विजय कुमार, आई0पी0एस0



## डीजी परिपत्र सं0 -3 📗 /2023

पुलिस महानिदेशक, उत्तर प्रदेश। पुलिस मुख्यालय, गोमती नगर विस्तार, लखनऊ-226002 दिनांकः अगस्त /७,2023

विषयः CRIMINAL APPEAL NO(S). 2207 OF 2023 ARISING OUT OF SPECIAL LEAVE PETITION (CRL.)No. 3433 OF 2023 मो0 अशफाक आलम बनाम झारखण्ड राज्य व अन्य मे पारित निर्णय दिनांकित 31.07.2023 के अनुपालन हेतु दिशा निर्देश।

प्रिय महोदय/महोदया,

आप अवगत है कि अभियुक्तों की गिरफ्तारी से पूर्व अपनाये जाने वाली प्रक्रिया में धारा 41ए

डीजी परिपत्र सं0-41/2014 दि0-17.06.2014 डीजी परिपत्र सं0-57/2014 दि0-13.09.2014 डीजी परिपत्र सं0-05/2021 दि0-19.02.2021 डीजी परिपत्र सं0-20/2022 दि0-16.07.2022 शासनादेश संख्या:197पी/छ:-पु-3-23-2(291) पी/2022 दिनांक 23.01.2023 डीजी परिपत्र सं0-07/2023 दि0-16.02.2023 दण्ड प्रक्रिया संहिता तथा मा० सर्वोच्च न्यायालय द्वारा अरुणेश कुमार बनाम बिहार राज्य व अन्य में पारित निर्देशों के अनुपालन हेतु, इस मुख्यालय स्तर से पार्श्वांकित बॉक्स में अंकित विभिन्न परिपत्रों के माध्यम से निर्देश निर्गत किये गये हैं।

CRIMINAL APPEAL NO(S). 2207 OF 2023 ARISING OUT OF SPECIAL LEAVE PETITION (CRL.) No. 3433 OF 2023 उपरोक्त में मा0 सर्वोच्च न्यायालय ने अपने निर्णय दिनांकित 31.07.2023 के माध्यम से अभियुक्तों की गिरफ्तारी से पूर्व अपनाये जाने वाली प्रक्रिया के सम्बन्ध में निम्नवत निर्देश निर्गत किये गये है-

Before parting, the court would direct all the courts ceased of proceedings to strictly follow the law laid down in Arnesh Kumar (supra) and reiterate the directions contained thereunder, as well as other directions:

- "I. 11. Our endeavour in this judgment is to ensure that police officers do not arrest the accused unnecessarily and Magistrate do not authorize detention casually and mechanically. In order to, ensure what we have observed above, we give the following directions:
  - 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 CrPC;
  - 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 CrPC 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 the directions aforesaid shall not only apply to the case under Section 498-A IPC or Section 4 of the Dowry Prohibition Act, the case in hand, 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."
- II. The High Court shall frame the above directions in the form of notifications and guidelines to be followed by the Sessions courts and all other and criminal courts dealing with various offences.
- III.Likewise, the Director General of Police in all States shall ensure that strict instructions in terms of above directions are issued. Both the High Courts and the DGP's of all States shall ensure that such guidelines and Directives/Departmental Circulars are issued for guidance of all lower courts and police authorities in each State within eight weeks from today.

IV.Affidavits of compliance shall be filed before this court within ten weeks by all the states and High Courts, though their Registrars.

मा0 सर्वोच्च न्यायालय द्वारा पारित निर्णय दिनांकित 31.07.2023 की छाया प्रति परिपत्र के साथ संलग्न कर इस निर्देश के साथ प्रेषित है कि इस न्यायिक निर्णय का स्वयं अध्ययन करते हुए अपने अधीनस्थों को भी अवगत करायें तथा अभियुक्तों की गिरफ्तारी के पूर्व अपनाये जाने वाली प्रक्रिया में मा0 सर्वोच्च न्यायालय द्वारा दिये गये निर्देशों का कड़ाई से अनुपालन किया जाये।

## संलग्नकःयथोपरि।

- 1. पुलिस आयुक्त, कमिश्नरेट-लखनऊ/कानपुर/वाराणसी/गौतमबुद्धनगर/आगरा/गाजियाबाद/प्रयागराज।
- 2. समस्त वरिष्ठ पुलिस अधीक्षक/पुलिस अधीक्षक, प्रभारी जनपद/ रेलवेज, उत्तर प्रदेश।

## प्रतिलिपिः निम्नलिखित को सूचनार्थ एवं आवश्यक कार्यवाही हेत् :---

- 1. विशेष पुलिस महानिदेशक (कानून एवं व्यवस्था/अपराध),उ०प्र० लखनऊ।
- 2. अपर पुलिस महानिदेशक (रेलवेज), उ०प्र० लखनऊ।
- 3. अपर पुलिस महानिदेशक (अभियोजन), उ०प्र० लखनऊ।
- 4. अपर पुलिस महानिदेशक (तकनीकी सेवाएँ), उ०प्र० लखनऊ।
- 5. समस्त जोनल अपर पुलिस महानिदेशक, उ०प्र०।
- 6. समस्त परिक्षेत्रीय पुलिस महानिरीक्षक / पुलिस उपमहानिरीक्षक, उ०प्र०।