

No

Office of the
Commissioner of Police
Cyberabad
Date: 15-03-2025


MEMORANDUM

Sub:- Police - Cyberabad - Telangana State Police Manual (Part-I, Volume-II) -
Inclusion of certain new standing orders 448 B, 450-4 and 491-IA -
Amendment communicated for strict compliance - Regarding.

- Ref:- 1. Circular Memorandum C. No. 3213/C-13/SCRB/CID-T/2023-25 dated: 27-02-2025 of Director General, CID, Telangana, Hyderabad.
2. GO Ms No. 18 dated: 20-02-2025 of Home (Legal Department, Govt. of Telangana)
3. GO Ms No. 49 dated: 02-08-2024 (Home Legal) Govt. of Telangana.

Find enclosed herewith the circular memorandum vide reference 1st cited together with the references 2nd & 3rd cited above, regarding the directions issued by the Hon'ble Supreme court of India in its order dated: 21-01-2025 in Satender Kumar Antil Vs Central Bureau of Investigation & Anr case in Miscellaneous application No. 2034 of 2022 in M.A. No. 1849 of 2021 in SLP (Crl.) No. 5191/2021. In the wake of the above, the Government of Telangana have issued Amendment to Telangana State Police Manual (Part-I, Volume II) duly including New standing orders 448 B, 450-4 & 491-IA vide GO Ms No. 18, Home (Legal) Department dated: 20-02-2025.

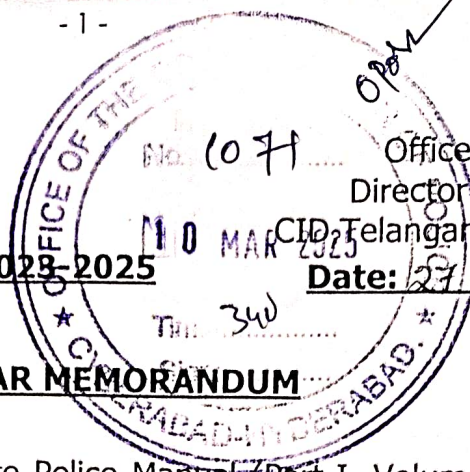
In view of the above, all the DCsP of Rajendernagar, Balanagar, Shamshabad, Madhapur and Medchal Zones of Cyberabad Commissionerate are instructed to circulate the above new standing orders as stated above to all Addl.DCsP/ACsP and SHOs of their respective zones for strict compliance and also get the amendment pasted/pinned at the respective standing orders of the TSPM.


Commissioner of Police
Cyberabad Commissionerate

Encls: As above.

To,

The DCsP Rajendernagar, Balanagar, Shamshabad, Madhapur and Medchal Zones of Cyberabad Commissionerate-



C.No.3213/C-13/SCRB/CID-T/2023-2025

Date: 27.02.2025

CIRCULAR MEMORANDUM

Sub: CID,TG – The Telangana State Police Manual (Part-I, Volume-II) -Inclusion of certain new Standing Orders **448B, 450-4 & 491-1A** -Amendment- Communicated for strict compliance-Reg.

- Ref: 1. Circular Memorandum C.No.3870/C13/SCRB-TG/2017-21, dated: 07.12.2021 of the Director General of Police, Telangana, Hyderabad.
2. New standing order 448A included in Telangana Police Manual (Part 1. Volume II) as per G.O Ms No.49, Home (Legal) Dept., TG dtd.02.08.2024.
3. Circular Memorandum C.No.3213/C-13/SCRB/CID-T/2023, dated: 03.08.2024 of the Director General of Police, Telangana, Hyderabad.
4. Satender Kumar Antil Vs. Central Bureau of Investigation & Anr case vide Miscellaneous Application No. 2034 of 2022 in M.A No.1849 of 2021 in SLP (Crl). No. 5191 of 2021, Dated: 21.01.2025.
5. Circular Memorandum RC.No.252/R1-NS/2022, dated: 10.02.2025 of the Director General of Police, Telangana, Hyderabad.
6. G.O.Ms.No. 18, Home (Legal) Dept., dt: 20.02.2025 of the Special Chief Secretary to Government.
7. Memorandum vide RC.No.252/R1-NS/2022, dated: 24.02.2025 of the Director General of Police, Telangana, Hyderabad.

In continuation to Chief Office Circular Memorandum 5th cited, in compliance to the directions issued by the Hon'ble Supreme Court of India in its Order dt: 21.01.2025 in Satender Kumar Antil Vs. Central Bureau of Investigation & Anr case in Miscellaneous Application No. 2034 of 2022 in M.A No.1849 of 2021 in SLP (Crl.) No. 5191/2021, the Government of Telangana have issued Amendment to Telangana State Police Manual (Part-I, Volume-II), duly including New Standing Orders **448 B, 450-4 & 491- 1A** vide G.O.Ms.No. 18, Home (Legal) Dept., dt: 20.02.2025. Which reads as follows:-

In the Telangana Police Manual (Part-I, Volume-II),-

(1) After Standing Order 448 A, the following Order shall be added, namely,-

" Standing Order 448B:

a) Notices to any person shall be issued under section 41-A of Cr.P.C, 1973/Section 35 BNSS, 2023 only through the mode of service as prescribed under the Cr.P.C, 1973/BNSS, 2023. It is made amply clear that service of notice through WhatsApp or other electronic modes cannot be considered or recognized as an alternative or substitute to the mode of service recognized and prescribed under the Cr.P.C, 1973/BNSS, 2023.

b) The notices must be issued strictly in accordance with the guidelines issued by the Delhi High Court in Rakesh Kumar Vs. 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.

(2) After Standing Order 450-3, the following Standing Order shall be added, namely,-

" Standing Order 450-4:

While issuing the notices under Section 160 of Cr.P.C, 1973/Section 179 of BNSS, 2023 to the accused persons or otherwise, only through the mode of service as prescribed under the Cr.P.C, 1973/BNSS, 2023."

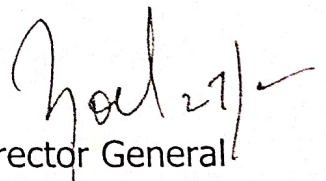
(3) ***After Standing Order 491-1, the following Standing Order shall be added, namely,-***

" Standing Order 491-1A:

While issuing the notices under Section 175 of Cr.P.C, 1973/Section 195 of BNSS, 2023 to the witnesses only through the mode of service as prescribed under the Cr.P.C, 1973/BNSS, 2023."

Therefore, all the Unit Officers are requested to circulate the above New Standing Orders 448 B, 450-4 & 491- 1A was issued through G.O.Ms.No. 18, Home (Legal) Dept., dt: 20.02.2025 to all the concerned Supervisory officers and Investigating Officers up to the Police Station Level to comply the directions issued by the Hon'ble Apex Court in Satender Kumar Antil Vs. Central Bureau of Investigation & Anr case vide Miscellaneous Application No. 2034 of 2022 in M.A No.1849 of 2021 in SLP (Crl). No. 5191 of 2021, Dated: 21.01.2025 without any deviation. Any dereliction/deviation on the part of the Investigating Officers, the Senior Officers may take appropriate action against such Officers.

Encl: (Refs. 2nd, 5th & 6th cited)

3/3

Director General
CID, Telangana, Hyderabad.

To

All SsP/CsP in the Telangana including Railways.
All the Range DIGs of Telangana.
All the IGsP Multi Zone I & II.

Copy submitted W/Cs to

The Director General of Police, Telangana for favour of information.

**GOVERNMENT OF TELANGANA
ABSTRACT**

Home Department - The Telangana Police Manual (Part-I, Volume-II) – Inclusion of certain new Standing Orders – Amendment - Orders – Issued.

HOME (LEGAL) DEPARTMENT

G.O.Ms.No.18.

Dated: 20.02.2025

Read the following:

1. G.O.Ms.No. 201, Home (Police.C) Dept, dated: 08.09.2001.
2. G.O.Ms.No.49, Home (Legal) Dept., Dated: 02.08.2024
3. Orders, dated 21.01.2025 in M.A.No.1849/2021 in SLP (CrI).No.5191/2021 of the Hon'ble Supreme Court of India.
3. From the Director General of Police, Telangana, Hyderabad, Lr.Rc.No.252/R1-NS/2023, dated.10.2.2025.

ORDER:-

The Director General of Police, Telangana, Hyderabad, in his letter third read above, has stated that the Hon'ble Supreme Court has issued directions in Satender Kumar Antil Vs Central Bureau of Investigation & Anr., in Miscellaneous Application No.2043 of 2022 in M.A.No.1849 of 2021 in SLP (CrI.) No.5191/2021, orders, dated 21.01.2025 in respect of procedural compliance with regard to service of Notice under Section 41-A of Code of Criminal Procedure, 1973/Section 35 of Bharatiya Nagrik Suraksha Sanhita, 2023 Central Act No.460 of 2023. It is made amply clear that service of notice through WhatsApp or other electronic modes cannot be considered or recognized as an alternative or substitute to the mode of service recognized as prescribed under the Cr.P.C, 1973/ Bharatiya Nagrik Suraksha Sanhita, 2023 and directed the States to issue suitable Standing Orders in this regard for compliance by the Field Officers. In pursuance of the Apex Court directions, he has submitted proposals for inclusion of certain new standing orders, namely (i) 448 B (ii) 450-4 in Chapter 25 and (iii) 491-1 A in Chapter 29 of the Police Manual (Part I, Volume-II) by the amending Manual suitably.

2. Government, after careful examination of the proposals submitted by the Director General of Police, Telangana, hereby issue the following amendments to the Telangana Police Manual (Part-I, Volume-II) as amended from time to time:-

AMENDMENTS

In the Telangana Police Manual (Part-I, Volume-II),-

- (1) after Standing Order 448A, the following Standing Order shall be added, namely,-

"Standing Order 448B:

(a) Notices to any person shall be issued under section 41-A of Cr.P.C, 1973/Section 35 Bharatiya Nagrik Suraksha Sanhita, 2023, only through the mode of service as prescribed under the Cr.P.C, 1973/ Bharatiya Nagrik Suraksha Sanhita, 2023. It is made amply clear that service of notice through WhatsApp or other electronic modes cannot be considered or recognized as an alternative or substitute to the mode of service recognized and prescribed under the Cr.P.C, 1973/ Bharatiya Nagrik Suraksha Sanhita, 2023.

(b) The notices must be issued strictly in accordance with the guidelines issued by the Delhi High Court in Rakesh Kumar Vs. 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.

- (2) after Standing Order 450-3, the following Standing Order shall be added, namely,-

"Standing Order 450-4

While issuing the notices under Section 160 of Cr.P.C, 1973/Section 179 of Bharatiya Nagrik Suraksha Sanhita, 2023 to the accused persons or otherwise, only through the mode of service as prescribed under the Cr.P.C, 1973/ Bharatiya Nagrik Suraksha Sanhita, 2023."

- (3) after Standing Order 491-1, the following Standing Order shall be inserted, namely,-

"Standing Order 491-1A

While issuing the notices under Section 175 of Cr.P.C, 1973/Section 195 of Bharatiya Nagrik Suraksha Sanhita, 2023 to the witnesses only through the mode of service as prescribed under the Cr.P.C, 1973/ Bharatiya Nagrik Suraksha Sanhita, 2023."

..2..

3. The Director General of Police, Telangana, Hyderabad shall circulate this order to all the concerned up to Police Station Level. The spare copies of the standing order shall also be made available for sale to public and others concerned by prescribing a reasonable and affordable price.
4. The Director General of Police, Telangana, Hyderabad shall take necessary action accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF TELANGANA)

RAVI GUPTA
SPECIAL CHIEF SECRETARY TO GOVERNMENT

To
The Director General of Police, Telangana, Hyderabad.
The Commissioner of Printing, Stationary, Stores purchase, Hyderabad (2 copies)
with a request to publish in the Extra-Ordinary Telangana Gazette on the date
of issue and supply (100) copies

Copy to:

- The PS to Prl.Secy to Hon'ble C.M.
- ✓ The PS to Special CS to Govt, Home Department.
- The Law (H) Department, Hyderabad
- SC/SF.

//FORWARDED :: BY ORDER//

J. Bharami Kumar
SECTION OFFICER

**GOVERNMENT OF TELANGANA
ABSTRACT**

Home Department - Telangana State Police Manual (Part-I, Volume-II) – Inclusion of New Standing Order 448A after the Standing Order 448 in the Telangana State Police Manual – Amendment - Orders – Issued.

HOME (LEGAL) DEPARTMENT

G.O.Ms.No. 49

Dated: 02.08.2024

Read the following:

1. G.O.Ms.No. 201, Home (Police.C) Dept, dated: 08.09.2001.
2. Hon'ble Supreme Court judgment dt: 11.07.2022 in M.A.No.1849/2021 in SLP (CRL).No.5191/2021.
3. From the Director General of Police, Telangana, Hyd, Lr.Rc.No.252/R1-NS/ 2023, dated. 25.07.2024.

ORDER:-

The Director General of Police, Telangana State, Hyderabad, in his letter, third read above, has stated that the Additional Director General of Police, CID, TG, Hyderabad has informed that after coming into force of the Bharatiya Nagarik Suraksha Sanhita Act, 2023 (Central Act No. 46 of 2023) w.e.f 01.07.2024 in place of Criminal Procedure Code, 1973, the amendment to the Telangana Police Manual Standing Order is relevant and applicable to comply with the directions of the Hon'ble Supreme Court of India in Satender Kumar Antil Vs, CBI & Anrs in Special Leave Petition (Crl.) 5191 of 2021 issued in its Order, dt: 11.07.2022. Therefore, he has requested to issue orders for incorporating Standing Order 448A in Telangana Police Manual (Part-I, Volume-II) in compliance to the Directions of the Hon'ble Supreme Court.

2. Government, after careful examination of the matter, have issued the following amendment to the Telangana Police Manual (Part-I, Volume-II) as given below:

AMENDMENT

In the Telangana State Police Manual, in Part-I, in Volume-2, in Chapter 25, after the Standing Order No. 448, the "Standing Order No. 448A", as appended to this order, shall be inserted.

3. The amendment is subject to the following conditions:-
 - i. The Standing Order 448A does not supersede any statutory rules, Service Rules, regulations and other orders issued by the Government from time to time and if there is any contradictions of conflict, the latter will prevail.
 - ii. The Standing Order 448A does not vest police officers with any powers of arrest, detention, investigation of crime etc, not specifically conferred by the Criminal Procedure Code, Indian Penal Code or other Central or State laws on the subject for the time being in force.
 - iii. The Standing Order 448A envisages only guidelines, procedure in accordance with the provisions of Laws, Act and Rules for all Police Officers.

4. The Director General of Police, Telangana, Hyderabad shall circulate this order and Standing Order 448A to all the concerned up to Police Station Level. The spare copies of the standing order shall also be made available for sale to public and others concerned by prescribing a reasonable and affordable price.

P.T.O

5. The Director General of Police, Telangana, Hyderabad shall take necessary action accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF TELANGANA)

RAVI GUPTA
SPECIAL CHIEF SECRETARY TO GOVERNMENT

To

The Director General of Police, Telangana, Hyderabad (w.e.)

The Commissioner of Police, Cyberabad(w.e.)

The Commissioner of Printing, Stationary, Stores purchase, Hyderabad (2 copies)
with a request to publish in the Extra-Ordinary Telangana Gazette on the date
of issue and supply (100) copies

Copy to:

The PS to Prl.Secy to Hon'ble C.M. (w.e.)

The PS to Prl.Secy, Home Department, (w.e.)

The Law (H) Department, Hyderabad

SC/SF.

//FORWARDED :: BY ORDER//

shivakummar
SECTION OFFICER

-3-
APPENDIX

(To G.O.Ms.No. 49, Home (Legal) Department, Dated: 02.08.2024)

Standing Order 448A:

A) Introduction:

Since the enactment of **the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS)** along with a slew of orders made by the Hon'ble Supreme Court, the law of arrest in India has sought to curtail the scope of discretion by the police in taking persons into custody. The pith and the core of the law of arrest as enshrined in **the Bharatiya Nagarik Suraksha Sanhita 2023, (here in after referred to as "the Sanhita")** and the law laid down by the Hon'ble Supreme Court is that the police officers, while arresting the persons, shall exercise the discretion on the touchstone of presumption of innocence of the accused and the safeguards provided under **section 35 of the Sanhita 2023**, since an arrest is not mandatory. The Hon'ble Supreme Court has held that if discretion is exercised to effect an arrest, there shall be procedural compliance. Procedure to arrest persons has been envisaged in Section 36 **the Sanhita**. The **Sanhita** has also prescribed in Section 62 of the Sanhita that no arrest shall be made, except in accordance with the provisions of the Code or any other law for the time being in force providing for arrest.

Beginning with judgment in **Joginder Kumar Vs. State of UP**, the Hon'ble Supreme Court has issued a plethora of arrest guidelines, which are also required to be implemented by the arresting officers. However, **Arnesh Kumar Vs. State of Bihar** is a landmark ruling which imposed checks and balances on the powers of the police before an arrest could be made. While expressing its anguish for lackadaisical implementation of Arnesh Kumar guidelines, it has again recapitulated the said guidelines in its recent judgment **Satender Kumar Antil Vs. Central Bureau of Investigation and Anr.** in July 2022. Besides, it has also cited the Delhi High Court ruling in case of **Amandeep Singh Johar Vs. State of N.C.T. Delhi** with approval which prescribed the procedure for operationalizing the Arnesh Kumar ruling.

In view of the latest judicial pronouncement by the Hon'ble Supreme Court, it has been found necessary to consolidate and reiterate the procedure for arrests by the police officers in the State.

B) Hon'ble Supreme Court and High Court Orders:

1) Arnesh Kumar Vs. State of Bihar & Another (2014) 8 SCC 273: After the judgments in Joginder Kumar v. the State of UP (1904) and D K Basu Vs. The State of West Bengal (1997), the Hon'ble Supreme Court held in Arnesh Kumar's case that there was need for caution in exercising the existing power of arrest. While laying down the guidelines to exercise the power of arrest by the police, it said that the existence of power to arrest is one thing, the Justification for the exercise of it is quite another and therefore, the police officers must be able to justify the reasons thereof.

The Hon'ble Supreme Court also said that its endeavour in the Judgments to ensure that the police officers do not arrest accused unnecessarily and Magistrate does not authorize detention casually and mechanically. The Hon'ble Apex Court, this, issued the following directions:

- (i) All the State Governments to instruct its police officers not to automatically arrest when a case under section 85 of **the Sanhita**, is registered but to satisfy themselves about the necessity for arrest under the parameters laid down above flowing from **Section 35 of the Sanhita 2023**;

- (ii) All police officers be provided with a check list containing specified sub-clauses under **Section 35(1)(b)(ii)** of the Sanhita;
- (iii) 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;
- (iv) The Magistrate while authorizing detention of the accused shall peruse the report furnished by the police officer in terms of aforesaid and only after recording its satisfaction, the Magistrate will authorize detention;
- (v) 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;
- (vi) Notice of appearance in terms of **section 35 of the Sanhita** 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.;
- (vii) 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 High Court having territorial jurisdiction; and
- (viii) Authorizing detention without recording reasons as aforesaid by the judicial Magistrate concerned shall be liable for departmental action by the appropriate High Court.

The Hon'ble Supreme Court further said that "we hasten to add that the directions aforesaid shall not only apply to the cases under Section 85 of the Sanhita or section 4 of the Dowry Prohibition Act, 1961 (Central Act No. 28 of 1961), the case 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."

It is evident that the guidelines issued by the Hon'ble Supreme Court in Arnesh Kumar's case are universally applicable to all arrests and not only to arrests likely to be made in cases registered under section 85 of the Sanhita.

(2) Amandeep Singh Johar Vs. State of NCT of Delhi & Anr. (WP(C) 7608/2018): As sections **36&62 of the Sanhita** and guidelines laid down by the Hon'ble Supreme Court in Arnesh Kumar emphasizes the significance of procedural compliance while effecting the arrests, the Hon'ble High Court framed fair and balanced rules with regard to issuance and service of notices under **section 35 of and section 179 of the Sanhita**.

The procedure thus prescribed by the Delhi High Court "**Procedure for issuance of notices/order by police officers under Section 35 of the Sanhita**" is given in Annexure-A.

A Model format for notice under section **35 of the Sanhita** is given in **Annexure-B**. The Investigation Officer is mandated to provide an acknowledgement to the notice receiver on being complied to the notice. The format of the same is given in **Annexure-C**

(3) Satender Kumar Antil Vs. Central Bureau of Investigation &Anr. (Miscellaneous Application No. 1849 of 2021 in Special Leave Petition(Crl) No. 5191 of 2021)(2021) 10 SCC 773.

While stressing the need for procedural compliance, the Hon'ble Supreme Court has once again turned its focus to the directions given in its earlier judgment viz. Arnesh Kumar Vs. State of Bihar. Besides, the Hon'ble Supreme Court has now cited the procedure prescribed in Amandeep Singh Johar case with approval in its judgment. It has also directed the States to issue Standing Order in this regard for compliance by the field officers:

The pith and substance of the directions issued by the Hon'ble Apex Court is thus extracted below:

- (i) As **Section 35 of the Sanhita** mandates the police officer to record his reasons in writing while making the arrest, he is duty-bound to record the reasons for arrest in writing similarly, the police officer shall record reasons when he/she chooses not to arrest. There is no requirement of the aforesaid procedure when the offense alleged is more than seven years, among other reasons.
- (ii) The consequence of non-compliance with **Section 35 of the Sanhita** shall certainly inure to the benefit of the person suspected of the offense. Resultantly, while considering the application for enlargement on bail, courts will have to satisfy themselves on the due compliance of this provision. **Any non-compliance would entitle the accused to a grant of bail.**
- (iii) Strict compliance with Sections **35 and 36 of the Sanhita** is made mandatory.
- (iv) This Court has clearly interpreted Section **35(1)(b)(i)** and (ii) of the Sanhita inter alia holding that notwithstanding the existence of a reason to believe qua a police officer, the satisfaction for the need to arrest shall also be present. Thus, clause (b) of **sub-section (1) Section 35 of the Sanhita** has to be read along with sub-clause (ii) and therefore both the elements of reason to believe and 'satisfaction qua an arrest are mandated and accordingly are to be recorded by the police officer.
- (v) We also expect the courts to come down heavily on the officers effecting arrest without due compliance of **Section 35 of the Sanhita**. We express our hope that the Investigating Agencies would keep in mind the law laid down in Arnesh Kumar (Supra), the discretion to be exercised on the touchstone of presumption of Innocence, and the safeguards provided under **Section 35 of the Sanhita**, since an arrest is not mandatory. If discretion is exercised to effect such an arrest, there shall be procedural compliance.
- (vi) Any dereliction on the part of police officers has to be brought to the notice of the higher authorities by the court followed by appropriate action.

(4) Siddharth Vs. the State of Uttar Pradesh (2021)(2022) 1 SCC 676: The Hon'ble Supreme Court has deprecated the practice of Court's insistence for the presence of the accused at the time of filing the charge sheet by the police. It has held that **Section 190 of the Sanhita** does not impose an obligation on the officer-in-charge to arrest each and every accused at the time of filing of the charge sheet.

C) Areas of Responsibility:

1) Police Station In-Charge and the Investigation Officer: Police station in-charge and the investigating officer appointed by him, if he does not investigate the case himself, are primarily responsible for investigating the crimes by complying with the substantive and procedural requirements enshrined in various laws pertaining to the crime investigation. Needless to add that the decision to arrest an accused person during an investigation is a decision which requires to be exercised with due application of mind keeping in view the material and evidence gathered by the investigating officer. Once the investigation officer arrives at a decision to arrest an accused person, he has then to effect the arrest by complying with the procedure for arresting persons as enshrined in the Codes read with various guidelines issued by the constitutional courts, which have now been consolidated in this Standing Order. In case the police station in-charge himself is not investigating the case, then it will be incumbent upon him to supervise the arrests being effected by his subordinate officers. As such, the in-charge and investigation officers have the following duties in this regard.

- (i) Assessing the requirement for arrest and recording satisfaction for arrest, if decided to arrest the person.
- (ii) Implications of **Section 35(1)(b) of the Sanhita**.
- (iii) Assessing the adequacy of evidentiary material for effecting arrest.
- (iv) To ensure that reasons are recorded for not making an arrest as well as for making an arrest.
- (v) To ensure that if decision is taken not to arrest, then the intimation is sent to the Magistrate within the prescribed timeframe or the deadline is got extended from the CP/SP.
- (vi) If it is decided to issue notice for appearance to the accused person, the notice should be served within the prescribed timeframe or the period is got extended from the CP/SP.
- (vii) Ensuring procedural compliance in accordance with **section 36 read with section 62 of the Sanhita** and other provisions of Chapter V of the Sanhita and guidelines issued by the Hon'ble Supreme Court from time to time especially Arnesh Kumar guidelines.

2) Commissioners of Police, Superintendents of Police and SDPO: In Arnesh Kumar guidelines, the Hon'ble Supreme Court has precisely delineated the role of the State Government, Police Officers and the Magistrates for arresting the persons. The Arnesh Kumar guidelines serialized as i, v, vi and vii above envisage role for the investigating officers and the superior police officers.

Apart from ensuring the provision of a checklist, the Commissioners of Police and Superintendents of Police have also been empowered to extend the deadline for communicating the decision not to arrest the accused by the Investigating officer to the Magistrate or for extending the timeline for issuing appearance notice to the accused whom the investigating officer has decided not to arrest. These guidelines provide for an active role for the superior officers for ensuring that the arrests are justified and the than procedure bid down is followed.

-7-

As such, the compliance with these guidelines needs to be closely supervised by the CPS/SPs, DCPs, SDPOs and ACPs. It may be appreciated that the investigating officers are liable to disciplinary action or under contempt of the court for non-compliance of the guidelines and supervisory officers can also be held liable.

RAVI GUPTA
SPECIAL CHIEF SECRETARY TO GOVERNMENT

//FORWARDED :: BY ORDER//

shivakummar
SECTION OFFICER

Annexure - A

Procedure for Issuance of notices/order by police officers under Section 35 of the Sanhita

- i. Police officers should be mandatorily required to issue notices under section **35 of the Sanhita** (in the prescribed format) formally to be served in the manner and in accordance with the terms of the provisions contained in **Chapter V of the Sanhita**.
- ii. The concerned suspect/ accused person will necessarily need to comply with the terms of the notice under section **35 of the Sanhita** 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 exceed 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/ District), deny such request and mandatorily require the said person to attend.
- v. A suspect / accused on formally receiving a notice under section **35 of the Sanhita** 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 **35 of the Sanhita**, 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. 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. 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 193 (3) of the Sanhita.

- d) The Police department shall frame appropriate rules for the preservation and destruction of such booklets;
- e) 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;
- f) Failure on the part of the IO to comply with the mandate of the provisions of the **Sanhita**, 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.
- g) Publicity should be undertaken and pamphlets educating the public at large, should be issued by the SP/CP of all Units.
- h) The above information should be displayed at prominent places in Police stations to inform the public of their rights and recourses available to them.
- i) Training programs be specially formulated for Police Officers and Judicial Officers to sensitize them towards effective compliance of Section **35 of the Sanhita**.

RAVI GUPTA

SPECIAL CHIEF SECRETARY TO GOVERNMENT

//FORWARDED :: BY ORDER//

Shirakummal
SECTION OFFICER

Annexure – B

Notice Proforma for Section 35 of the BNSS

Serial No:

Police Station:

Date:

To

[Name of Accused/Noticed]

(Last Known Address)

[Phone No./ Email ID (if any)]

Notice under Section 35 of the BNSS

In exercise of the powers conferred under sub-section (1) of section **35 of the BNSS** of Sanhita., I hereby inform you that during the investigation of FIR/Case No.dated u/s..... registered at 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 onat Police Station.

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

- (a) You shall not commit any offence in future.
- (b) You shall not tamper with the evidences in the case in any manner whatsoever.
- (c) You shall not make any threat, inducement, or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing, such facts to the court or to the police officer.
- (d) You shall appear before the Court as and when required/directed.
- (e) You shall join the investigation of the case as and when required and will cooperate in the investigation.
- (f) You shall 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 shall produce all relevant documents/ material required for the purpose of investigation.
- (h) You shall render your full co-operation/assistance in apprehension of the accomplice.
- (i) You shall 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 35 (5) and (6) of the BNSS.

[Signature]

[Name and Designation]

[affix seal]

RAVI GUPTA
SPECIAL CHIEF SECRETARY TO GOVERNMENT

//FORWARDED :: BY ORDER//

shivakummar
SECTION OFFICER

Annexure – C

ACKNOWLEDGEMENT TO THE NOTICEE ON APPEARANCE
UNDER SECTION 35 OF THE BNSS

S.No.....

In compliance with the abovementioned notice under section 35 of the BNSS dated issued under section 35 of the **BNSS**, the Noticee has appeared onfrom..... to The Notice's presence has been recorded in the register maintained by the Police Station.

This acknowledgement is being issued in compliance with Section **BNSS**. 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 notice that she/he may receive during the course of the present investigation.

[Signature of Accused/ Noticee]

[Signature of Investigation Officer]

RAVI GUPTA
SPECIAL CHIEF SECRETARY TO GOVERNMENT

//FORWARDED :: BY ORDER//

shivakummar
SECTION OFFICER