

**COCp-4146-2025 (O&M), COCP-4522-2025 (O&M)
COCp-4787-2024 (O&M), COCP-6263-2025 (O&M)
COCp-598-2023 (O&M), COCP-256-2026 (O&M),
COCp No. 3350-2024, COCP No. 3337-2026 (O&M)
and COCP-2983-2026 (O&M)**

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**207+208 SANDEEP KUMAR
VS.
PANKAJ NAIN, IPS AND ORS**

Present : Mr. Ankur Mittal, Sr. Advocate, as Amicus Curiae assisted by
Mr. Lalit Singla, Advocate,
Mr. Shivendra Swaroop, Advocate,
Mr. Siddhant Arora, Advocate,
Ms. Ashna Singh, Advocate
Ms. Sharvi Dadhwal, Advocate
Mr. Abhinav Chaudhary, Advocate

Mr. Kanwal Goyal, Advocate
Ms. Shruti Jain Goyal, Advocate and
Ms. Sheena Dahiya, Advocate
for the petitioner(s) (in COCP-598-2023).

Mr. Amit Gupta, Advocate,
for the petitioner (in COCP-4146-2025).

Mr. Ankit Chahal, Advocate
for the petitioner (in COCP-4787-2024 & 4522-2025).

Mr. A.S. Manaise, Advocate,
for the petitioner. (in COCP-6263-2025).

Mr. Anmoldeep Singh Middukhera, Advocate
Mr. Sarabjot Singh Cheema, Advocate
Mr. Harshdeep Singh, Advocate
for the petitioner (in COCP-256-2026)

Mr. Hitesh Verma, Advocate
for the petitioner (in COCP-2983-2026).

Mr. Jasraj Singh, Advocate (Through VC)
for the petitioner in COCP No. 3350-2024 & COCP-3337-2026.

Mr. Ravneet S. Joshi, DAG, Punjab, and
for the respondents (in COCP-598-2023),
COCp No. 3350-2024 & COCP-3337-2026
and for respondent Nos 1 to 3 and 5 and 6
(in COCP No. 256-2026).

Mr. H.S. Gill, Advocate
Ms. Sunanda, Advocate
for respondents-HSVP (in COCP-3350-2024 &
COCp-3337-2026).

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Mr. Ram Karan Sharma, DAG, Haryana
Mr. Harish Nain, DAG, Haryana
for respondent Nos.1 and 2 (in COCP-4146-2025) and
for the respondents (in COCP-4522-2025).

Mr. Gautam Dutt, Sr. Advocate assisted by
Ms. Jasmine Preet Kaur, Advocate
for respondent No. 6 (in COCP-4522-2025)

Mr. Ajay Kadyan, Advocate
for respondent No.1 and respondent no.7 (in COCP-4787-
2024).

Mr. P.S. Poonia, Sr. Advocate
with Mr. Pulkit Dhanda, Advocate and
Mr. Yudhveer Hooda, Advocate and
Mr. Dharampal Saini, Advocate
for respondent No.3 to 9 and 11 to 13 (in COCP-4146-2025).

Mr. G.S. Madaan, Advocate
for respondent No. 4 in COCP No. 256-2026.

Mr. Abhinav Sood, Advocate, Addl. Standing Counsel with
Ms. Mahima Dogra, Junior Panel Counsel
for respondent Nos.14 and 15 (in COCP-4146-2025).

Mr. Abhimanyu Chaudhary, Advocate
for respondent No.10 (in COCP-4146-2025).

COC-4146-2025 (O&M)

The following affidavits are taken on record:

- (i) The affidavit dated 11.09.2026 filed by Sh. Gaurav Yadav, IPS, DGP, Punjab, Chandigarh along with Annexure R-1 to Annexure R-3,
- (ii) The affidavit dated 13.09.2026 filed by Sh. Ajay Singhal, DGP, Haryana, Chandigarh along with Annexure R-1 to Annexure R-8,
- (iii) The affidavit dated 13.09.2026 filed by Sh. Sagar Preet Hooda, IPS, DGP, U.T., Chandigarh along with Annexure R-5 to Annexure R-9,

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(iv) The affidavit dated 14.09.2026 filed by Sh. Anurag Rastogi, IAS, Chief Secretary to Government, Haryana along with Annexure R-1 to Annexure R-8,

(v) The affidavit dated 13.09.2026 filed by Sh. H. Rajesh Prasad, IAS, Chief Secretary, U.T., Chandigarh along with Annexure R-5 to Annexure R-9,

(vi) The affidavit dated 15.09.2026 filed by Sh. Ganga Ram Punia, presently posted as Superintendent of Police in CBI, ACB Bhopal, the then Superintendent of Police, Yamuna Nagar are taken on record.

Learned State counsel seeks some more time to file compliance affidavit of respondent no.6.

COCP-256-2026 (O&M)

Learned counsel for respondent no.4 seeks some more time to file compliance affidavit of respondent no.4.

COCP No. 3337-2026 (O&M)

Learned State counsel seeks some time to file compliance affidavit.

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1. Over a decade back, Hon'ble the Supreme Court of India is taking cognizance of flagrant violations of provisions embodied in Cr.P.C qua safeguards provided to avoid unnecessary arrest (s) despite large number of reports of Law Commission and the judicial precedents emphasising the

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need to maintain balance between individual liberty and societal order while exercising the power of arrest/authorising the detention. In the case titled as ***Arnesh Kumar v. State of Bihar (2014) 8 SCC 272***, Hon'ble the Supreme Court of India has laid down the parameters as regards the police officers not to arrest the accused unnecessarily and the Judicial Magistrates not to authorise detention/ arrest mechanically and casually, in the cases, where offence is punishable with imprisonment for a term which may be less than 7 years or which may extend to 7 years whether with or without fine.

2. Being guided with the directions given in ***Arnesh Kumar's case (supra)***, the Delhi High Court in ***Amandeep Singh Johar v. State of NCT of Delhi 2018 SCC Online Del 13448*** laid down the detailed procedure to be followed by the police; based on which Delhi Police issued an extensive Standing Order which was duly taken note of and considered by the Hon'ble Supreme Court of India in the case of ***Satender Kumar Antil v. Central Bureau of Investigation 2022 AIR Supreme Court 3386***, whereby several directions were given to all States and Union Territories to curb unnecessary arrest (s) and specifically directed to facilitate standing orders for the procedure to be followed under Section 41 and 41A of the Code while taking note of the order of the High Court of Delhi dated 07.02.2018 in Writ Petition (C) No. 7608 of 2018 and the standing order issued by the Delhi Police i.e. Standing Order No. 109 of 2020, to comply with the mandate of Section 41A of the Cr.P.C.

3. It seems that despite the detailed directions issued time and again by the Courts, much compliances have been made on paper (s) and

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affidavits after affidavits have been filed, but minimal has been actually done on ground, in this regard and the live examples are the contempt proceedings pending before this Court in the present batch of cases, wherein the notices issued are not in the prescribed format/no acknowledgment is being issued/even the detention is being authorised without ensuring compliance of the mandate of *Arnesh Kumar's case (supra)*. After notices were issued in these contempt proceedings, the higher officers of the respective States filed their affidavits placing on record SOP issued by them, claiming that they are committed to comply with directions issued by the Courts in its true letter and spirit.

4. This Court being sanguine of the prevailing situation of flagrant violations of procedure established by law for curbing unnecessary arrests and the herculean task being undertaken by Hon'ble the Supreme Court of India in *Satinder Kumar Antil's case (supra)* of ensuring that the functionaries of States and the respective jurisdictional courts ensure fulfilling of the mandate of Apex Court in *Arnesh Kumar's case (supra)*; while issuing notices under Section 41-A Cr.P.C/35 of BNSS/adjudicating upon allegations of violations of Section 41-A Cr.Pc/ Section 35 BNSS had passed a detailed order dated 09.09.2026, directing the DGP's and Chief Secretaries of States/ U.T's to file specific affidavits to show as to how, the directions contained in para No. 73 (d) of Satender Kumar Antil vs. CBI and anr, 2022 AIR SC 3386 as were extracted in the order have/are been complied with in its true letter and spirit in their respective jurisdictions. It was further directed that the proformas prepared for

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issuance of notices/order by Police Officer under Section 41-A of the Code and the acknowledgment being followed in the respective States be attached with the affidavit (s) for the perusal of this Court.

5. In deference of the order passed by this Court on 09.09.2026, the Chief Secretary (ies)/DGP's of Punjab, Haryana and U.T. Chandigarh have filed their respective affidavits with a copy in advance supplied to Mr. Ankur Mittal, learned *amicus curiae*. The affidavits have been perused by this Court. The annexures attached with the affidavit filed by Mr. K.A.P. Sinha, Chief Secretary to Government of Punjab i.e Annexure R-1 to Annexure R-3 (filed in COCP 4146 of 2025) are not even legible. This is a very sad state of affairs that the official of such a higher rank is filing such kind of affidavit, annexures attached to which are not even legible. Therefore, the same is hereby rejected. Accordingly, the Chief Secretary to Government of Punjab is directed to file fresh affidavit in compliance of order dated 09.09.2026 passed by this Court.

6. Mr. Ankur Mittal, learned *amicus curiae* has made an empathetic submission that this Court vide its order dated 09.09.2026 issued two specific directions i.e., (i) to show how directions contained in para 73(d) are being complied with ***in its true letter and spirit*** and (ii) to place on record the performas issued in this regard. However, as expected and as apprehended, the spirit of the order which contained clear directions has itself been crushed with the filing of so-called compliance affidavits by adopting same old bureaucratic approach of filing papers, without realization that SOP are already on record.

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7. Mr. Ankur Mittal has further submitted that the position becomes all the more disconcerting, when the contempt petitions being dealt with by this Court in the present batch of cases itself disclose (s) instances where the statutory safeguards have not been followed. In several such matters, the very documents appended to the contempt petitions, including the actual notices purportedly issued under Section 41-A Cr.P.C., are available on record. A perusal thereof *ex facie* reveals that such notices are not in the prescribed format, do not bear the requisite serial/reference particulars, are not accompanied by the prescribed acknowledgment, and, in some instances, have even been transmitted through WhatsApp, for instance, in ***COCP No. 4522 of 2025 titled as Bhupinder Pal Singh v. Shatrujeet Kapoor, IPS and others***. Yet, the response filed on behalf of the State authorities appears to proceed on the basis of SOP and instructions on paper, without specifically dealing with the actual notices and the manner in which the statutory mandate was followed in the individual cases forming the subject matter of the contempt proceeding. The filing of mere SOP by the higher officers who were called upon to show how these directions are being complied with in its true letter and spirit, is nothing but amounts to carrying out a farce exercise which looks rosy on surface but is far from the actual realities.

8. With the assistance of Mr. Mittal, this Court has perused the affidavit (s) filed. The perusal of the same shows that yet again, the States/U.T have placed on record the SOP of different dates showing the

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compliance, whereas in reality, none of the affidavit (s) shows the actual compliance.

9. This Court cannot shut its eyes to the material available on the record, particularly when the very proceedings before it discloses instances which *prima facie* indicate non-compliance with the safeguards mandated by law and reiterated by Hon'ble the Supreme Court of India. The discrepancy between the compliance projected on paper and the actual material placed before the Court necessarily pricks the judicial conscience and warrants a deeper examination of compliance at the operational level.

10. What this Court directed was therefore something substantially more than the mere production of SOP, particularly when such SOP were already available on the record. What was required to be demonstrated was the **actual mechanism of implementation**, including, *inter alia*, the following:-

- (i) Whether duly indexed booklets containing **serially numbered notices in duplicate/carbon-copy or otherwise verifiable contemporaneous format** have in fact been issued by the SHO of each Police Station to the Investigating Officers for issuance of notices under the relevant statutory provisions.
- (ii) Whether used booklets are being deposited by I.O with the SHO of the Police Station and how are these being maintained by SHO till completion of or submission of Final report under Section 173(2)Cr.P.C/193 (3) of BNSS or any other time as contemplated.

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- (iii) What rules, instructions or record-retention protocols have been prescribed for the **safe preservation, retrieval and eventual destruction/archiving** of such booklets, notices and acknowledgments.

11. In the wake of above and to ensure that the mandate of Hon'ble the Supreme Court of India, is transformed into actual compliance at the ground level and does not remain confined to SOP, circulars and administrative instructions on paper, at this stage, the Station House Officers' of Police Station, Phase-I, Mohali (District S.A.S Nagar), Police Station, Sector 11, Chandigarh and Police Station, Sector 5, Panchkula are hereby directed to come present in Court along with the actual record after the date of issuance of SOP by respective State/U.T as regards:-

- (i) indexed booklet containing serial numbered notices in triplicate carbon copy format
- (ii) carbon copy of the actual notices issued along with case diary in which such notice is to be retained.
- (iii) proof of acknowledgment given in the prescribed format
- (iv) the register actually maintained in the respective police station year-wise by the duty officials containing the relevant details of the notices issued by the Investigating Officer.
- (v) proof of actual service of each notice, including the acknowledgment thereof.
- (vi) a separate statement of all cases in which, notwithstanding issuance of notice and compliance therewith, arrest was subsequently effected, along with the reasons recorded by the concerned Police Officer, the material forming the basis thereof and the documents placed before the jurisdictional Magistrate

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(vii) the case files of the cases registered in the respective police stations, in which arrest was effected without issuance of notice, together with the reasons and material justifying such course.

12. The Director General of Police of State of Haryana, Punjab and Union Territory, Chandigarh are directed to ensure the production of record by the above mentioned concerned police stations and also to ensure production of the rules framed for preservation and destruction of the used booklets containing the details of the notices issued in the respective police stations as directed in *Satender Kumar Antil's case (supra)*. ***It is made clear that the police officers who have been directed to come along with the record must be well versed with the actual procedure/compliances being made in their respective police stations.***

13. The copy of the order be supplied to Mr. Ankur Mittal, learned amicus curiae as well as to counsels appearing for the State of Punjab/Haryana/U.T, Chandigarh for further transmission to the respective DGP's/Chief Secretary(ies) of States of Punjab, Haryana and U.T. Chandigarh for ensuring strict compliance.

14. Arguments heard in part.

15. Adjourned to **29.09.2026**.

16. To be taken up at 2:00 P.M.

17. A photocopy of this order be placed on the files of connected cases.

September 16, 2026

By

(SUDEEPTI SHARMA)
JUDGE