 9) The directions aforesaid shall not only apply to the case under Section 498-A IPC or Section 4 of the Dowry Prohibition Act, but also such cases where offence is punishable with imprisonment for a terms which may be less than seven years or which may extend to seven years, whether with or without fine."

The said directions of the Hon'ble Supreme Court, in the form of the above guidelines, shall be strictly followed by all the Sessions Courts and all other criminal courts dealing with various offences, within the jurisdiction of the High Court of Manipur.

By order,

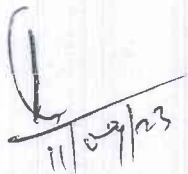
Sd/-
(Ojesh Mutum)
Registrar Judl.
High Court of Manipur

Endt. No. HCM/R-46/2019-Estt-I/ 16/71-91

Imphal, the 11th of Sept., 2023

Copy to:

1. PPS to Hon'ble The Acting Chief Justice, High Court of Manipur.
2. PS to Hon'ble Mr. Justice A. Bimol Singh, Judge, High Court of Manipur.
3. PS to Hon'ble Mr. Justice A. Guneshwar Sharma, Judge, High Court of Manipur.
4. The Advocate General, Manipur.
5. The Secretary General, Supreme Court of India, New Delhi.
6. The Registrar Generals of all High Courts.
7. The Director General of Police, Manipur.
8. The Commissioner (Home), Govt. of Manipur.
9. The Commissioner (Law), Govt. of Manipur.
10. The DG (Prisons)/IG (Prisons), Manipur.
11. The Govt. Advocate, Govt. of Manipur.
12. The Deputy Solicitor General of India for High Court of Manipur.
13. The President, High Court Bar Association, Manipur.
14. The President, All Manipur Bar Association.
15. The Joint Director, Manipur Judicial Academy.
16. The Member Secretary, Manipur SLSA.
17. All District & Sessions Judges (Manipur), for circulating this notification to all judicial officers working under their respective jurisdiction.
18. The Superintendent (Judicial -I, II & III/Estt.-II)/Court Masters.
19. The System Analyst, High Court of Manipur for uploading the same to the official website.
20. The Director, Directorate of Printing and Stationary Govt. of Manipur with request to publish the notification in the next issue of Government Gazette.
21. Guard File/Order Book.


11/09/23
Registrar Judl.
High Court of Manipur
