

HIGH COURT OF TRIPURA
AGARTALA

No.F.42(18)-HC/2023/23632

27th September, 2023

N O T I F I C A T I O N

Pursuant to the Judgment dated 31st July, 2023 of the Hon'ble Supreme Court in Criminal Appeal No(s). 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 line with the decision in the Arnesh Kumar Vrs. State of Bihar [2014] 8 SCR 128 to ensure that police officers shall not arrest the accused unnecessarily and Magistrate shall not authorize detention casually and mechanically, as here in below:-

1. The State Government 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 under 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) 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, 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 High Court.
9. The directions 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 term which may be less than seven years or which may extend to seven years, whether with or without fine.”

The above directions shall be followed by all the Sessions Courts and all other Criminal Courts dealing with various offences.

By order,

(Mou Banerjee)
Registrar (Judicial)

No.F.42(18)-HC/2023/23633-677

27th September, 2023

Copy to: -

01. The Principal Secretary to Hon'ble the Chief Justice, High Court of Tripura, Agartala;
02. The Secretary to Hon'ble Mr. Justice T. Amarnath Goud, Judge, High Court of Tripura, Agartala;
03. The Secretary to Hon'ble Mr. Justice Arindam Lodh, Judge, High Court of Tripura, Agartala;
04. The Private Secretary-I attached with the Registrar General, High Court of Tripura, Agartala;

05. The Advocate General, Tripura, Agartala;
06. The Director General of Police, Tripura, Agartala;
07. The Chairman, Bar Council of Tripura, Agartala;
08. The Govt. Advocate, High Court of Tripura, Agartala;
09. The Secretary, High Court Bar Association, Agartala;
10. The Secretary, Tripura Bar Association, Agartala;
11. The Dy. Solicitor General of India, Govt. of India, Agartala;
12. The Public Prosecutor, High Court of Tripura, Agartala;
13. The Member Secretary, Tripura State Legal Services Authority, Agartala;
14. The Registrar (Vigilance), High Court of Tripura, Agartala;
15. The District & Sessions Judge, Dhalai District, Ambassa/ West Tripura District, Agartala/ North Tripura District, Dharmanagar/ Gomati District, Udaipur/ Khowai District, Khowai/ Unakoti District, Kailashahar/ Sepahijala District, Sonamura/ South Tripura District, Belonia, with a direction to circulate the same amongst the Judicial Officers under your respective jurisdiction;
16. The Judge, Family Court, Ambassa, Dhalai District/ Dharmanagar, North Tripura District/ Kailashahar, Unakoti District/ Khowai, Khowai District/ Agartala, West Tripura District/ Sonamura, Sepahijala District/ Belonia, South Tripura District/ Udaipur, Gomati District;
17. The Director, Tripura Judicial Academy, Agartala;
18. The Secretary to the High Court Legal Services Committee, High Court of Tripura, Agartala;
19. The Registrar (Admn., P & M), High Court of Tripura, Agartala;
20. The Joint Registrar, High Court of Tripura, Agartala;
21. All the Deputy Registrars, High Court of Tripura, Agartala;
22. The Chief Librarian, High Court of Tripura, Agartala;
23. All the Assistant Registrars, High Court of Tripura, Agartala;
24. The System Analyst/The computer programmer(s), High Court of Tripura, Agartala with a direction to upload the Notification in the official website of the High Court of Tripura;
25. All the Superintendents, High Court of Tripura, Agartala;

26. The Sr. Grade Translator-cum-I/C. Paper Book Section, High Court of Tripura, Agartala;
27. The Court Master(s), High Court of Tripura, Agartala;
28. The Bench Clerk(s), High Court of Tripura, Agartala;
29. All the Bench Sections, High Court of Tripura, Agartala,
30. Notice Board of the Court-house; and
31. Order File.

Registrar (Judicial)