

Read: High Court Circular No.C.2703/81, dated 22.06.2015.

CIRCULAR

No.C.2703/81

The Honourable Supreme Court of India, in its judgment dated 31.07.2023, delivered in Criminal Appeal No. 2207 of 2023 (*Md. Asfak Alam Vs. The State of Jharkhand and Anr.*), directed to strictly follow the directions given in Criminal Appeal No. 1277 of 2014 (*Arnesh Kumar Vs. State of Bihar & Anr.*), which are as under:

- (1) *To ensure that police officers do not arrest the accused unnecessarily and Magistrate do not authorize detention casually and mechanically.*
- (2) *All the State Governments to instruct its police officers not to automatically arrest when a case under Section 498-A IPC is registered but to satisfy themselves about the necessity for arrest under the parameters laid down above flowing from Section 41CrPC;*
- (3) *All police officers be provided with a check list containing specified sub-clauses under Section 41(1)(b)(ii);*
- (4) *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;*
- (5) *The Magistrate while authorizing detention of the accused shall peruse the report furnished by the police officer in terms aforesaid and only after recording its satisfaction, the Magistrate will authorize detention;*
- (6) *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;*
- (7) *Notice of appearance in terms of Section 41-A CrPC be served on the accused within two weeks from the date of institution of the case, which may be extended by the Superintendent of Police of the district for the reasons to be recorded in writing;*

- (8) *Failure to comply with the directions aforesaid shall apart from rendering the police officers concerned liable for departmental action, they shall also be liable to be punished for contempt of court to be instituted before the High Court having territorial jurisdiction.*
- (9) *Authorizing detention without recording reasons as aforesaid by the Judicial Magistrate concerned shall be liable for departmental action by the appropriate High Court.*
- (10) *The directions aforesaid shall not only apply to the case under Section 498-A IPC or Section 4 of the Dowry Prohibition Act, the case in hand, but also such cases where offence is punishable with imprisonment for a terms which may be less than seven years or which may extend to seven years, whether with or without fine.*

Therefore, all the Judges/Magistrates of the District Judiciary of the State are instructed to comply with the aforesaid directions of the Honourable Supreme Court of India scrupulously.

**HIGH COURT OF GUJARAT,
SOLA, AHMEDABAD – 380 060.**

Date: 25/08/2023


**(Moolchand Tyagi)
REGISTRAR GENERAL**

Copy forwarded for information and taking necessary action, to:

- (1) The Principal Judge, City Civil Court, Ahmedabad.
- (2) The Principal Judge, Family Court, _____ .
- (3) The Principal District Judge, _____ .
- (4) The Chief Judge, Small Cause Court, Ahmedabad.
- (5) The Chief Metropolitan Magistrate, Ahmedabad.
- (6) The President, Industrial Court, Ahmedabad.
- (7) The Director, Gujarat State Judicial Academy, Ahmedabad
- (8) The Member Secretary, Gujarat State Legal Service Authority, Ahmedabad

**HIGH COURT OF GUJARAT,
SOLA, AHMEDABAD – 380 060.**

Date: 25/08/2023


REGISTRAR GENERAL