

प्रशान्त कुमार,

आई0पी0एस0



डीजी परिपत्र सं0 -05 /2025

पुलिस महानिदेशक,  
उत्तर प्रदेश।

पुलिस मुख्यालय, गोमती नगर विस्तार,  
लखनऊ-226002

दिनांक: फरवरी 20, 2025

विषय: मिस. अप्लीकेशन संख्या-2034/2022 सम्बन्धित SLP(CrI) -No.5191/2021 सतेन्द्र कुमार अन्तिल बनाम सीबीआई व अन्य में पारित निर्णय दिनांकित 06.08.2024, 27.08.2024 तथा 21.01.2025 के अनुपालन हेतु दिशा-निर्देश।

प्रिय महोदय/महोदया,

कृपया परिपत्र के साथ संलग्न मा0 सर्वोच्च न्यायालय द्वारा उपरोक्त संदर्भित प्रकरण में पारित आदेश दिनांकित 21.01.2025 तथा तत्क्रम में जारी शासनादेश संख्या-179/छ:-पु0-9-2025-1806514 दिनांकित 31.01.2025 का संदर्भ ग्रहण करें, जिसके द्वारा मा0 सर्वोच्च न्यायालय द्वारा पारित निर्देशों के अनुपालन की अपेक्षा की गयी है।

2- मा0 सर्वोच्च न्यायालय, नई दिल्ली में योजित मिस. अप्लीकेशन संख्या-2034/2022 सम्बन्धित विशेष अनुज्ञा याचिका (क्रिमिनल) संख्या-5191/2021 सतेन्द्र कुमार अन्तिल बनाम सी0बी0आई0 व अन्य में मा0 न्यायालय द्वारा दिनांक 21.01.2025 को निम्नवत आदेश पारित किया गया है—

Having heard the parties and having deliberated upon the aforesaid submissions, this Court in furtherance of Paras. 100.2, 100.8 and 100.9 of Satender Kumar Antil v. CBI & Anr. (2022) 10 SCC 51, and its previous directions contained in earlier orders, deems it necessary to issue the following directions :

a) All the States/UTs must issue a Standing Order to their respective Police machinery to issue notices under Section 41-A of CrPC, 1973/Section 35 of BNSS, 2023 only through the mode of service as prescribed under the CrPC, 1973/BNSS, 2023. It is made amply clear that service of notice through WhatsApp or other electronic modes cannot be considered or recognised as an alternative or substitute to the mode of service recognised and prescribed under the CrPC, 1973/BNSS, 2023.

b) All the States/UTs while issuing Standing Orders to their respective Police machinery relating to Section 41-A of CrPC, 1973/Section 35 of BNSS, 2023 must be issued strictly in accordance with the guidelines issued by the Delhi High Court in Rakesh Kumar v. Vijayanta Arya (DCP) & Ors., 2021 SCC Online Del 5629 and Amandeep Singh Johar v. State (NCT Delhi), 2018 SCC Online Del 13448, both of which were upheld by this Court in Satender Kumar Antil v. CBI & Anr. (2022) 10 SCC 51.

c) All the States/UTs must issue an additional Standing Order to their respective Police machinery to issue notices under Section 160 of CrPC, 1973/Section 179 of BNSS, 2023 and Section 175 of CrPC, 1973/Section 195 of BNSS, 2023 to the accused persons or otherwise, only through the mode of service as prescribed under the CrPC, 1973/BNSS, 2023.

3- मा0 सर्वोच्च न्यायालय द्वारा पारित उपरोक्त आदेश में यह निर्देशित किया गया है कि धारा-41ए दं.प्र.सं. अथवा धारा-35 बीएनएसएस के अन्तर्गत जारी की गयी नोटिसों का तामीला दं.प्र.सं-1973/बीएनएसएस-2023 में दी गयी व्यवस्था के अनुसार ही किया जाए। मा0 सर्वोच्च न्यायालय द्वारा अपने न्यायिक निर्णय में यह भी स्पष्ट

*h*

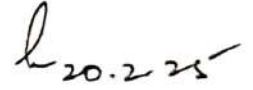
किया गया है कि धारा-41ए दं.प्र.सं. अथवा धारा-35 बीएनएसएस के अन्तर्गत जारी नोटिसों का तामीला वाइअप अथवा अन्य इलेक्ट्रॉनिक माध्यम से किया जाना पर्याप्त नहीं माना जायेगा।

4- मा0 सर्वोच्च न्यायालय द्वारा मिस. एप्लीकेशन सं0-2034/2022, SLP CrI. 5191/2021 सतेन्द्र कुमार अन्तिल बनाम सी.वी.आई. व अन्य में पारित आदेश दिनांकित 21.01.2025 में धारा-41ए दं.प्र.सं./धारा-35 बीएनएसएस-2023, धारा-160 दं.प्र.सं./धारा-179 बीएनएसएस-2023 तथा धारा-175 दं.प्र.सं./धारा-195 बीएनएसएस-2023 के अन्तर्गत जारी नोटिसों का तामीला दण्ड प्रक्रिया संहिता 1973/ बीएनएसएस-2023 के सुसंगत प्राविधानों के अनुसार ही किये जाने के निर्देश दिये गये हैं।

5- मा0 सर्वोच्च न्यायालय द्वारा निर्गत उपरोक्त निर्देशों तथा तत्क्रम में जारी शासनादेश संख्या-179/छ:- पु0-9-2025-1806514 दिनांकित 31.01.2025 के आलोक में समस्त कमिश्नरेट / जनपद के प्रभारी अधिकारियों को यह भी निर्देशित किया जाता है कि दण्ड प्रक्रिया संहिता 1973/ बीएनएसएस-2023 के सुसंगत प्राविधानों तथा सतेन्द्र कुमार अन्तिल बनाम सी.वी.आई. व अन्य में पारित निर्देशों के अनुपालन हेतु इस मुख्यालय स्तर से निर्गत पूर्व परिपत्र संख्या-07/2023 का गहनता से अध्ययन करते हुये मा0 सर्वोच्च न्यायालय द्वारा दिये गये निर्देशों का कड़ाई से अनुपालन सुनिश्चित करायें। यहाँ पर यह भी स्पष्ट किया जाता है कि उपरोक्त निर्देशों का अनुपालन न किया जाना मा0 सर्वोच्च न्यायालय के अवमानना की श्रेणी में आयेगा। यदि किसी अधिकारी/कर्मचारी द्वारा इन निर्देशों के अनुपालन में शिथिलता बरती जाती है तो उनके विरुद्ध नियमानुसार कार्यवाही की जाए।

संलग्नक:यथोपरि।

भवदीय,



(प्रशान्त कुमार)

1. समस्त पुलिस आयुक्त,  
उत्तर प्रदेश।
2. समस्त वरिष्ठ पुलिस अधीक्षक/पुलिस अधीक्षक,  
प्रभारी जनपद रेलवेज, उत्तर प्रदेश।

प्रतिलिपि: निम्नलिखित को सूचनार्थ एवं आवश्यक कार्यवाही हेतु —

1. समस्त अपर पुलिस महानिदेशक, उ0प्र0, लखनऊ।
2. समस्त जोनल अपर पुलिस महानिदेशक, उ0प्र0।
3. समस्त परिक्षेत्रीय पुलिस महानिरीक्षक / पुलिस उपमहानिरीक्षक, उ0प्र0।



1814  
R

महत्वपूर्ण/मा0 उच्च न्यायालय प्रकरण  
संख्या-179/छ:-पु0-9-2025-1806514

पूर्व में भी प्राप्त हुआ  
दिनांक 11/2/25  
को भेजा गया है

षक,  
डॉ0 संजीव गुप्ता,  
सचिव,  
उत्तर प्रदेश शासन।

यह पत्र पूर्व में भी प्राप्त हुआ  
जिसे दिनांक 01/02/25  
को भेजा गया है

R.R. No. 214  
Date 03/02/2025  
Legal Cell DGP HQ, Lko.

- सेवा में,
1. पुलिस महानिदेशक, उत्तर प्रदेश, लखनऊ।
  2. पुलिस महानिदेशक अभियोजन, उत्तर प्रदेश, लखनऊ।
  3. समस्त जिला मजिस्ट्रेट, उत्तर प्रदेश।
  4. पुलिस आयुक्त/वरिष्ठ पुलिस अधीक्षक/ पुलिस अधीक्षक, उत्तर प्रदेश।

गृह (पुलिस) अनुभाग-9

लखनऊ : दिनांक 31-01-2025

विषय:-मा0 उच्चतम न्यायालय, नई दिल्ली में योजित मिसलेनियस एप्लीकेशन संख्या-2034/2022 इन एमएन0-1849/2021 इन विशेष अनुज्ञा याचिका (क्रिमिनल) संख्या-5191/2021 सत्येन्द्र कुमार अन्तिल बनाम सी0बी0आई0 व अन्य में पारित आदेश दिनांक 27.08.2024, 06.08.2024 एवं 21.01.2025 के अनुपालन के सम्बन्ध में।  
महोदय,

अवगत कराना है कि मा0 उच्चतम न्यायालय, नई दिल्ली में योजित मिसलेनियस एप्लीकेशन संख्या-2034/2022 इन एमएन0-1849/2021 इन विशेष अनुज्ञा याचिका (क्रिमिनल) संख्या-5191/2021 सत्येन्द्र कुमार अन्तिल बनाम सी0बी0आई0 व-अन्य में मा0 न्यायालय द्वारा दिनांक 21.01.2025 (छायाप्रति संलग्न) को निम्नवत आदेश पारित किया गया है:-

".....Having heard the parties and having deliberated upon the aforesaid submissions, this Court in furtherance of Paras. 100.2, 100.8 and 100.9 of Satender Kumar Antil v. CBI & Anr. (2022) 10 SCC 51, and its previous directions contained in earlier orders, deems it necessary to issue the following directions :

a) All the States/UTs must issue a Standing Order to their respective Police machinery to issue notices under Section 41-A of CrPC, 1973/Section 35 of BNSS, 2023 only through the mode of service as prescribed under the CrPC, 1973/BNSS, 2023. It is made amply clear that service of notice through WhatsApp or other electronic modes cannot be considered or recognised as an alternative or substitute to the mode of service recognised and prescribed under the CrPC, 1973/BNSS, 2023.

b) All the States/UTs while issuing Standing Orders to their respective Police machinery relating to Section 41-A of CrPC, 1973/Section 35 of BNSS, 2023 must be issued strictly in accordance with the guidelines issued by the Delhi High Court in Rakesh Kumar v. Vijayanta Arya (DCP) & Ors., 2021 SCC

Online Del 5629 and Amandeep Singh Johar v. State (NCT Delhi), 2018 SCC Online Del 13448, both of which were upheld by this Court in Satender Kumar Antil v. CBI & Anr. (2022) 10 SCC 51.

c) All the States/UTs must issue an additional Standing Order to their

(वि०प्र०)  
महानिदेशक  
लखनऊ

1/2025

respective Police machinery to issue notices under Section 160 of CrPC, 1973/Section 179 of BNSS, 2023 and Section 175 of CrPC, 1973/Section 195 of BNSS, 2023 to the accused persons or otherwise, only through the mode of service as prescribed under the CrPC, 1973/BNSS, 2023."

2. अतः इस सम्बन्ध में मा0 उच्चतम न्यायालय के उक्त आदेश 21.01.2025 एवं उक्त आदेश में उल्लिखित Rakesh Kumar V. Vijayanta Arya (DCP)& Ors. एवं Amandeep Singh Jobar v. State (NCT Delhi), 2018 में मा0 उच्च न्यायालय, नई दिल्ली द्वारा निर्गत निर्णयों/आदेशों की छायाप्रति संलग्नकर प्रेषित करते हुए मुझे यह कहने का निदेश हुआ है कि विषयगत प्रकरण में पारित मा0 उच्चतम न्यायालय के आदेशों के साथ-साथ पूर्व में निर्गत सुसंगत शासनादेशों का अनुपालन करते हुए तथा यथास्थिति प्रभावी भारतीय दण्ड प्रक्रिया संहिता, 1973 / भारतीय न्याय संहिता, 2023 के सुसंगत उपबंधों एवं उत्तर प्रदेश भारतीय नागरिक सुरक्षा नियमावली, 2024 में उपबंधित नियमों का पूर्ण एवं प्रभावी अनुपालन सुनिश्चित करने का कष्ट करें।

संलग्नक:-यथोक्त।

भवदीय,

Signed by

Sanjeev Gupta  
(डी० सजीव गुप्ता)

Date: 31-01-2025 12:57:14

संख्या एवं दिनांक तदैव।

प्रतिलिपि निम्नलिखित को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित :-

- 1- अपर पुलिस महानिदेशक, कानून-व्यवस्था, पुलिस मुख्यालय, उत्तर प्रदेश, लखनऊ।
- 2- अपर पुलिस महानिदेशक, अपराध, पुलिस मुख्यालय, उत्तर प्रदेश, लखनऊ।
- 3- श्री शौर्य सहाय, ए०ओ०आर०, मा० उच्चतम न्यायालय, नई दिल्ली।
- 4- पुलिस अधीक्षक, विधि प्रकोष्ठ, पुलिस मुख्यालय, उत्तर प्रदेश, लखनऊ को इस आशय के साथ कि प्रकरण में अभिज्ञ एवं राजपत्रित अधिकारी को नामित करते हुए निर्देशित करें कि वे श्री शौर्य सहाय, ए०ओ०आर०, मा० उच्चतम न्यायालय, नई दिल्ली से समस्त सुसंगत अभिलेखों सहित समन्वय स्थापित कर अनुपालन शपथ-पत्र का ड्राफ्ट तैयार कराकर एवं उसे शासन के अनुमोदनोपरान्त एक सप्ताह में मा० न्यायालय में दाखिल करते हुए राज्य सरकार की ओर से प्रभावी पंरवी करें।
- 5- समस्त संयुक्त निदेशक अभियोजन, उत्तर प्रदेश।

आज्ञा से,

Signed by

Jatinder Singh  
(उप सचिव)

Date: 31-01-2025 13:48:16

FILED 175/8130-9-2025



SHAURYA LAW OFFICES

**Shaurya  
Sahay**  
**Advocate on Record**  
Supreme Court of India  
LGF, A/11, Lajpat Nagar III,  
New Delhi-110024  
9711021959

29.01.2025

To,  
The Additional Chief Secretary,  
Home Department,  
Government of Uttar Pradesh

**Subject: Compliance with Directions Issued by the Hon'ble Supreme Court of India vide order dated 21.01.2025 in the matter of Satender Kumar Antil v. CBI & Anr. [(2022) 10 SCC 51]**

Respected Sir,

1. This is to formally bring to your attention the directions issued by the Hon'ble Supreme Court of India in its order dated 21.01.2025, passed in Miscellaneous Application No. 2034/2022 in MA 1849/2021 in SLP (Crl) No. 5191/2021, in the matter of *Satender Kumar Antil v. CBI & Anr.* [(2022) 10 SCC 51]. The Hon'ble Court, after hearing the submissions of the Amicus Curiae, Mr. Siddharth Luthra, has issued the following key directions for strict compliance by all States, Union Territories (UTs), and High Courts:

**Key Directions:**

1. **Service of Notices under Section 41-A of CrPC, 1973 / Section 35 of BNSS, 2023:**
  - 1.1. All States and UTs are directed to issue Standing Orders to their respective police machinery, mandating that notices under Section 41-A of the Code of Criminal Procedure, 1973 (CrPC) or Section 35 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) shall be served only through the modes prescribed under the CrPC, 1973 or BNSS, 2023.

RA EIA-F  
30.1.25

Address: B7/64, First Floor, Safdarjung Enclave, New Delhi-29  
shaurya@shauryasahay.com



Shaurya  
Sahay  
Advocate on Record  
Supreme Court of India

LGF, A/11, Lajpat Nagar III,  
New Delhi-110024  
9711021959

1.2. The Hon'ble Court has explicitly clarified that service of notices through WhatsApp or other electronic modes shall not be recognized as a valid alternative or substitute to the prescribed modes of service under the statutes.

**2. Compliance with Judicial Precedents:**

2.1. All States and UTs, while issuing Standing Orders pertaining to Section 41-A of CrPC, 1973 / Section 35 of BNSS, 2023, must ensure strict adherence to the guidelines laid down by the Delhi High Court in *Rakesh Kumar v. Vijayanta Arya (DCP) & Ors.*, 2021 SCC Online Del 5629 and *Amandeep Singh Johar v. State (NCT Delhi)*, 2018 SCC Online Del 13448, both of which were upheld by the Hon'ble Supreme Court in *Satender Kumar Antil v. CBI & Anr.* (2022) 10 SCC 51.

**3. Service of Notices under Sections 160 and 175 of CrPC, 1973 / Sections 179 and 195 of BNSS, 2023:**

3.1. All States and UTs are further directed to issue additional Standing Orders mandating that notices under Section 160 of CrPC, 1973 / Section 179 of BNSS, 2023 and Section 175 of CrPC, 1973 / Section 195 of BNSS, 2023 shall be served exclusively through the modes prescribed under the CrPC, 1973 or BNSS, 2023.

**4. Monitoring Compliance by High Courts:**

- 4.1. All High Courts are directed to convene monthly meetings of their respective Committees for "Ensuring the Implementation of the Decisions of the Apex Court". These meetings shall be conducted to ensure compliance with both past and future directives issued by the Hon'ble Supreme Court at all levels.
- 4.2. Additionally, the concerned authorities are required to submit monthly compliance reports to monitor adherence to the Court's orders.

ITEM NO.2

COURT NO.9

SECTION II

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Miscellaneous Application No. 2034/2022 in MA 1849/2021 in  
SLP(Cr1) No. 5191/2021

SATENDER KUMAR ANTIL

Petitioner(s)

VERSUS

CENTRAL BUREAU OF INVESTIGATION & ANR.

Respondent(s)

[ TO BE TAKEN UP AT 2:00 P.M. ]

Mr. V.N. Raghupathy, Advocate for High Court of Karnataka; Mr. Tapesh Kumar Singh, Advocate for High Court of Jharkhand; Mr. P.I. Jose, Advocate for Gauhati High Court; Mr. Arjun Garg, Advocate for High Court of Madhya Pradesh; Mr. Amit Gupta, Advocate for High Court of Delhi; Mr. Sanjai Kumar Pathak, Advocate for High Court of Meghalaya; Mr. Sibho Sankar Mishra, Advocate for High Court of Orissa, Mr. Abhimanyu Tewari, Advocate for State of Arunachal Pradesh, Mr. Somanadri Gaud Katam, Advocate for High Court of Telengana; Mr. Aaditya A. Pande, Advocate for the State of Maharashtra; Mr. Ankur Prakash, Advocate for the State of Uttarakhand; M/s Arputham Aruna, Mr. Debojit Borkakati, Advocate for the State of Assam, Mr. S.N.Terdol, Advocate for the State of Ladakh, Mr. Avijit Mani Tripathi, Advocate for the State of Meghalaya, Mr. Manish Kumar, Advocate for the State of Bihar, Mr. Mahfooz A.Nazki, Advocate for the State of Andhra Pradesh, Mr. Maibam N.Singh, Advocate for the High Court of Manipur, Mr. Prashant S.Kenjale, Advocate for the High Court of Bombay, Mr. Ajay Pal, Advocate for the State of Punjab, Mr. Gagan Gupta, Advocate for High Court of Andhra Pradesh, Mr. Nishe Rajen Shonker, Advocate for the State of Kerala, Mr. Suwendu Suvasis Dash, Advocate for the State of Orissa, Mr. Pradeep Mishra, Advocate for the State of Uttar Pradesh, Mrs. Swati Ghildiyal, Advocate for the State of Gujarat, Mr. Pukhrambam Ramesh Kumar, Advocate for the Government of Manipur, Mr. Abhay Anil Anturkar, Advocate for the State of Goa, Mr. Anupam Raina, Advocate for the High Court of Jammu, Mr. Sunny Choudhary, Advocate for State of Madhya Pradesh, Mr. Varinder Kumar Sharma, Advocate for High Court of Himachal Pradesh, Ms. K.Enatoli Sem, Advocate for State of Nagaland, Mr. R.Ayyam Perumal, Advocate State of Madras, Ms. Pallavi Langar, Advocate Govt. of Himachal Pradesh, Mr. Sameer Abhayankar, Advocate for State of Sikkim, Mr. Avinadh S. Advocate of U.T. Pudducherry, Ms. D.Bharthi Reddy, Advocate for High Court of Uttarakhand, Mr. Tapesh Kumar Singh, Advocate for High Court of Jharkhand, Mr. Gaurav Agarwal, Advocate for High Court of Patna, Mr. Aproo Kurup, Advocate for High Court of Chhatisgarh, Mr. Nikhil Goel, Advocate for High Court of

Digitized by  
ASU  
Date 20/06/27  
15:02:15  
Page 1/1

Gujarat, Mr. Amit Sharma, Advocate for High Court of Tripura,, Mr. Shailesh Sandeep Kumar Jha, Advocate for State of Rajasthan,, Mr. Mandiyal, Advocate for U.T. J and K, Ms. Surbhi Kapoor, Advocate for state of Goa, Dr. Monika Gusain, Advocate for State of Haryana, Mr. Shuvodeep Roy, Advocate for State of Tripura, Ms. Manish Ambwani, Advocate for High Court of Rajasthan, Mr. Kunal Chatterjee, Advocate for High Court of Calcutta, Mr. Rahul Gupta, Advocate for High Court of Punjab and Haryana, Mr. Aproov Shukla, Advocate for High Court of Allahabad, Mr. Nirnimesh Dubey, Advocate for state of Mizoram, Mr. Joseph Aristotle S. Advocate for State of Tamil Nadu, Mr. Vishal Prasad, Advocate for State of Chhattisgarh, Ms. Astha Sharma, Advocate for State of West Bengal, Mr. Raghuvendra Srivastava, Advocate for High Court of Karnataka, Mr. Rajiv Kumar Choudhary, Advocate for State of Telengana, Mr. S.N.Terdol, Advocate for State of Daman & Diu. Mr. T.G.N.Nair, Advocate for High Court of Kerala, Mr. Nishe Rajen Shonker, Advocate for State of Kerala, Mr. Arvind S. Advocate for state of Pudducherry, Mr. Mudit Gupta, Advocate state of Himachal Pradesh, Ms. Saroj Tripathi, Advocate, Ms. Enakshi Mukhopadhyay Siddhanta, Advocate for High Court of Sikkim, Mr. Shibashish Misra, Advocate for High Court of Orissa, Mr. Kumar Mihir, Advocate for the High Court of Manipur.

WITH

MA 2035/2022 in SLP(Cr1) No. 5191/2021 (II)

Date : 21-01-2025 These applications were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE M.M. SUNDRESH  
HON'BLE MR. JUSTICE RAJESH BINDAL

By Courts Motion

For Petitioner(s)

Mr. Sidharth Luthra, Sr. Adv.(AC)  
Mr. Akbar Siddique, AOR  
Mr. Karl P Rustomkhan, Adv.  
Mr. Suhail Ahmed, Adv.  
Mr. Mohd Osama, Adv.  
Mr. Mohammad Farman Ashraf, Adv.  
Mr. Shahzar Qureshi, Adv.

For Respondent(s)

Mr. Suryaprakash V Raju, A.S.G.  
Mrs. Aishwariya Bahti, A.S.G.  
Mrs. Shradha Deshmukh, Sr. Adv.  
Mr. Mukesh Kumar Maroria, AOR  
Ms. Sairica S Raju, Adv.  
Mr. Ritwiz Rishabh, Adv.  
Mr. Annam Venkatesh, Adv.



Ms. Priyanka Das, Adv.  
Mr. Udai Khanna, Adv.  
Mr. Mohd Akhil, Adv.  
Mr. Padmesh Mishra, Adv.  
Mr. Tacho Eru, Adv.  
Mr. Vatsal Joshi, Adv.

Mr. Arvind Kumar Sharma, AOR  
Mr. Pradeep Misra, AOR

Mr. Pai Amit, AOR  
Ms. Pankhuri Bhardwaj, Adv.  
Mr. Kushal Dube, Adv.  
Mr. Abhiyudaya Vats, Adv.

Ms. Devina Sehgal, AOR  
Mr. Mohd Ashaab, Adv.

Mr. Nikhil Jain, AOR

Mr. Arjun Garg, AOR  
Ms. Kriti Gupta, Adv.  
Ms. Sagun Srivastava, Adv.  
Mr. Saaransh Shukla, Adv.

Mr. Suvendu Suvasis Dash, AOR  
Mr. Srisatya Mohanty, Adv.  
Ms. Swati Vaibhav, Adv.  
Mr. Nabab Singh, Adv.

Mr. Ramesh Babu M. R., AOR

Mr. Avdhesh Singh, A.A.G.  
Ms. Prerna Dhall, Adv.  
Ms. Karishma Rajput, Adv.  
Mr. Gopinadh Mr, Adv.  
Mr. Rajyavardhan Mall, Adv.  
Mr. Prashant Singh, AOR

Mr. P. I. Jose, AOR  
Mrs. Mary Scaria, Adv.

Mr. Nishe Rajen Shonker, AOR  
Mrs. Anu K Joy, Adv.  
Mr. Alim Anvar, Adv.  
Mr. Santhosh K, Adv.

Mr. Kunal Chatterji, AOR  
Ms. Maitrayee Banerjee, Adv.  
Mr. Rohit Bansal, Adv.  
Ms. Mrinalini Mukherjee, Adv.

Mr. Rajiv Kumar Choudhry , AOR  
Mr. V. N. Raghupathy, AOR  
Ms. Mythili S, Adv.  
Mr. Gagan Gupta, AOR  
Mr. Ahanthem Henry, Adv.  
Mr. Ahanthem Rohen Singh, Adv.  
Mr. Mohan Singh, Adv.  
Mr. Aniket Rajput, Adv.  
Ms. Khoisnam Nirmala Devi, Adv.  
Mr. Kumar Mihir, AOR  
Ms. Astha Sharma, AOR  
Mr. Simranjeet Singh Rekhi, Adv.  
Ms. Muskan Surana, Adv.  
Mr. Sanjai Kumar Pathak, AOR  
Mrs. Shashi Pathak, Adv.  
Mr. Arvind Kumar Tripathi, Adv.  
Mr. Ajay Pal, AOR  
Ms. Rashmi Nandakumar, AOR  
Ms. Yashmita Pandey, Adv.  
Mr. Vishal Prasad, AOR  
Ms. Asmita Singh, AOR  
Mr. Abheet Mangleek, Adv.  
Mr. Tushar Nair, Adv.  
Mr. Anirudh Anand, Adv.  
Mr. Punishk Handa, Adv.  
Mr. Abhay Anil Anturkar, Adv.  
Mr. Dhruv Tank, Adv.  
Mr. Aniruddha Awalgaonkar, Adv.  
Ms. Surbhi Kapoor, AOR  
Mr. Sarthak Mehrotra, Adv.  
Mr. Bhagwant Deshpande, Adv.  
Ms. Subhi Pastor, Adv.  
Mr. Prashant Shrikant Kenjale, AOR  
Ms. Srishty Pandey, Adv.  
Ms. S. Soorya Gayathry, Adv.  
Mr. Parth Awasthi, Adv.  
Mr. Pashupathi Nath Razdan, AOR  
Mr. Nirnimesh Dube, AOR  
Mr. Mahfooz Ahsan Nazki, AOR

Mr. Manish Kumar, AOR  
Mr. Ravi Shanker Jha, Adv.

Mr. Sameer Abhyankar, AOR  
Mr. Rahul Kumar, Adv.  
Mr. Aryan Srivastava, Adv.  
Mr. Aakash Thakur, Adv.

Mr. Yashvardhan, Adv.  
Mr. Apoorv Shukla, AOR

Mr. Aman Panwar, Adv.  
Mr. Akash Panwar, Adv.  
Mr. Shivansh Saxena, Adv.  
Mr. Anuj Sehrawat, Adv.  
Mr. Mudit Gupta, AOR

Mr. R. Basant, Sr. Adv.  
Mr. T. G. Narayanan Nair, AOR  
Mr. Manish Nair, Adv.  
Ms. Samyuktha H Nair, Adv.

Mr. Maibam Nabaghanashyam Singh, AOR

Ms. Pallavi Langar, AOR  
Ms. Pragya Bhagel, Adv.  
Mr. Sujeet Kumar Chaubey, Adv.

Mr. Rahul Gupta, AOR

Mr. Sarthak Raizada Ga, Adv.  
Mr. Sarad Kumar Singhania, AOR  
Mr. Jitendra Kumar Tripathi, Adv.

Mr. Amit Sharma, AOR  
Mr. Dipesh Sinha, Adv.  
Ms. Pallavi Barua, Adv.  
Ms. Aparna Singh, Adv.

Mr. R. Ayyam Perumal, AOR  
Mr. A. Renganath, Adv.

Ms. Manisha Ambwani, AOR

Mr. Anjuman Tripathy, AOR  
Mr. Ardhendu Pratap Swain, Adv.  
Mr. Chandra Vardhan Singh, Adv.

Mr. Shishir Kumar Saxena, Adv.  
Mr. R.n. Pareek, Adv.  
Mr. Ankur Parihar, Adv.

Mr. Praveen Swarup, AOR  
Mr. Amit Kumar, Adv. General, Sr. Adv.  
Mr. T.k. Nayak, Adv.  
Mr. Vikas Bansal, Adv.  
Mr. Daniel Lyngdoh, Adv.  
Mr. Avijit Mani Tripathi, AOR  
  
Ms. K. Enatoli Sema, AOR  
Ms. Limayinla Jamir, Adv.  
Mr. Amit Kumar Singh, Adv.  
Ms. Chubalemla Chang, Adv.  
Mr. Prang Newmai, Adv.  
  
Mr. Shuvodeep Roy, AOR  
Mr. Deepayan Dutta, Adv.  
Mr. Saurabh Tripathi, Adv.  
  
Ms. Enakshi Mukhopadhyay Siddhanta, AOR  
Mr. Govindarajan J, Adv.  
  
Mr. Kaushik Choudhury, AOR  
  
Mr. Debojit Borkakati, AOR  
  
Mr. Varinder Kumar Sharma, AOR  
  
Mr. Sandeep Kumar Jha, AOR  
Mr. Shiv Mangal Sharma, A.A.G.  
Ms. Nidhi Jaswal, Adv.  
Mr. Saurabh Rajpal, Adv.  
  
Mr. Anando Mukherjee, AOR  
Mr. Shwetank Singh, Adv.  
  
Mr. Somesh Chandra Jha, AOR  
M/S. Arputham Aruna And Co, AOR  
Mr. Sunny Choudhary, AOR  
Mr. Apoorv Kurup, AOR  
  
Mr. Lokesh Sinhal, Sr. A.A.G.  
Mr. Akshay Amritanshu, AOR  
Ms. Himanshi Shakya, Adv.  
Mr. Nikunj Gupta, Adv.  
Ms. Pragya Upadhyay, Adv.  
Ms. Drishti Saraf, Adv.  
Ms. Aakanksha, Adv.  
  
Mr. Ashish Batra, AOR  
Mr. Ankur Prakash, AOR  
  
Mr. Anupam Raina, AOR

Mr. Nishant Kumar, Adv.

Mr. Aravindh S., AOR  
 Mr. Akshay Gupta, Adv.  
 Mr. Aadithya Aravindh, Adv.

Mr. Sabarish Subramanian, AOR  
 Mr. Vishnu Unnikrishnan, Adv.  
 Mr. Danish Saifi, Adv.

Ms. Rooh-e-hina Dua, AOR

Mr. Shrirang B. Varma, Adv.  
 Mr. Siddharth Dharmadhikari, Adv.  
 Mr. Aaditya Aniruddha Pande, AOR

Mr. Pukhrambam Ramesh Kumar, AOR  
 Mr. Karun Sharma, Adv.  
 Ms. Anupama Ngangom, Adv.  
 Ms. Rajkumari Divyasaana, Adv.

Mr. Sudarshan Singh Rawat, AOR  
 Ms. Rachna Gandhi, Adv.

Mr. Guntur Pramod Kumar, AOR  
 Ms. Prerna Singh, Adv.  
 Mr. Dhruv Yadav, Adv.

Mr. Aditya Jain, AOR

Mr. Somanadri Goud Katam, AOR  
 Mr. Sirajuddin, Adv.

Ms. Swati Ghildiyal, AOR  
 Ms. Deepanwita Priyanka, Adv.  
 Ms. Devyani Bhatt, Adv.  
 Ms. Srujana Suman Mund, Adv.  
 Ms. Neha Singh, Adv.

Mr. Abhishek Singh, AOR  
 Mr. Tapesk Kumar Singh, Sr. Adv.  
 Mr. Akshat Choudhary, Adv.

Ms. Vishakha, AOR

Mr. Mahesh Agarwal, Adv.  
 Mr. Ankur Saigal, Adv.  
 Mr. Anshuman Srivastava, Adv.  
 Mr. Shashwat Singh, Adv.  
 Mr. E. C. Agrawala, AOR

Mr. Abhimanyu Tewari, AOR

,  
e  
d

Ms. Eliza Bar, Adv.

Ms. Garima Prasad, Sr Adv, A.A.G.  
Mr. Shaurya Sahay, AOR  
Mr. Aditya Kumar, Adv.  
Ms. Ruchil Raj, Adv.

Mr. Karan Sharma, AOR

Ms. Aishwarya Bhati, A.S.G.  
Mr. Vatsal Joshi, Adv.  
Ms. Kanu Agrawal, Adv.  
Mr. Varun Chugh, Adv.  
Mr. Bhuvan Kapoor, Adv.  
Mr. Krishna Kant Dubey, Adv.  
Mr. Piyush Beriwal, Adv.  
Ms. Indira Bhakar, Adv.  
Mr. Harish Pandey, Adv.  
Mr. Rajesh Singh Chauhan, Adv.  
Mr. Shreekant Neelappa Terdal, AOR  
Mr. Shashwat Parihar, Adv.

Ms. Indira Bhakar, Adv.  
Mr. Vineet Singh, Adv.  
Mr. S.N. Terdal, AOR

Mr. Malak Manish Bhatt, AOR

Mr. Amit Gupta, AOR  
Mr. Kshitij Vaibhav, Adv.  
Ms. Muskan Nagpal, Adv.

Ms. Vidushi Bajpai, AOR  
Mr. Mohd. Yasin, Adv.

UPON hearing the counsel the Court made the following  
O R D E R

We have heard the learned Amicus Curiae, Sh. Siddharth Luthra, and the learned counsel appearing for the respective parties.

The learned Amicus has filed the compliance report dtd. 20.01.2025 before this Court after a detailed analysis of the Affidavits/Reports filed by the States, Union Territories (for short "UTs") and the High Courts, filed in pursuance of the directions

passed by this Court vide earlier orders dtd. 11.07.2022, 03.02.2023, 21.03.2023, 02.05.2023, 13.02.2024, 06.08.2024 and 15.10.2024.

Certain additional directions were also issued by this Court vide order dtd. 15.10.2024 to all the States, UTs and the High Courts to make use of the Model Affidavit filed by the High Court of Meghalaya to ensure compliance of earlier directions in Para. F of the order dtd. 06.08.2024, so that an 'Institutional Monitoring Mechanism' can be set in place to ensure full and complete compliance of not only the earlier directions passed, but also of those directions that may be passed by this Court in the future as well.

The learned Amicus submitted that in pursuance of this Court's order dtd. 11.12.2024, all the concerned parties have reported either full or part compliance of the directions issued by this court, except for the State of Mizoram (which has filed its Compliance Affidavit way beyond the deadline given by this Court) and the UT of Lakshadweep (which has merely refiled its earlier Compliance Affidavit dtd. 21.05.2023).

The learned Amicus has flagged off three broad issues for our consideration. They are as follows :

- (i) Release of Undertrial Prisoners (for short "UTPs") on personal bond, based on verification of AADHAAR Card.
- (ii) Service of Notice under Section 41-A of the Code of Criminal Procedure 1973 (for short "CrPC, 1973") and Section 35 of the Bharatiya Nagar Suraksha Sanhita, 2023 (for short "BNSS, 2023") is to be made in person,

contemplated under the statutes, and not through WhatsApp or any electronic modes.

- (iii) Whether sufficient steps have been taken by the High Courts to set in place an "Institutional Monitoring Mechanism" in pursuance of the order dtd. 06.08.2024 passed by this court?

**SUBMISSIONS UNDER ISSUE (i)**

Under **Issue (i)**, the learned Amicus submitted that in Para. 7 of its additional Compliance Affidavit dtd. 14.10.2024, the NALSA has accepted and recorded the suggestion of the Amicus regarding release of UTPs on personal bonds after verification of their AADHAAR Card details and depositing the same in the concerned Court, in cases where no application under Section 440 of CrPC, 1973 or Section 484 of BNSS, 2023 has been preferred by the UTP, despite being informed about their right to move such an application.

The learned Amicus also submitted that he seeks time to consult and deliberate with the learned counsel for the NALSA about the feasibility of coming up with an effective and efficient proposal for the release of UTPs on the aforementioned terms. Hence, the said issue may be taken up on the next date of hearing.

**SUBMISSIONS UNDER ISSUE (ii)**

Under **Issue (ii)**, the learned Amicus submitted and flagged off instances where notice(s) under Section 41-A of CrPC, 1973 were sent to the accused through WhatsApp, but the accused did not appear before the Investigating Officer(s). No action was taken against such erring officer(s). He has brought to the attention of this



Court a Standing Order dtd. 26.01.2024 issued by the office of the DGP, Haryana which permits Police Officers to serve notices under Section 41-A of CrPC, 1973/Section 35 of BNSS, 2023 in person or through WhatsApp, e-mail, SMS or any other electronic mode.

He further submitted that this Court in *Satender Kumar Antil v. CBI & Anr.* (2022) 10 SCC 51, approved and upheld the judgment passed by the Delhi High Court in *Rakesh Kumar v. Vijayanta Arya (DCP) & Ors.* 2021 SCC Online Del 5629, wherein it was held that notice served through WhatsApp or other electronic modes is not contemplated as a mode of service under Section 41-A of CrPC, 1973 (which is now Section 35 of BNSS, 2023) since the same is not in accordance with Chapter VI of CrPC, 1973 (which is now Chapter VI of BNSS, 2023) and hence cannot be treated as a valid mode of serving notice under Section 41-A of CrPC, 1973/Section 35 of BNSS, 2023. Hence, the police machinery must not circumvent the mandate of Section 41-A of CrPC, 1973/Section 35 of BNSS, 2023 by serving notices through WhatsApp or other electronic modes, instead of following the normal mode of service. Reference is also made to Section 532 of BNSS, 2023 which states that all trials, inquiries and proceedings under BNSS, 2023 may be held in electronic mode, by use of electronic communication or use of audio-video electronic means. Even the aforesaid section does not permit notice under Section 35 of BNSS, 2023 to be served through WhatsApp or other electronic modes.

**SUBMISSIONS UNDER ISSUE (iii)**

Under **Issue (iii)**, the learned Amicus submitted that in order to ensure full and complete compliance of not only the past, but also the future directions that will be issued by this court, the Committee for “Ensuring the Implementations of the Decisions of the Apex Court” of the respective High Courts will have to regularly hold meetings to ensure compliance at all levels, and also ensure that monthly compliance reports are being submitted by the concerned authorities.

**DIRECTIONS**

Having heard the parties and having deliberated upon the aforesaid submissions, this Court in furtherance of Paras. 100.2, 100.8 and 100.9 of *Satender Kumar Antil v. CBI & Anr.* (2022) 10 SCC 51, and its previous directions contained in earlier orders, deems it necessary to issue the following directions :

- a) All the States/UTs must issue a Standing Order to their respective Police machinery to issue notices under Section 41-A of CrPC, 1973/Section 35 of BNSS, 2023 only through the mode of service as prescribed under the CrPC, 1973/BNSS, 2023. It is made amply clear that service of notice through WhatsApp or other electronic modes cannot be considered or recognised as an alternative or substitute to the mode of service recognised and prescribed under the CrPC, 1973/BNSS, 2023.
- b) All the States/UTs while issuing Standing Orders to their respective Police machinery relating to Section 41-A of CrPC, 1973/Section 35 of BNSS, 2023

must be issued strictly in accordance with the guidelines issued by the Delhi High Court in Rakesh Kumar v. Vijayanta Arya (DCP) & Ors., 2021 SCC Online Del 5629 and Amandeep Singh Johar v. State (NCT Delhi), 2018 SCC Online Del 13448, both of which were upheld by this Court in Satender Kumar Antil v. CBI & Anr. (2022) 10 SCC 51.

- c) All the States/UTs must issue an additional Standing Order to their respective Police machinery to issue notices under Section 160 of CrPC, 1973/Section 179 of BNSS, 2023 and Section 175 of CrPC, 1973/Section 195 of BNSS, 2023 to the accused persons or otherwise, only through the mode of service as prescribed under the CrPC, 1973/BNSS, 2023.
- d) All the High Courts must hold meetings of their respective Committees for “Ensuring the Implementations of the Decisions of the Apex Court” on a monthly basis, in order to ensure compliance of both the past and future directions issued by this Court at all levels, and to also ensure that monthly compliance reports are being submitted by the concerned authorities.
- e) We have taken note of the fact that the State of Mizoram has filed its Compliance Affidavit way beyond the deadline given by this Court and the UT of Lakshadweep has merely refiled its earlier Compliance Affidavit dtd. 21.05.2023. Hence, the UT of Lakshadweep must ensure compliance of the earlier directions issued by this court and file a fresh Compliance Affidavit within a period of 2 weeks from today.

We make it amply clear that this is the last and final opportunity being given to the UT of Lakshadweep to comply with the earlier directions, barring which the Chief Secretary of the UT of Lakshadweep will have to remain physically present before this Court on the next date of hearing, if the aforesaid compliance (i.e. **Direction e**) is not made.

The Registrar Generals of the respective High Courts and Chief Secretaries of all the States/UTs are directed to ensure that due compliance of the aforementioned directions (except **Direction e**) is made within a period of **3 weeks** from today, and that the Compliance Affidavits be mailed within a period of **4 weeks** from today to the dedicated email address for this purpose at [complianceinartil@gmail.com](mailto:complianceinartil@gmail.com).

Needless to state, though the outer limit of 4 weeks for filing the Compliance Affidavits has been granted, however the learned counsel appearing for the respective High Courts, States/UTs and the Union of India shall ensure that the Compliance Affidavits reach the learned Amicus Curiae well within the time granted by us. In case of non-compliance, appropriate consequences would follow and the requisite orders shall be passed on the next date of hearing.

**Issue (i)**, as aforementioned, will be taken up on the next date of hearing.

List the matter on **18.03.2025 at 2 p.m.**

(ASHA SUNDRIYAL)  
DEPUTY REGISTRAR

(POONAM VAID)  
ASSISTANT REGISTRAR

IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P.(C) 7608/2017

Date of decision : 7th February, 2018

AMANDEEP SINGH JOHAR ..... Petitioner

Through : Mr. Nikhil Borwankar,

Mr. Pankaj Sharma,

Mr. Roopenshu Pratap Singh,

Mr. David Vijay Thomas, Mr.

Vikram Singh Kushwaha and

Mr. Kaushik Barua, Advs.

versus

STATE OF NCT OF DELHI & ANR ..... Respondents

Through : Mr. Sanjay Jain, ASG with Mr.

Satyakam, ASC-GNCTD and

Ms. Sneh Suman, Mr. Vidur

Mohan and Mr. Sarfaraz

Ahmad, Advs.

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE  
HON'BLE MR. JUSTICE C.HARI SHANKAR  
JUDGMENT (ORAL)

**GITA MITTAL, ACTING CHIEF JUSTICE**

1. This writ petition has been filed under Articles 226 and 227 of the Constitution of India by the petitioner who claims that he, alongwith his parents and relatives, has faced proceedings before the Crime Against Women Cell, Nanak Pura, New Delhi at the instance of his wife. It is complained that despite regularly attending all sessions fixed at this Cell and extending full cooperation, the proceedings culminated in registration of a FIR being FIR No. 313/16 by the Police Station Patel Nagar, New Delhi under Section 498A/406 of the Indian Penal Code.

2. It is stated in the writ petition that the petitioner was regularly summoned to the Police Station to join investigations, without a single written notice under Section 41A of the CrPC being served upon him. As such, the petitioner complains that he joined investigation on eight dates which have been detailed in para 9 of the writ petition.

3. Grievance stands made that several documents relied upon by the petitioner in his defence which were tendered by him during the proceedings before the Crime Against Women Cell during the investigation. No receipt thereof was given to the petitioner and these documents having a critical bearing on the case were not made part of the record by the police.

In those above circumstances, the petitioner had no material or evidence to support his contention that he had regularly joined investigation and also that he had tendered several documents which manifested that he was innocent in the case.

4. Amongst the documents relied upon by the petitioner as having been handed over to the police are details of the recovery memo; list of stridhan articles, text messages exchanged between the petitioner and her investigating officer.

5. Reference is made to Circular No. 08/2011 dated 10th February, 2011 issued by the Delhi Police. It is complained by the petitioner that not only are the directions contained in this and other Circulars not being properly worked by local police stations and officers but also that the directions

contained in the Circulars by themselves are wholly insufficient to ensure protection of the rights of the persons who are called for enquiries or are the subject matter of criminal investigations.

6. It has been submitted by Mr. Nikhil Borwankar, learned counsel who appears for the petitioner that the petitioner's experience at the Crime Against Women Cell and the police station highlight the fact that this was a practice followed in all criminal enquiries and investigations undertaken by the Delhi Police necessitating the filing of the present writ petition in Public Interest making a prayer to this court for inter alia directions to the Delhi Police to modify its Circular No.08/2011 dated 10th February, 2011 and to frame fair and balanced rules with regard to issuance and service of notices under Section 41A and Section 160 of the CrPC.

7. The petitioner consequently took a pro-active stand and initiated queries under the Right to Information Act resulting in his obtaining copies of various circulars of the Delhi Police governing the working of Section 41 of the CrPC. In this regard, the petitioner has drawn our attention to above Circular No.8/2011 referred which is concerned with "provisions of arrest as per the CrPC (Amendment) Act, 2008"

(page 400) and the Circular no. 30A of 2014 dated 17th November, 2014 (page 404) which is concerned with "Directions Relating to Arrest in Pending Investigation Cases."

8. Before examining the grievance made by the petitioner, it would be useful to set out the statutory provisions which relate to the requirement of appearance before police officer of any person, for expediency, we extract hereunder the provisions of Sections 41A, 91, 160 and 175 of CrPC :

"41A. Notice of appearance before police officer. - (1) The police officer shall, in all cases where the arrest of a person is not required under the provisions of sub-section (1) of section 41, issue a notice directing the person against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists that he has committed a cognizable offence, to appear before him or at such other place as may be specified in the notice.

(2) Where such a notice is issued to any person, it shall be the duty of that person to comply with the terms of the notice.

(3) Where such person complies and continues to comply with the notice, he shall not be arrested in respect of the offence referred to in the notice unless, for reasons to be recorded, the police officer is of the opinion that he ought to be arrested.

(4) Where such person, at any time, fails to comply with the terms of the notice or is unwilling to identify himself, the police officer may, subject to such orders as may have been passed by a competent Court in this behalf, arrest him for the offence mentioned in the notice."

#### 91. Summons to produce document or other thing.

(1) Whenever any Court or any officer in charge of a police station considers that the production of any document or other thing is necessary or desirable for the purposes of any investigation, inquiry, trial or other proceeding under this Code by or before such Court or officer, such Court may issue a summons, or such officer a written order, to the person in whose possession or power such document or thing is believed to be, requiring him to attend and produce it, or to produce it, at the time and place stated in the summons or order.

(2) Any person required under this section merely to produce a document or other thing shall be deemed to have complied with the requisition if he causes such document or thing to be produced instead of attending personally to produce the same.

(3) Nothing in this section shall be deemed-

(a) to affect sections 123 and 124 of the Indian Evidence Act, 1872 (1 of 1872), or the Bankers' Books Evidence Act, 1891 (13 of 1891) or

(b) to apply to a letter, postcard, telegram or other document or any parcel or thing in the custody of the postal or telegraph authority.

XXXX

160. Police officer's power to require attendance of witnesses.



(1) Any police officer, making an investigation under this Chapter may, by order in writing, require the attendance before himself of any person being within the limits of his own or any adjoining station who, from the information given or otherwise, appears to be acquainted with the facts and circumstances of the case; and such person shall attend as so required:

Provided that no male person under the age of fifteen years or woman shall be required to attend at any place other than the place in which such male person or woman resides. (2) The State Government may, by rules made in this behalf, provide for the payment by the police officer of the reasonable expenses of every person, attending under sub-section (1) at any place other than his residence.

xxx xxx xxx

175. Power to summon persons.

(1) A police officer proceeding under section 174, may, by order in writing, summon two or more persons as aforesaid for the purpose of the said investigation, and any other person who appears to be acquainted with the facts of the case and every person so summoned shall be bound to attend and to answer truly all questions other than questions the answers to which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture. (2) If the facts do not disclose a cognizable offence to which section 170 applies, such persons shall not be required by the police officer to attend a Magistrate's Court."

(Emphasis supplied)

9. Pursuant to the notices issued by this court, the respondents have entered appearance. Appearing for the Delhi Police, Mr. Satyakam, learned ASC for the Govt. of NCT of Delhi has staunchly disputed the factual narration. This court is not examining either the grievances of the petitioner regarding the treatment by the Delhi Police or his defence on the merits in respect of the complaints against him. We make it clear that we are not expressing any opinion on the merits of the factual narration made by the petitioner, either with regard to the complaints made against him by his wife and in-laws or his complaints and allegations against the Delhi Police.

10. We may note that the writ petitioner has also categorically stated that this writ petition is being filed purely in public interest.

11. Be that as it may, the issues raised by the petitioner are of seminal importance and impact the working of the Delhi Police and the rights of all persons who are called for enquiries or whose conduct is the subject matter of investigation at the hands of the police. It is only for this reason that we have examined the grievance made by the petitioner regarding the insufficiency and inefficacy of the available machinery on the above issues.

12. In this background, on the 30th of August, 2017, we had called upon a report from the Registrar General of this court who is a senior officer of the Delhi Higher Judicial Services. The Worthy Registrar General was requested to examine the issues urged by the petitioner as well as the circulars issued by the Commissioner of Delhi Police which are in vogue and have been noticed above. It appears that an extensive consultative process was adopted by the Registrar General who was joined in the deliberations not only by Mr. Satyakam, learned ASC but also by senior officers of the Delhi Police including Mr. Virender Chahal, Joint Commissioner of Police, Central District. A report dated 3rd November, 2017 (page 422) stands submitted to this court.

13. Inasmuch as the parties before us had some suggestions of these recommendations, the matter was subjected to reconsideration which culminated in an additional report dated 12th December, 2017 (page 477).

14. These reports were placed before this court and considered on 23rd November; 4th December; 14th December; 28th December, 2017 and 19th January, 2018. During these deliberations, it appears that Mr. Sanjay Jain, learned Additional Solicitor General of India had also entered appearance and the matter was closely examined. A final document captioned as "Suggestions on Implementation of the Status Report of the Registrar General of the Court dated 3rd November, 2017 and 2nd December, 2017" was handed over on 19th January, 2018 which was taken on record.

15. We have heard Mr. Sanjay Jain, learned ASG and Mr. Satyakam, ASC, GNCTD on the aforesaid issues and the reports. Upon consideration of the report and the suggestions made by the parties under the leadership of the Worthy Registrar General and with their consent, it is directed that so far as working of Section 41A, the following procedure shall be strictly followed by the police in Delhi:

Procedure for issuance of notices/order by police officers under Sections 41A "(i) Police officers should be mandatorily required to issue notices under Section 41A CrPC (in the prescribed format) formally to be served in the manner and in accordance with the terms of the provisions contained in Chapter VI of the Code.

→ Model form of notice under Section 41A CrPC is reproduced herein below:-

" MODEL SECTION 41A CrPC NOTICE Sr.No.....

Police Station .....

To, [Name of Accused/Noticee] [Last Known Address] [Phone No./Email ID (if any)] Notice under Section 41(A) Cr.P.C. In exercise of the powers conferred under subsection (1) of section 41A of Cr.P.C., I hereby inform you that during the investigation of FIR/Case No. .... dated ..... u/s .....registered at SV & ACB Police Station ....., it is revealed that there are reasonable grounds to question you to ascertain facts and circumstances from you, in relation to the present investigation. Hence you are directed to appear before me at ..... am/pm on ..... at .....Police Station.

You are directed to comply with all and/or the following directions :-

(a) You will not commit any offence in future.

(b) You will not tamper with the evidences in the case in any manner whatsoever.

(c) You will not make any threat, inducement, or promise to any person acquainted with the fact of the case so as to dissuade him from disclosing, such facts to the court or to the police officer.

- (d) You will appear before the Court as and when required/directed.
- (e) You will join the investigation of the case as and when required and will cooperate in the investigation.
- (f) You will disclose all the facts truthfully without concealing any part relevant for the purpose of investigation to reach to the right conclusion of the case.
- (g) You will produce all relevant documents/material required for the purpose of investigation.
- (h) You will render your full co-operation/assistance in apprehension of the accomplice.
- (i) You will not allow in any manner destruction of any evidence relevant for the purpose of investigation/trial of the case.
- (j) Any other conditions, which may be imposed by the Investigating Officer/SHO as per the facts of the case.

Failure to attend/comply with the terms of this Notice, can render you liable for arrest under Section 41A(3) and (4) of CrPC.

[Signature]                      [Name                      and                      Designation]                      [affix                      seal]

.....

Sr.No. ....

ACKNOWLEDGEMENT In compliance with the abovementioned notice dated ..... issued under Section 41A CrPC, the Noticee has appeared on ..... from ..... to ..... That the Noticee's presence has been recorded in the register to be maintained by the Police Station.....

This acknowledgement is being issued in compliance with Section 41A CrPC. The documents produced by the noticee have duly been seized vide seizure memo/production memo (copy enclosed). The noticee undertakes to continue to comply with any further notices that she/he may receive during the course of the present investigation.

[Signature of Accused] [Signature of IO]"

(ii) The concerned suspect / accused person will necessarily need to comply with the terms of the notice under section 41 A and attend at the requisite time and place.

(iii) Should the accused be unable to attend at the time for any valid and justifiable reason, the accused should in writing immediately, intimate the investigating officer and seek an alternative time within a reasonable period, which should ideally not accede a period of four working days, from the date on which he / she were required to attend, unless he is unable to show justifiable cause for such non-attendance.

(iv) Unless it is detrimental to the investigation, the police officer may permit such rescheduling, however only for justifiable causes to be recorded in the case diary. Should the investigating officer believe that such extension is being sought to cause delay to the investigation or the suspect / accused person is being evasive by seeking time, (subject to intimation to the SHO / SP of the concerned Police Station), deny such request and mandatorily require the said person to attend.

(v) A suspect / accused on formally receiving a notice under section 41A CrPC and appearing before the concerned officer for investigation / interrogation at the police station, may request the concerned IO for an acknowledgement,

(vi) In the event, the suspect / accused is directed to appear at a place other than the police station (as envisaged under Section 41A(1)CrPC), the suspect will be at liberty to get the acknowledgement receipt attested by an independent witness if available at the spot in addition to getting the same attested by the concerned investigating officer himself.

(vii) A duly indexed booklet containing serially numbered notices in duplicate / carbon copy format should be issued by the SHO of the Police Station to the Investigating Officer. The Notice should necessarily contain the following details:

a Serial Number b Case Number c Date and time of appearance d Consequences in the event of failure to comply e Acknowledgment slip

(viii) The Investigating Officer shall follow the following procedure:-

a The original is served on the Accused/Suspect;

b A carbon copy (on white paper) is retained by the IO in his / her case diary, which can be shown to the concerned Magistrate as and when required;

c Used booklets are to be deposited by the IO with the SHO of the Police Station who shall retain the same till the completion of the investigation and submission of the final report under section 173 (2) of the Cr.P.C.

d The Police department shall frame appropriate rules for the preservation and destruction of such booklets

(ix) Procedure booklets in format identical to the above prescription in guideline (vii) & (viii) with modifications having regard to the statutory provisions in the forms for the notices and acknowledgment shall be maintained.

(x) Failure on the part of the IO to comply with the mandate of the provisions of the Cr.P.C and the above procedure shall render him liable to appropriate disciplinary proceedings under the applicable rules and regulations as well as contempt of Court in terms of the directions of the Hon'ble Supreme Court in the case of Arnesh Kumar Vs. State of Bihar (2014) 8 SCC 273.

(xi) Publicity should be undertaken and pamphlets educating the public at large, should be issued by the DCP of all Districts.

(xii) The above information should be displayed at prominent places in Police stations, the subordinate courts and the High Court and made available to with the State and District Legal Services Authorities, to inform the public of their rights and recourses available to them.

(xiii) Training programmes be specially formulated for Police Officers and Judicial Officers to sensitize them towards effective compliance of Section 41A, 91, 160 and 175 of the CrPC."

## RAKESH KUMAR V. VIJAYANTA ARYA (DCP) AND OTHERS

Najmi Waziri, J.:-

The hearing has been conducted through hybrid mode (physical and virtual hearing).

2. The court has already held R-3 guilty of committing contempt of court. He arrested the petitioner in breach of directions passed by the Supreme Court in Arnesh Kumar v. State of Bihar, Criminal Appeal No. 1277/2014. The requisite notice was not served upon the petitioner. There were mere allegations of criminal breach of trust against the petitioner, which entailed a maximum sentence of three years. It did not warrant the arrest of a person in the manner in which it was done. The petitioner's own complaints to the police were not responded to. The highhandedness of the police officer, in specific breach of the Supreme Court's directions is evident. Arnesh Kumar (supra) holds that in the event of non-service of notice under section 41A of the Cr.P.C., contempt proceedings would be initiated.

3. The petitioner's right to personal liberty is ensured by the Constitution of India. It can be curtailed only by a procedure prescribed established by law. The Supreme Court has said in Arnesh Kumar that notice under s. 41A Cr.P.C. is requisite. The notice was not served. The law has been breached. It is not the petitioner only who has suffered the humiliation and the indignity of being arrested; the ordeal would have affected the reputation of his family i.e. his children, wife and parents. No amount of explanation to the neighbours or those who may have seen the arrest, would undo the embarrassment and indignity suffered by the petitioner and his relatives. Arrest and incarceration destroys a person and collaterally affects many other innocent relatives. Subsequent release or acquittal of an innocent, is of no solace and offers no reparation to the

16. It is directed that the above procedure shall apply also to the working of Sections 91, 160 and 175 of the CrPC as well. The above procedure shall be mandatorily followed by the Delhi Police when working the requirements of all the above noted sections.

17. The respondent no.2 shall issue a circular forthwith upon receipt of a copy of this order directing the strict compliance of the procedure laid above, by every police personnel. The Circular shall be also posted on the official website of the Delhi Police and effective publicity given to ensure that the public is apprised of the procedure which has to be followed.

18. The necessary features of the Circular shall be prominently displayed at all police stations in English and vernacular to enable every person who visits the police station of the procedure which has to be followed.

19. The present writ petition is a laudable effort on the part of a petitioner who, though facing criminal prosecution, has opted to pursue larger public interest and to bring some transparency to the manner of police functioning.

20. We also place on record our deep appreciation for the assistance tendered by Mr. Sanjay Jain, learned ASG; Mr. Nikhil Borwankar, Advocate; Mr. Satyakam, learned ASC-GNCTD and Mr. Dinesh Kumar Sharma, the Registrar General of this court in assisting this court in the formation of effective guidelines which shall go a long way in ensuring transparency in the working of the police machinery and ensuring justice to suspect accused persons as well as those required to appear before the police.

21. In view of the above, the prayer made in this writ petition stands satisfied. The petition is disposed of in terms thereof.

22. Let a copy of this order be sent to the District Judges for circulation amongst all trial courts to ensure compliance thereof.

ACTING CHIEF JUSTICE C.HARI SHANKAR, J FEBRUARY 07, 2018/kr



loss of reputation or for the temporary loss of precious personal liberty. A stigma gets attached to the person who has been taken away, detained and/or put behind bars by the police. R-3 is deemed to have due knowledge of the rights of a citizen and the procedure prescribed in law.

4. R-3 filed an affidavit on 06.12.2021 tendering his unqualified/unreserved apology for arresting the petitioner on 23.08.2020. Time was granted to the respondents on 31.08.2020 to file a Status Report on or before the next date. An apology, if any, ought to be tendered in the first instance. There is no contrition in the apology of R-3. The said apology is a matter of last resort. Therefore, the apology cannot be accepted. The petitioner has suffered incarceration for 11 days and presently he is out on bail.

5. In view of the above and keeping in mind that R-3 is a serving police officer with Delhi Police, that he has served for seven years and may have a long career ahead of him, R-3 is sentenced to undergo simple imprisonment for one day, along with a fine of Rs. 2,000/-, as well as nominal costs of Rs. 15,000/- for these proceedings, to be paid by him to the petitioner within four weeks.

6. The aforesaid sentence shall be kept in abeyance for a period of two months from receipt of the order, so as to accord R-3 sufficient opportunity to assail this order, should he so choose to.

7. The petition, along with pending application, stands disposed-off in terms of the above.

ITEM NO.2

COURT NO.9

SECTION II

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Miscellaneous Application No. 2034/2022 in MA 1849/2021 in  
SLP(Cr1) No. 5191/2021

SATENDER KUMAR ANTIL

Petitioner(s)

VERSUS

CENTRAL BUREAU OF INVESTIGATION &amp; ANR.

Respondent(s)

[ TO BE TAKEN UP AT 2:00 P.M. ]

Mr. V.N. Raghupathy, Advocate for High Court of Karnataka; Mr. Tapesk Kumar Singh, Advocate for High Court of Jharkhand; Mr. P.I. Jose, Advocate for Gauhati High Court; Mr. Arjun Garg, Advocate for High Court of Madhya Pradesh; Mr. Amit Gupta, Advocate for High Court of Delhi; Mr. Sanjai Kumar Pathak, Advocate for High Court of Meghalaya; Mr. Sibho Sankar Mishra, Advocate for High Court of Orissa, Mr. Abhimanyu Tewari, Advocate for State of Arunachal Pradesh, Mr. Somanadri Gaud Katam, Advocate for High Court of Telangana; Mr. Aaditya A. Pande, Advocate for the State of Maharashtra; Mr. Ankur Prakash, Advocate for the State of Uttarakhand; M/s Arputham Aruna, Mr. Debojit Borkakati, Advocate for the State of Assam, Mr. S.N.Terdol, Advocate for the State of Ladakh, Mr. Avijit Mani Tripathi, Advocate for the State of Meghalaya, Mr. Manish Kumar, Advocate for the State of Bihar, Mr. Mahfooz A. Nazki, Advocate for the State of Andhra Pradesh, Mr. Maibam N. Singh, Advocate for the High Court of Manipur, Mr. Prashant S. Kenjale, Advocate for the High Court of Bombay, Mr. Ajay Pal, Advocate for the State of Punjab, Mr. Gagan Gupta, Advocate for High Court of Andhra Pradesh, Mr. Nishe Rajen Shonker, Advocate for the State of Kerala, Mr. Suwendu Suvasis Dash, Advocate for the State of Orissa, Mr. Pradeep Mishra, Advocate for the State of Uttar Pradesh, Mrs. Swati Ghildiyal, Advocate for the State of Gujarat, Mr. Pukhrambam Ramesh Kumar, Advocate for the Government of Manipur, Mr. Abhay Anil Anturkar, Advocate for the State of Goa, Mr. Anupam Raina, Advocate for the High Court of Jammu, Mr. Sunny Choudhary, Advocate for State of Madhya Pradesh, Mr. Varinder Kumar Sharma, Advocate for High Court of Himachal Pradesh, Ms. K. Enatoli Sem, Advocate for State of Nagaland, Mr. R. Ayyam Perumal, Advocate for State of Madras, Ms. Pallavi Langar, Advocate Govt. of Himachal Pradesh, Mr. Sameer Abhayankar, Advocate for State of Sikkim, Mr. Avinadh S. Advocate of U.T. Pudducherry, Ms. D. Bharthi Reddy, Advocate for High Court of Uttarakhand, Mr. Tapesk Kumar Singh, Advocate for High Court of Jharkhand, Mr. Gaurav Agarwal, Advocate for High Court of Patna, Mr. Aproo Kurup, Advocate for High Court of Chhatisgarh, Mr. Nikhil Goel, Advocate for High Court of

Gujarat, Mr. Amit Sharma, Advocate for High Court of Tripura,, Mr. Sandeep Kumar Jha, Advocate for State of Rajasthan,, Mr. Shailesh Mandiyal, Advocate for U.T. J and K, Ms. Surbhi Kapoor, Advocate for state of Goa, Dr. Monika Gusain, Advocate for State of Haryana, Mr. Shuvodeep Roy, Advocate for State of Tripura, Ms. Manish Ambwani, Advocate for High Court of Rajasthan, Mr. Kunal Chatterjee, Advocate for High Court of Calcutta, Mr. Rahul Gupta, Advocate for High Court of Punjab and Haryana, Mr. Aproov Shukla, Advocate for High Court of Allahabad, Mr. Nirnimesh Dubey, Advocate for state of Mizoram, Mr. Joseph Aristotle S. Advocate for State of Tamil Nadu, Mr. Vishal Prasad, Advocate for State of Chhattisgarh, Ms. Astha Sharma, Advocate for State of West Bengal, Mr. Raghuvendra Srivastava, Advocate for High Court of Karnataka, Mr. Rajiv Kumar Choudhary, Advocate for State of Telengana, Mr. S.N.Terdol, Advocate for State of Daman & Diu. Mr. T.G.N.Nair, Advocate for High Court of Kerala, Mr. Nishe Rajen Shonker, Advocate for State of Kerala, Mr. Arvind S. Advocate for state of Pudducherry, Mr. Mudit Gupta, Advocate state of Himachal Pradesh, Ms. Saroj Tripathi, Advocate, Ms. Enakshi Mukhopadhyay Siddhanta, Advocate for High Court of Sikkim, Mr. Shibashish Misra, Advocate for High Court of Orissa, Mr. Kumar Mihir, Advocate for the High Court of Manipur.

WITH

MA 2035/2022 in SLP(Crl) No. 5191/2021 (II)

Date : 21-01-2025 These applications were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE M.M. SUNDRESH  
HON'BLE MR. JUSTICE RAJESH BINDAL

By Courts Motion

For Petitioner(s) Mr. Sidharth Luthra, Sr. Adv.(AC)  
Mr. Akbar Siddique, AOR  
Mr. Karl P Rustomkhan, Adv.  
Mr. Suhail Ahmed, Adv.  
Mr. Mohd Osama, Adv.  
Mr. Mohammad Farman Ashraf, Adv.  
Mr. Shahzar Qureshi, Adv.

For Respondent(s) Mr. Suryaprakash V Raju, A.S.G.  
Mrs. Aishwariya Bahti, A.S.G.  
Mrs. Shradha Deshmukh, Sr. Adv.  
Mr. Mukesh Kumar Maroria, AOR  
Ms. Sairica S Raju, Adv.  
Mr. Ritwiz Rishabh, Adv.  
Mr. Annam Venkatesh, Adv.

Ms. Priyanka Das, Adv.  
Mr. Udai Khanna, Adv.  
Mr. Mohd Akhil, Adv.  
Mr. Padmesh Mishra, Adv.  
Mr. Tacho Eru, Adv.  
Mr. Vatsal Joshi, Adv.

Mr. Arvind Kumar Sharma, AOR  
Mr. Pradeep Misra, AOR

Mr. Pai Amit, AOR  
Ms. Pankhuri Bhardwaj, Adv.  
Mr. Kushal Dube, Adv.  
Mr. Abhiyudaya Vats, Adv.

Ms. Devina Sehgal, AOR  
Mr. Mohd Ashaab, Adv.

Mr. Nikhil Jain, AOR

Mr. Arjun Garg, AOR  
Ms. Kriti Gupta, Adv.  
Ms. Sagun Srivastava, Adv.  
Mr. Saaranish Shukla, Adv.

Mr. Suwendu Suvasis Dash, AOR  
Mr. Srisatya Mohanty, Adv.  
Ms. Swati Vaibhav, Adv.  
Mr. Nabab Singh, Adv.

Mr. Ramesh Babu M. R., AOR

Mr. Avdhesh Singh, A.A.G.  
Ms. Prerna Dhall, Adv.  
Ms. Karishma Rajput, Adv.  
Mr. Gopinadh Mr, Adv.  
Mr. Rajyavardhan Mall, Adv.  
Mr. Prashant Singh, AOR

Mr. P. I. Jose, AOR  
Mrs. Mary Scaria, Adv.

Mr. Nishe Rajen Shonker, AOR  
Mrs. Anu K Joy, Adv.  
Mr. Alim Anvar, Adv.  
Mr. Santhosh K, Adv.

Mr. Kunal Chatterji, AOR  
Ms. Maitrayee Banerjee, Adv.  
Mr. Rohit Bansal, Adv.  
Ms. Mrinalini Mukherjee, Adv.

Mr. Rajiv Kumar Choudhry , AOR

Mr. V. N. Raghupathy, AOR  
Ms. Mythili S, Adv.

Mr. Gagan Gupta, AOR

Mr. Ahanthem Henry, Adv.  
Mr. Ahanthem Rohen Singh, Adv.  
Mr. Mohan Singh, Adv.  
Mr. Aniket Rajput, Adv.  
Ms. Khoisnam Nirmala Devi, Adv.  
Mr. Kumar Mihir, AOR

Ms. Astha Sharma, AOR  
Mr. Simranjeet Singh Rekhi, Adv.  
Ms. Muskan Surana, Adv.

Mr. Sanjai Kumar Pathak, AOR  
Mrs. Shashi Pathak, Adv.  
Mr. Arvind Kumar Tripathi, Adv.

Mr. Ajay Pal, AOR

Ms. Rashmi Nandakumar, AOR  
Ms. Yashmita Pandey, Adv.

Mr. Vishal Prasad, AOR

Ms. Asmita Singh, AOR  
Mr. Abheet Mangleek, Adv.  
Mr. Tushar Nair, Adv.  
Mr. Anirudh Anand, Adv.  
Mr. Punishk Handa, Adv.

Mr. Abhay Anil Anturkar, Adv.  
Mr. Dhruv Tank, Adv.  
Mr. Aniruddha Awalgaonkar, Adv.  
Ms. Surbhi Kapoor, AOR  
Mr. Sarthak Mehrotra, Adv.  
Mr. Bhagwant Deshpande, Adv.  
Ms. Subhi Pastor, Adv.

Mr. Prashant Shrikant Kenjale, AOR  
Ms. Srishty Pandey, Adv.  
Ms. S. Soorya Gayathry, Adv.

Mr. Parth Awasthi, Adv.  
Mr. Pashupathi Nath Razdan, AOR

Mr. Nirnimesh Dube, AOR  
Mr. Mahfooz Ahsan Nazki, AOR

Mr. Manish Kumar, AOR  
Mr. Ravi Shanker Jha, Adv.

Mr. Sameer Abhyankar, AOR  
Mr. Rahul Kumar, Adv.  
Mr. Aryan Srivastava, Adv.  
Mr. Aakash Thakur, Adv.

Mr. Yashvardhan, Adv.  
Mr. Apoorv Shukla, AOR

Mr. Aman Panwar, Adv.  
Mr. Akash Panwar, Adv.  
Mr. Shivansh Saxena, Adv.  
Mr. Anuj Sehrawat, Adv.  
Mr. Mudit Gupta, AOR

Mr. R. Basant, Sr. Adv.  
Mr. T. G. Narayanan Nair, AOR  
Mr. Manish Nair, Adv.  
Ms. Samyuktha H Nair, Adv.

Mr. Maibam Nabaghanashyam Singh, AOR

Ms. Pallavi Langar, AOR  
Ms. Pragya Bhagel, Adv.  
Mr. Sujeet Kumar Chaubey, Adv.

Mr. Rahul Gupta, AOR

Mr. Sarthak Raizada Ga, Adv.  
Mr. Sarad Kumar Singhania, AOR  
Mr. Jitendra Kumar Tripathi, Adv.

Mr. Amit Sharma, AOR  
Mr. Dipesh Sinha, Adv.  
Ms. Pallavi Barua, Adv.  
Ms. Aparna Singh, Adv.

Mr. R. Ayyam Perumal, AOR  
Mr. A. Renganath, Adv.

Ms. Manisha Ambwani, AOR

Mr. Anjuman Tripathy, AOR  
Mr. Ardhendu Pratap Swain, Adv.  
Mr. Chandra Vardhan Singh, Adv.

Mr. Shishir Kumar Saxena, Adv.  
Mr. R.n. Pareek, Adv.  
Mr. Ankur Parihar, Adv.

Mr. Praveen Swarup, AOR

Mr. Amit Kumar, Adv. General, Sr. Adv.  
Mr. T.k. Nayak, Adv.  
Mr. Vikas Bansal, Adv.  
Mr. Daniel Lyngdoh, Adv.  
Mr. Avijit Mani Tripathi, AOR

Ms. K. Enatoli Sema, AOR  
Ms. Limayinla Jamir, Adv.  
Mr. Amit Kumar Singh, Adv.  
Ms. Chubalemla Chang, Adv.  
Mr. Prang Newmai, Adv.

Mr. Shuvodeep Roy, AOR  
Mr. Deepayan Dutta, Adv.  
Mr. Saurabh Tripathi, Adv.

Ms. Enakshi Mukhopadhyay Siddhanta, AOR  
Mr. Govindarajan J, Adv.

Mr. Kaushik Choudhury, AOR

Mr. Debojit Borkakati, AOR

Mr. Varinder Kumar Sharma, AOR

Mr. Sandeep Kumar Jha, AOR  
Mr. Shiv Mangal Sharma, A.A.G.  
Ms. Nidhi Jaswal, Adv.  
Mr. Saurabh Rajpal, Adv.

Mr. Anando Mukherjee, AOR  
Mr. Shwetank Singh, Adv.

Mr. Somesh Chandra Jha, AOR  
M/S. Arputham Aruna And Co, AOR  
Mr. Sunny Choudhary, AOR  
Mr. Apoorv Kurup, AOR

Mr. Lokesh Sinhal, Sr. A.A.G.  
Mr. Akshay Amritanshu, AOR  
Ms. Himanshi Shakya, Adv.  
Mr. Nikunj Gupta, Adv.  
Ms. Pragya Upadhyay, Adv.  
Ms. Drishti Saraf, Adv.  
Ms. Aakanksha, Adv.

Mr. Ashish Batra, AOR  
Mr. Ankur Prakash, AOR

Mr. Anupam Raina, AOR

Mr. Nishant Kumar, Adv.

Mr. Aravindh S., AOR  
Mr. Akshay Gupta, Adv.  
Mr. Aadithya Aravindh, Adv.

Mr. Sabarish Subramanian, AOR  
Mr. Vishnu Unnikrishnan, Adv.  
Mr. Danish Saifi, Adv.

Ms. Rooh-e-hina Dua, AOR

Mr. Shrirang B. Varma, Adv.  
Mr. Siddharth Dharmadhikari, Adv.  
Mr. Aaditya Aniruddha Pande, AOR

Mr. Pukhrambam Ramesh Kumar, AOR  
Mr. Karun Sharma, Adv.  
Ms. Anupama Ngangom, Adv.  
Ms. Rajkumari Divyasana, Adv.

Mr. Sudarshan Singh Rawat, AOR  
Ms. Rachna Gandhi, Adv.

Mr. Guntur Pramod Kumar, AOR  
Ms. Perna Singh, Adv.  
Mr. Dhruv Yadav, Adv.

Mr. Aditya Jain, AOR

Mr. Somanadri Goud Katam, AOR  
Mr. Sirajuddin, Adv.

Ms. Swati Ghildiyal, AOR  
Ms. Deepanwita Priyanka, Adv.  
Ms. Devyani Bhatt, Adv.  
Ms. Srujana Suman Mund, Adv.  
Ms. Neha Singh, Adv.

Mr. Abhishek Singh, AOR  
Mr. Tapesk Kumar Singh, Sr. Adv.  
Mr. Akshat Choudhary, Adv.

Ms. Vishakha, AOR

Mr. Mahesh Agarwal, Adv.  
Mr. Ankur Saigal, Adv.  
Mr. Anshuman Srivastava, Adv.  
Mr. Shashwat Singh, Adv.  
Mr. E. C. Agrawala, AOR

Mr. Abhimanyu Tewari, AOR



Ms. Eliza Bar, Adv.

Ms. Garima Prasad, Sr Adv, A.A.G.

Mr. Shaurya Sahay, AOR

Mr. Aditya Kumar, Adv.

Ms. Ruchil Raj, Adv.

Mr. Karan Sharma, AOR

Ms. Aishwarya Bhati, A.S.G.

Mr. Vatsal Joshi, Adv.

Ms. Kanu Agrawal, Adv.

Mr. Varun Chugh, Adv.

Mr. Bhuvan Kapoor, Adv.

Mr. Krishna Kant Dubey, Adv.

Mr. Piyush Beriwal, Adv.

Ms. Indira Bhakar, Adv.

Mr. Harish Pandey, Adv.

Mr. Rajesh Singh Chauhan, Adv.

Mr. Shreekant Neelappa Terdal, AOR

Mr. Shashwat Parihar, Adv.

Ms. Indira Bhakar, Adv.

Mr. Vineet Singh, Adv.

Mr. S.N. Terdal, AOR

Mr. Malak Manish Bhatt, AOR

Mr. Amit Gupta, AOR

Mr. Kshitij Vaibhav, Adv.

Ms. Muskan Nagpal, Adv.

Ms. Vidushi Bajpai, AOR

Mr. Mohd. Yasin, Adv.

UPON hearing the counsel the Court made the following  
O R D E R

We have heard the learned Amicus Curiae, Sh. Siddharth Luthra, and the learned counsel appearing for the respective parties.

The learned Amicus has filed the compliance report dtd. 20.01.2025 before this Court after a detailed analysis of the Affidavits/Reports filed by the States, Union Territories (for short "UTs") and the High Courts, filed in pursuance of the directions

passed by this Court vide earlier orders dtd. 11.07.2022, 03.02.2023, 21.03.2023, 02.05.2023, 13.02.2024, 06.08.2024 and 15.10.2024.

Certain additional directions were also issued by this Court vide order dtd. 15.10.2024 to all the States, UTs and the High Courts to make use of the Model Affidavit filed by the High Court of Meghalaya to ensure compliance of earlier directions in Para. F of the order dtd. 06.08.2024, so that an 'Institutional Monitoring Mechanism' can be set in place to ensure full and complete compliance of not only the earlier directions passed, but also of those directions that may be passed by this Court in the future as well.

The learned Amicus submitted that in pursuance of this Court's order dtd. 11.12.2024, all the concerned parties have reported either full or part compliance of the directions issued by this court, except for the State of Mizoram (which has filed its Compliance Affidavit way beyond the deadline given by this Court) and the UT of Lakshadweep (which has merely refiled its earlier Compliance Affidavit dtd. 21.05.2023).

The learned Amicus has flagged off three broad issues for our consideration.

They are as follows :

- (i) Release of Undertrial Prisoners (for short "UTPs") on personal bond, based on verification of AADHAAR Card.
- (ii) Service of Notice under Section 41-A of the Code of Criminal Procedure, 1973 (for short "CrPC, 1973") and Section 35 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short "BNSS, 2023") is to be made in person, as

contemplated under the statutes, and not through WhatsApp or other electronic modes.

- (iii) Whether sufficient steps have been taken by the High Courts to set in place an "Institutional Monitoring Mechanism" in pursuance of the order dtd. 06.08.2024 passed by this court?

**SUBMISSIONS UNDER ISSUE (i)**

Under Issue (i), the learned Amicus submitted that in Para. 7 of its additional Compliance Affidavit dtd. 14.10.2024, the NALSA has accepted and recorded the suggestion of the Amicus regarding release of UTPs on personal bonds after verification of their AADHAAR Card details and depositing the same in the concerned Court, in cases where no application under Section 440 of CrPC, 1973 or Section 484 of BNSS, 2023 has been preferred by the UTP, despite being informed about their right to move such an application.

The learned Amicus also submitted that he seeks time to consult and deliberate with the learned counsel for the NALSA about the feasibility of coming up with an effective and efficient proposal for the release of UTPs on the aforementioned terms. Hence, the said issue may be taken up on the next date of hearing.

**SUBMISSIONS UNDER ISSUE (ii)**

Under Issue (ii), the learned Amicus submitted and flagged off instances where notice(s) under Section 41-A of CrPC, 1973 were sent to the accused through WhatsApp, but the accused did not appear before the Investigating Officer(s). No action was taken against such erring officer(s). He has brought to the attention of this

Court a Standing Order dtd. 26.01.2024 issued by the office of the DGP, Haryana which permits Police Officers to serve notices under Section 41-A of CrPC, 1973/Section 35 of BNSS, 2023 in person or through WhatsApp, e-mail, SMS or any other electronic mode.

He further submitted that this Court in *Satender Kumar Antil v. CBI & Anr.* (2022) 10 SCC 51, approved and upheld the judgment passed by the Delhi High Court in *Rakesh Kumar v. Vijayanta Arya (DCP) & Ors.* 2021 SCC Online Del 5629, wherein it was held that notice served through WhatsApp or other electronic modes is not contemplated as a mode of service under Section 41-A of CrPC, 1973 (which is now Section 35 of BNSS, 2023) since the same is not in accordance with Chapter VI of CrPC, 1973 (which is now Chapter VI of BNSS, 2023) and hence cannot be treated as a valid mode of serving notice under Section 41-A of CrPC, 1973/Section 35 of BNSS, 2023. Hence, the police machinery must not circumvent the mandate of Section 41-A of CrPC, 1973/Section 35 of BNSS, 2023 by serving notices through WhatsApp or other electronic modes, instead of following the normal mode of service. Reference is also made to Section 532 of BNSS, 2023 which states that all trials, inquiries and proceedings under BNSS, 2023 may be held in electronic mode, by use of electronic communication or use of audio-video electronic means. Even the aforesaid section does not permit notice under Section 35 of BNSS, 2023 to be served through WhatsApp or other electronic modes.

**SUBMISSIONS UNDER ISSUE (iii)**

Under **Issue (iii)**, the learned Amicus submitted that in order to ensure full and complete compliance of not only the past, but also the future directions that will be issued by this court, the Committee for “Ensuring the Implementations of the Decisions of the Apex Court” of the respective High Courts will have to regularly hold meetings to ensure compliance at all levels, and also ensure that monthly compliance reports are being submitted by the concerned authorities.

**DIRECTIONS**

Having heard the parties and having deliberated upon the aforesaid submissions, this Court in furtherance of Paras. 100.2, 100.8 and 100.9 of *Satender Kumar Antil v. CBI & Anr.* (2022) 10 SCC 51, and its previous directions contained in earlier orders, deems it necessary to issue the following directions :

- a) All the States/UTs must issue a Standing Order to their respective Police machinery to issue notices under Section 41-A of CrPC, 1973/Section 35 of BNSS, 2023 only through the mode of service as prescribed under the CrPC, 1973/BNSS, 2023. It is made amply clear that service of notice through WhatsApp or other electronic modes cannot be considered or recognised as an alternative or substitute to the mode of service recognised and prescribed under the CrPC, 1973/BNSS, 2023.
- b) All the States/UTs while issuing Standing Orders to their respective Police machinery relating to Section 41-A of CrPC, 1973/Section 35 of BNSS, 2023

must be issued strictly in accordance with the guidelines issued by the Delhi High Court in Rakesh Kumar v. Vijayanta Arya (DCP) & Ors., 2021 SCC Online Del 5629 and Amandeep Singh Johar v. State (NCT Delhi), 2018 SCC Online Del 13448, both of which were upheld by this Court in Satender Kumar Antil v. CBI & Anr. (2022) 10 SCC 51.

- c) All the States/UTs must issue an additional Standing Order to their respective Police machinery to issue notices under Section 160 of CrPC, 1973/Section 179 of BNSS, 2023 and Section 175 of CrPC, 1973/Section 195 of BNSS, 2023 to the accused persons or otherwise, only through the mode of service as prescribed under the CrPC, 1973/BNSS, 2023.
- d) All the High Courts must hold meetings of their respective Committees for “Ensuring the Implementations of the Decisions of the Apex Court” on a monthly basis, in order to ensure compliance of both the past and future directions issued by this Court at all levels, and to also ensure that monthly compliance reports are being submitted by the concerned authorities.
- e) We have taken note of the fact that the State of Mizoram has filed its Compliance Affidavit way beyond the deadline given by this Court and the UT of Lakshadweep has merely refiled its earlier Compliance Affidavit dtd. 21.05.2023. Hence, the UT of Lakshadweep must ensure compliance of the earlier directions issued by this court and file a fresh Compliance Affidavit within a period of 2 weeks from today.

We make it amply clear that this is the last and final opportunity being given to the UT of Lakshadweep to comply with the earlier directions, barring which the Chief Secretary of the UT of Lakshadweep will have to remain physically present before this Court on the next date of hearing, if the aforesaid compliance (i.e. **Direction e**) is not made.

The Registrar Generals of the respective High Courts and Chief Secretaries of all the States/UTs are directed to ensure that due compliance of the aforementioned directions (except **Direction e**) is made within a period of **3 weeks** from today, and that the Compliance Affidavits be mailed within a period of **4 weeks** from today to the dedicated email address for this purpose at [complianceinantil@gmail.com](mailto:complianceinantil@gmail.com).

Needless to state, though the outer limit of 4 weeks for filing the Compliance Affidavits has been granted, however the learned counsel appearing for the respective High Courts, States/UTs and the Union of India shall ensure that the Compliance Affidavits reach the learned Amicus Curiae well within the time granted by us. In case of non-compliance, appropriate consequences would follow and the requisite orders shall be passed on the next date of hearing.

**Issue (i)**, as aforementioned, will be taken up on the next date of hearing.

List the matter on **18.03.2025 at 2 p.m.**

(ASHA SUNDRIYAL)  
DEPUTY REGISTRAR

(POONAM VAID)  
ASSISTANT REGISTRAR