

HIGH COURT OF JUDICATURE AT PATNA

Memo No. 62973 /AD (Rules)

19th September 2023

CIRCULAR ORDER NO.01/2023

Subject: Judgment dated 31 July 2023 passed in Criminal Appeal No.2207 of 2023 (Md. Asfak Alam Versus The State of Jharkhand & Anr) by the Hon'ble Supreme Court

As directed, this Circular Order is being issued in compliance of the direction issued by the Hon'ble Supreme Court in its judgment dated 31st July, 2023 passed in Criminal Appeal No(s) 2207 of 2023 (*Md. Asfak Alam Vrs. The State of Jharkhand & Anr*).


All the courts under the territorial jurisdiction of this Court shall be required to follow the law laid down in case of *Arnesh Kumar V. State of Bihar* since reported in (2014) 8 SCC 273 and following directions contained in the said decision:

- 11.1 "All the State Governments 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.;
- 11.2 All police officers be provided with a check list containing specified sub-clauses under Section 41 (1)(b)(ii);
- 11.3 The police officer shall forward the check list duly filled and furnish the reasons and materials which necessitated the arrest, while forwarding/producing the accused before the Magistrate for further detention;
- 11.4 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;
- 11.5 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;

- 11.6 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;
- 11.7 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.
- 11.8 Authorizing detention without recording reasons as aforesaid by the Judicial Magistrate concerned shall be liable for departmental action by the appropriate High Court.
12. We hasten to add that directions aforesaid shall not only apply to the cases under Section 498-A IPC or Section 4 of the Dowry Prohibition Act, the cases in hand, but also 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."

By Order of the Court,


Registrar General

Memo No. 62974 - 63010 /AD (Rules)

19th September 2023

Copy forwarded to the District and Sessions Judge, Araria; Aurangabad; Banka; Begusarai; Bhagalpur; Bhojpur (Ara); Buxar; Darbhanga; East Champaran (Motihari); Gaya; Gopalganj; Jamui; Jehanabad; Katihar; Kaimur (Bhabhua); Khagaria; Kishanganj; Lakhisarai; Madhepura; Madhubani; Munger; Muzaffarpur; Nalanda (Biharsharif); Nawada; Patna; Purnea; Rohtas (Sasaram); Saharsa; Samastipur; Saran (Chapra); Sheohar; Sheikhpura; Sitamarhi; Siwan; Supaul; Vaishali (Hajipur); West Champaran (Bettiah).


Registrar General

63021 - 63023

Memo No. _____ /AD (Rules)

Dated, the 19th / September, 2023.

Copy forwarded to the :

1. Secretary General, Supreme Court of India, New Delhi
2. Principal Secretary to Govt. Of Bihar, Home Deptt., Patna
3. Principal Secretary to Govt. Of Bihar, Law Deptt., Patna
4. Director General of Police, Bihar, Patna
5. I.G. (Prison) and Director, Correctional Services, Bihar, Patna
6. Director, Public Prosecution, Bihar, Patna
7. Director, Bihar Judicial Academy, Patna
8. Advocate General, Bihar, Patna
9. Member-Secretary, BSLSA, Patna
10. Secretary, Bar Association, Patna
11. Secretary, Advocate Association, Patna
12. Secretary, Lawyers' Association, Patna
13. Chairman, Bar Council of Bihar, Patna to forward this letter to all the Bar Associations of the State.

For information and necessary action.


Registrar General

63024 - 63037

Memo No. _____ /AD (Rules)

Dated, the 19th / September, 2023.

The J.R. -cum- P.P.S. to the Hon'ble the Chief Justice; The P.A. to the Registrar General; P.A. to the Registrar (Vigilance); P.A. to the Registrar (Administration); P.A. to the Registrar (Establishment); P.A. to the Registrar (Appointment); P.A. to the Registrar (I.T. -cum- C.P.C.); P.A. to the Joint Registrar (IT); P.A. to the Joint Registrar (Establishment); P.A. to the Registrar (List & Computer); P.A. to the Joint Registrar (Judicial); O.S.D.; O.S.D. (Computerization); Senior Programmer (—) for kind information please.


Registrar General

(—) To upload it on the official website.