



**GOVERNMENT OF KARNATAKA
(Police Department)**

No: L&O/MISC/178/2026

Office of the Director General and
Inspector General of Police,
Karnataka State, Nrupatunga Road,
Bangalore, Date: 19.09.2026.

CIRCULAR

Sub: Mandatory compliance with the provisions of Section 35 of the Bharatiya Nagarik Suraksha Sanhita, 2023 and the law declared by the Hon'ble Supreme Court concerning issuance of notice, arrest and protection of personal liberty – Instructions – Issued.

Ref: 1) Govt. Letter No.HD 457 CWP 2026, dated 01.09.2026.
2) Order dated 29.08.2026 passed by the Hon'ble High Court of Karnataka in W.P. No.25680/2026 (GM-RES), Sri Mohan Gowda v. State of Karnataka and Another.

*** **

The order passed by the Hon'ble High Court of Karnataka in Writ Petition No.25680/2026 dated 29/8/2026 has directed the Director General & Inspector General of Police to issue appropriate Circular/guidelines on the points indicated in the order for compliance by all Police Stations and Police formations throughout the State. A copy of the above High Court Order is enclosed.

That already this office has issued multiple circulars and Standard Operating Procedure relating to Section 35 of BNSS, providing specific

instructions to the police officers relating to procedure and guidelines to arrest. Those circulars and SOPs also be read along with this circular.

Section 35 of the Bharatiya Nagarika Suraksha Sanhita empowers the police officers to arrest a person without warrant in cognizable cases. The said provision provides various circumstances, wherein the police officers can arrest a person without warrant, but specifically under Sub-Section 1(b) of Section 35 of BNSS the power to arrest is conferred with qualified manner. Hence the police officer who receives complaint, credible information or suspects any person during his investigation about commission of a crime which is punishable less than or to the extent of seven years, then he shall exercise the power of arrest judiciously after satisfying with the provided principles under the said section.

Hon'ble Supreme Court of India has interpreted the section 35 of BNSS 2023 in *Satender Kumar Antil –Vs- CBI* 2025 SCC Online SC 1578 in para numbers 32 and 33 of the Judgement in SPL (Crl) No.5191 of 2021 and has stated the following.

“32. The power of arrest under Section 35 (6) read with Section 35(1) (b) of the BNSS,2023 must be interpreted as a strict objective necessity, and not a subjective convenience for the police officer. It does not mean the police officer can arrest to simply ask questions. However, it means that the police officer must satisfy himself that the investigation, qua an offence punishable with imprisonment up to 7 years, cannot proceed effectively without taking the concerned individual into custody. Any interpretation to the contrary would clearly frustrate the purpose and legislative intent of Sections 35 (1) (b) and Sections 35 (3) to 35 (6) of the BNSS, 2023.

33. On the basis of the interpretation given by us, we conclude as follows;

- a) An arrest by a police officer is a mere statutory discretion which facilitates him to conduct proper investigation, in the form of collection of evidence and, therefore, shall not be termed as mandatory.
- b) Consequently, the police officer shall ask himself the question as to whether an arrest is a necessity or not, before undertaking the said exercise.
- c) For effecting an arrest, qua an offence punishable with imprisonment up to 7 years, the mandate of Section 35 (1) (b) (i) of the BNSS, 2023 along with any one of the conditions mentioned in Section 35 (1) (b) (ii) of the BNSS, 2023 must be in existence.
- d) A notice under Section 35 (3) of the BNSS, 2023 to an accused or any individual concerned, qua offences punishable with imprisonment up to 7 years, is the rule.
- e) Even if the circumstances warranting an arrest of a person are available in terms of the conditions mentioned under Section 35 (1) (b) of the BNSS, 2023, the arrest shall not be undertaken, unless it absolutely warranted.
- f) Power of arrest under Section 35 (6) read with Section 35 (1) (b) of the BNSS, 2023, pursuant to a notice issued under Section 35 (3) of the BNSS, 2023 is not a matter of routine, but an exception, and the police officer is expected to be circumspect and slow in exercising the said power. ”

In view of the above directions and guidelines of the Hon'ble Supreme Court of India, the followings instructions are provided to all the police officers of the State.

1. All officers shall strictly follow the procedures prescribed under Section 35 of BNSS without fail. Any violation of the law, the officers concerned are liable for disciplinary proceedings and the costs of such litigation will be borne by the officers concerned.
2. All material relating to the decision to arrest or not to arrest—including the grounds of necessity, reasons recorded, notice under Section 35(3), proof of service, compliance by the notice and any subsequent material relied upon—shall form part of the case diary and investigation records. Such records shall be made available to the supervisory officer and the Court whenever required.
3. SHOs and Investigating Officers shall remain personally responsible for compliance with these safeguards. Jurisdictional ACPs/DySPs shall examine compliance during investigation reviews, while DCPs/SPs shall undertake periodic scrutiny of cases involving arrest for offences punishable up to seven years.
4. Supervisory officers shall not treat violation of arrest safeguards as a minor procedural lapse. Whenever an allegation of illegal detention, ante-dated or post-custody notice, compelled movement, unrecorded custody or mechanical arrest is received, the jurisdictional DCP/SP shall promptly verify the records, CCTV footage, station diary, case diary, vehicle movement details and other relevant material, and take appropriate action.
5. Any wilful, deliberate or reckless violation of the law governing issuance of notice, arrest or curtailment of personal liberty shall expose the erring officer, irrespective of rank, to appropriate departmental proceedings,

apart from criminal, civil, contempt or other consequences that may follow under law.

6. Where such violation is brought before a constitutional Court, the officer concerned cannot claim immunity from being personally subjected to exemplary costs if the facts warrant such an order. Any cost imposed personally by a Court shall not be charged to or reimbursed from Government funds unless specifically permitted under law or by the Court.
7. All Commissioners of Police, Range Inspectors General of Police and Superintendents of Police shall communicate this circular to every Police Station, Sub-Division, Circle, Specialised police unit and Investigating wing under their control. Its contents shall be explained during roll calls, crime meetings and investigation reviews, and acknowledgement of every officer shall be obtained.
8. A copy of this circular shall be kept permanently in every Police Station and investigating unit and shall be made available for ready reference. The principles contained herein shall also be incorporated into induction, refresher and investigation training programmes conducted for police personnel.
9. This circular shall not be construed as restricting lawful investigation or preventing an arrest that is genuinely necessary and authorised by law. Its object is to ensure that police investigation remains lawful, fair and constitutionally valid. All personnel shall bear in mind the principle emphasised by the Hon'ble High Court: "Liberty is the rule, coercion the exception, and procedure the bridge that alone permits the State to travel from one to the other."

Receipt of this circular shall be acknowledged immediately. Commissioners of Police and Superintendents of Police shall submit a compliance report regarding communication and briefing of all personnel to Police Headquarters by 20/09/2026 for placing the consolidated compliance before the Hon'ble High Court of Karnataka.

(Dr. M.A. Saleem, IPS)
Director General and
Inspector General of Police,
Karnataka State, Bengaluru.

To:

- 1) All Commissioners of Police in the State.
- 2) All Range Inspectors General of Police.
- 3) All Superintendents of Police in the State.
- 4) All Heads of specialised police units.
- 5) All Police Training Institutions in the State.

Copy to:

- 1) Additional Chief Secretary to Government, Home Department, Vidhana Soudha, Bangalore.
- 2) Advocate General for Karnataka, Bangalore.
- 3) State Public Prosecutor, High Court of Karnataka, Bangalore.
- 4) Registrar General, High Court of Karnataka – with reference to W.P. No.25680/2026.



ಕರ್ನಾಟಕ ಸರ್ಕಾರ

ಸಂಖ್ಯೆ: HD 457 CWP 2026

ಕರ್ನಾಟಕ ಸರ್ಕಾರ ಸಚಿವಾಲಯ,
ಬಹುಮಹಡಿಗಳ ಕಟ್ಟಡ,
ಡಾ|| ಬಿ.ಆರ್. ಅಂಬೇಡ್ಕರ್ ವೀದಿ,
ಬೆಂಗಳೂರು, ದಿನಾಂಕ:01.09.2026

ಇವರಿಂದ,

ಸರ್ಕಾರದ ಪ್ರಧಾನ ಕಾರ್ಯದರ್ಶಿ (ಪಿಸಿಎಎಸ್),
ಒಳಾಡಳಿತ ಇಲಾಖೆ, ವಿಧಾನಸೌಧ,
ಬೆಂಗಳೂರು.

"ತುರ್ತು"
"ಉಚ್ಚ ನ್ಯಾಯಾಲಯ ಪ್ರಕರಣ"

ಇವರಿಗೆ,

ಮಹಾನಿರ್ದೇಶಕರು ಮತ್ತು
ಆರಕ್ಷಕ ಮಹಾನಿರ್ದೇಶಕರು,
ನ್ಯಾಯಾಂಗ ರಸ್ತೆ, ಬೆಂಗಳೂರು.

ಮಾನ್ಯರೇ,

ವಿಷಯ: ಮಾನ್ಯ ಉಚ್ಚ ನ್ಯಾಯಾಲಯ, ಬೆಂಗಳೂರು ಇಲ್ಲಿ ದಾಖಲಾಗಿರುವ W.P.
No.25680/2026 ರ ಪ್ರಕರಣದ ಕುರಿತು.

ಉಲ್ಲೇಖ: ಮಾನ್ಯ ಉಚ್ಚ ನ್ಯಾಯಾಲಯದಿಂದ ಸ್ವೀಕೃತವಾಗಿರುವ ಆದೇಶ ಪತ್ರ.

ಮೇಲ್ಕಂಡ ವಿಷಯಕ್ಕೆ ಸಂಬಂಧಿಸಿದಂತೆ, ಉಲ್ಲೇಖಿತ ಪತ್ರವನ್ನು ಇದರೊಂದಿಗೆ ಲಗತ್ತಿಸಿದೆ,
ಮಾನ್ಯ ಉಚ್ಚ ನ್ಯಾಯಾಲಯ, ಬೆಂಗಳೂರು ಇಲ್ಲಿ ದಾಖಲಾಗಿರುವ W.P. No.25680/2026 ರ
ಪ್ರಕರಣದಲ್ಲಿ ಮಾನ್ಯ ನ್ಯಾಯಾಲಯದ ನಿರ್ದೇಶದಂತೆ ಕೂಡಲೇ ಕ್ರಮ ಕೈಗೊಂಡು, ಕೈಗೊಂಡ
ಕ್ರಮದ ಅನುಪಾಲನಾ ವರದಿಯನ್ನು ಮಾನ್ಯ ನ್ಯಾಯಾಲಯಕ್ಕೆ ಸಲ್ಲಿಸಿ, ಅದರ ಪ್ರತಿಯನ್ನು
ಸರ್ಕಾರಕ್ಕೆ ಸಲ್ಲಿಸುವಂತೆ ತಮ್ಮನ್ನು ಕೋರಲು ನಿರ್ದೇಶಿಸಲ್ಪಟ್ಟಿದ್ದಾನೆ.

ತಮ್ಮ ನಂಬುಗೆಯ,

(ಎಸ್. ಅಂಬಿಕಾ)

೦೧/೦೯/೨೦೨೬

ಸರ್ಕಾರದ ಅಧೀನ ಕಾರ್ಯದರ್ಶಿ,
ಒಳಾಡಳಿತ ಇಲಾಖೆ (ಅಪರಾಧಗಳು)



CNR: KAHC010567772026

WP NO. 25680/2026 (GM - RES - 482)

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

[SRI MOHAN GOWDA VS. STATE OF KARNATAKA AND
ANOTHER]

R

29.08.2026

(VIDEO CONFERENCING / PHYSICAL HEARING)

CORAM: HON'BLE MR. JUSTICE M.NAGAPRASANNA

ORAL ORDER

Heard Sri Girish Bharadwaj, learned counsel for the
petitioner and Sri B.N.Jagadeesha, learned State Public
Prosecutor - 1 for the respondents.

2. The petitioner is before the Court calling in question
registration of a crime in Crime No.573/2026, for the offences
punishable under Sections 217 and 353(2) of the BNS, 2023.

3. Owing to the submissions of the learned counsel
appearing for the petitioner, Sri Girish Bharadwaj, this Court on
28.08.2026, had passed the following order:

"Heard the learned counsel Sri.Girish Bharadwaj
appearing for the petitioner.

The petitioner is before the Court calling in
question the registration of a crime in Crime
No.573/2026 for offences punishable under Sections
217 and 353(2) of the BNS, 2023.

The crux lies in a representation by an
organization called Hindu Rashttra Samanvaya Samithi.
The representation was to the jurisdictional Whitefield

ಮಾನ್ಯ ನ್ಯಾಯಾಲಯದ ಸಿಬ್ಬಂದಿಯವರ ವಿರುದ್ಧ ಕೃಷಿ ಸಂಸ್ಥೆಯೊಂದಿಗೆ, ಕೆ.ಎಂ.ಎಸ್. ಕೃಷಿ ಸಂಸ್ಥೆಯೊಂದಿಗೆ
ವ್ಯವಸ್ಥಾಪಕ ಮಹಾನ್ಯ ನ್ಯಾಯಾಲಯಕ್ಕೆ ಸಲ್ಲಿಸಿದ 6ನೇ ಮೂಲಕ ನಡೆಸಿದ
ದಿವಿ 2 ನಲ್ಲಿ ದಿವಿ 2 ರಲ್ಲಿ ಕೃಷಿ ಸಂಸ್ಥೆಯ ವಿರುದ್ಧ ಕೃಷಿ ಸಂಸ್ಥೆಯ ವಿರುದ್ಧ

(6.0)

Letter to
Dg 2548

DS Crime

31/8/26

ಕೆ.ಎ. ಶರತ್ ಚಂದ್ರ ಎಂ.ಎಸ್

ಮಾನ್ಯ ಪ್ರಧಾನ ಕಾರ್ಯದರ್ಶಿ (ಸಿಬ್ಬಂದಿ)

ಬಾಡಕರ ಕಲಾಪಿ
* * *



CNR: KAHC010567772026

Police Station. The representation was that one Kunal Kamra was wanting to hold his comedy show at Uru, Whitefield. On the representation of the petitioner, it transpires that the show gets cancelled. The petitioner on his facebook post holds that the show is cancelled and it is a victory for Hindu unity. This becomes the fulcrum of the allegation, not by anybody but on *suo motu* by the Whitefield Police Station.

The police constable of the Whitefield Police Station gets concerned about the imaginary disharmony overnight and alleges such disharmony to be because of the post of the petitioner calling it a victory for Hindu unity.

After the cancellation of the show, it transpires that the message comes to the petitioner, which the petitioner is said to have posted on his facebook page. This becomes a notice under Section 173(2) against the petitioner issued on 04.08.2025. The petitioner was at that point in time at Udupi, at 02.00 a.m., the police constable attached to the Whitefield Police Station is said to have travelled to Udupi to take the petitioner into custody and bring him to the Whitefield Police Station and make him sit in the police station for the offence under Sections 273 and 353 of the BNS. The notice under Section 35(3) of the BNSS is said to have been handed over to the petitioner a little distance away from the Whitefield Police Station, after securing him and taking him into custody.

Therefore, the Whitefield Police Station appears to have been violating the law time and again as this Court has repeatedly coming across this violation of law from this Police Station.

The notice under Section 35(3) of the BNSS issued on 05/06.08.2026 is indicative of the fact that the petitioner should appear before the police in the next three days, but he is already in the custody of the police. A notice indicating the later date of appearance, appears to have been used to take the petitioner into custody 3 days prior to the fixed date itself. This has been the *modus operandi* of the policeman who man the White Field Police Station. Therefore, the Deputy Commissioner of Police, the Assistant Commissioner of



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Police and the Police Sub-Inspector who had indulged in this act, shall be present before the Court on **29.08.2026 at 02.30 p.m.**

In the event, the Deputy Commissioner of Police and the Assistant Commissioner of Police would not be present, this Court would be constrained to summon the Commissioner of Police of the City of Bengaluru to set the house in order.

Learned HCGP waives notice to the respondents.

List on **29.08.2026 at 2.30 p.m.**

Till then, there shall be an interim order of stay of further investigation in Crime No.573/2026, *qua* the petitioner."

4. The Deputy Commissioner of Police, the Assistant Commissioner of Police and the Investigating Officer of the Whitefield Police Station, within whose jurisdiction the entire episode of the alleged crime unfolded, were directed to remain present before this Court. In obedience to the afore-quoted order, Sri Saidulu Adavath, Deputy Commissioner of Police; Smt. Reena Suvana, Assistant Commissioner of Police, Whitefield Sub-Division; and Sri Preetham A.D., Police Inspector, are present before the Court. The Police Constable who travelled all the way to Udupi and brought the petitioner from Udupi to Bengaluru is also present before the Court. Their presence assumes significance, for what is alleged is not merely



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an irregularity in investigation, but an action which, *prima facie*, appears to have travelled beyond the frontiers of authority conferred by law.

5. This Court, as observed hereinabove, had stayed further investigation noticing what appeared, on the face of the record, to be a blatant infraction of the law declared by the Apex Court in the case of **SATENDER KUMAR ANTIL v. CENTRAL BUREAU OF INVESTIGATION AND ANOTHER**, reported in **2026 SCC OnLine SC 162**, and the principles enunciated by the High Court of Telangana in the case of **NALLA BALU v. STATE OF TELANGANA** reported in **2025 SCC OnLine TS 855**. The judgment in **NALLA BALU** *supra* did not remain confined within the territorial contours of the High Court of Telangana. It was carried to the Apex Court in the case of **STATE OF TELANGANA v. NALLA BALU** in **SPECIAL LEAVE PETITION (CRIMINAL) Diary No(s). 71178/2025**, which came to be **DISPOSED OF ON 02-02-2026**. The Apex Court, after considering the matter in detail, found no warrant to interfere with the directions so issued. Thus, what the High Court of Telangana declared as safeguards against indiscriminate invocation of criminal law, particularly in cases



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arising out of speech or posts on social media, received the imprimatur of the Apex Court.

6. The directions of the High Court of Telangana in **NALLA BALU** *supra* are of considerable significance. They mandate, *inter alia*, verification of the *locus standi* of the complainant at the threshold; conduct of a preliminary enquiry wherever warranted; insistence upon a higher degree of circumspection when criminal law is sought to be set in motion on the basis of a speech, expression or social-media post; protection of legitimate political speech and expression; recognition of defamation as a non-cognizable offence; scrupulous adherence to the safeguards governing arrest; and, above all, vigilance against frivolous, vexatious or motivated complaints masquerading as causes for invocation of the coercive machinery of the State. **These are not ornamental observations to adorn the pages of a judgment. They are safeguards intended to stand between the citizen and an arbitrary exercise of police power.**

7. If the facts of the case at hand are placed on the anvil of the aforesaid principles, what emerges is rather disquieting.



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There is no complainant who claims to have suffered any injury, insult or grievance on account of the post attributed to the petitioner. Strangely, it is a Police Constable attached to the Whitefield Police Station who perceives himself to be aggrieved by a particular post of the petitioner. The post is forwarded; an apprehension of communal disharmony apparently germinates in the mind of the Police Constable; and, armed with that apprehension, the police machinery travels from Bengaluru all the way to Udupi, where the petitioner was then present, and brings him back to the Whitefield Police Station. Thus, the informant, the perceiver of the alleged offence and the arm of the investigating machinery appear to merge into one continuum. It is this circumstance that makes the conduct of the police worthy of a closer judicial gaze.

8. The learned counsel appearing for the petitioner submits that a notice under sub-section (3) of Section 35 of the BNSS was served upon the petitioner only when he had been brought to within a few yards of the Whitefield Police Station. There is, as matters stand today, no material placed before the Court which would persuade it to disbelieve the said assertion. If that be so, what preceded the service of notice cannot be



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brushed aside as a voluntary journey undertaken by the petitioner. The petitioner, thereafter, was admittedly within the control of the police—what may appropriately be described, at this stage, as tacit custody.

9. The contention that the petitioner voluntarily travelled in his own car from Udupi to Bengaluru and presented himself before the Whitefield Police Station does not, *prima facie*, inspire confidence. The learned counsel for the petitioner would point out that the very Police personnel who had travelled to Udupi to fetch him, accompanied him in the same car throughout the journey to Bengaluru. A citizen does not become a volunteer merely because he is made to travel in his own vehicle. The character of custody is determined not by the ownership of the vehicle in which the citizen travels, but by whether he was, in truth and substance, free to decline the journey and walk away. Liberty cannot be reduced to the make of the car in which it is curtailed. Be that as it may. The infraction complained of is, *prima facie*, writ large on the record. The action of the police appears to run directly contrary to the safeguards laid down by the High Court of



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Telangana in the case of **NALLA BALU** *supra*. They read as follows:

" "

29. Before parting with this judgment, this Court considers it necessary to make certain observations. Having regard to the factual and legal position discussed herein, and with a view to safeguarding fundamental rights as well as preventing the criminal process from being invoked mechanically or arbitrarily, it is appropriate to prescribe a set of operational guidelines for police authorities and Judicial Magistrates when dealing with proceedings initiated on the basis of social media posts. **These directions are particularly relevant in cases where the registration of First Information Reports (FIRs) is sought in connection with such posts. Accordingly, the police authorities are directed to adhere to the following guidelines:**

i. Verification of locus standi: Before registering any FIR for alleged defamation or similar offences, the police must verify whether the complainant qualifies as the "person aggrieved" in terms of law. Complaints by unrelated third parties lacking standing are not maintainable, except where the report concerns a cognizable offence.

ii. Preliminary inquiry in cognizable offences: Where a representation/complaint discloses a cognizable offence, the police shall, prior to registration of crime, conduct a preliminary inquiry to ascertain whether the statutory ingredients of the alleged offence are, *prima facie*, made out.

iii. High threshold for media post/speech-related offences: No case alleging promotion of enmity, intentional insult, public mischief, threat to public order, or sedition shall be registered unless there exists *prima facie* material disclosing incitement to violence, hatred, or public disorder. This threshold must be applied in line with the



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principles laid down in *Kedar Nath Singh v. State of Bihar*, 1962 Supp (2) SCR 769, and *Shreya Singhal v. Union of India*, (2015) 5 SCC 1.

iv. Protection of political speech/post: The police shall not mechanically register cases concerning harsh, offensive, or critical political speech. Only when the speech amounts to incitement to violence or poses an imminent threat to public order may criminal law be invoked. Constitutional protections for free political criticism under Article 19(1)(a) of the Constitution must be scrupulously enforced.

v. Defamation as a non-cognizable offence: Since defamation is classified as a non-cognizable offence, the police cannot directly register an FIR or crime in such matters. The complainant must be directed to approach the jurisdictional Magistrate. Police action may follow only upon a specific order of the Magistrate under Section 174(2) of the BNSS.

vi. Compliance with arrest guidelines: In all cases, the police shall strictly comply with the principles laid down in *Arnesh Kumar v. State of Bihar*, (2014) 8 SCC 273. Automatic or mechanical arrests are impermissible, and the principle of proportionality in the exercise of criminal process must be observed.

vii. Prior legal scrutiny in sensitive cases: In matters involving political speech/post or other sensitive forms of expression, the police shall obtain prior legal opinion from the Public Prosecutor before registering an FIR, to ensure that the proposed action is legally sustainable.

viii. Frivolous or motivated complaints: Where a complaint is found to be frivolous, vexatious, or politically motivated, the police shall close the matter under Section 176(1) of the BNSS, citing absence of sufficient grounds for investigation."



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The Apex Court examined the afore-quoted judgment of the High Court of Telangana threadbare, more so paragraph 29 of the judgment of the High Court of Telangana and found no warrant whatsoever to interfere with the directions issued therein. The order of the Apex Court reads as follows:

6. However, the State has something to say as regards the broad guidelines laid down by the High Court as contained in para 29 of the impugned judgment is concerned. According to Mr. Luthra, the guidelines issued by the High Court are inconsistent with each other and in such circumstances he urged that this Court should look into the guidelines and rectify the inconsistencies. Para 29 reads thus:-

"29. Before parting with this judgment, this Court considers it necessary to make certain observations. Having regard to the factual and legal position discussed herein, and with a view to safeguarding fundamental rights as well as preventing the criminal process from being invoked mechanically or arbitrarily, it is appropriate to prescribe a set of operational guidelines for 3 police authorities and Judicial Magistrates when dealing with proceedings initiated on the basis of social media posts. These directions are particularly relevant in cases where the registration of First Information Reports (FIRs) is sought in connection with such posts. Accordingly, the police authorities are directed to adhere to the following guidelines:

1. Verification of locus standi: Before registering any FIR for alleged defamation or similar offences, the police must verify whether the complainant qualifies as the "person aggrieved" in terms of law. Complaints by unrelated third parties lacking standing are not maintainable, except where the report concerns a cognizable offence.



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ii. *Preliminary inquiry in cognizable offences:* Where a representation/complaint discloses a cognizable offence, the police shall, prior to registration of crime, conduct a preliminary inquiry to ascertain whether the statutory ingredients of the alleged offence are, *prima facie*, made out.

iii. *High threshold for media post/speech-related offences:* No case alleging promotion of enmity, intentional insult, public mischief, threat to public order, or sedition shall be registered unless there exists *prima facie* material disclosing incitement to violence, hatred, or public disorder. This threshold must be applied in line with the principles laid down in *Kedar Nath Singh v. State of Bihar*, 1962 Supp (2) SCR 769, and *Shreya Singhal v. Union of India*, (2015) 5 SCC 1.

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vii. *Prior legal scrutiny in sensitive cases:* In matters involving political speech/post or other sensitive forms of expression, the police shall obtain prior legal opinion from the Public



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Prosecutor before registering an FIR, to ensure that the proposed action is legally sustainable.

viii. Frivolous or motivated complaints: Where a complaint is found to be frivolous, vexatious, or politically motivated, the police shall close the matter under Section 176(1) of the BNSS, citing absence of sufficient grounds for investigation."

7. We have looked into para 29 threadbare. We are of the view that we should not interfere with the impugned judgment and order passed by the High Court including the guidelines issued by the High Court."

The consequence is inescapable. Once constitutional Courts have delineated the limits within which police power may operate, particularly when speech or expression on social media is sought to be criminalised, **those limits cannot be treated as mere advisory signposts, which the investigating machinery may notice at leisure and ignore at convenience. A judicially declared safeguard is not a suggestion to the police; it is a command of law.** The police are as much bound by the law declared by constitutional Courts as the citizen is bound by the law enacted by the Legislature.

10. The Apex Court in the case of **SATENDER KUMAR ANTIL** *supra*, has held as follows:

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17. An arrest, being an act done by a police officer in furtherance of an investigation, is discretionary and optional to be applied on the facts of a particular case. Section 35 of the BNSS, 2023 provides for situations where a person may be arrested by a police officer, without a warrant.

Section 35 of the BNSS, 2023

"35. When police may arrest without warrant.—(1) Any police officer may without an order from a Magistrate and without a warrant, arrest any person—

- (a) who commits, in the presence of a police officer, a cognizable offence; or**
- (b) 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 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, if the following conditions are satisfied, namely:—**
 - (i) the police officer has reason to believe on the basis of such complaint, information, or suspicion that such person has committed the said offence;**
 - (ii) the police officer is satisfied that such arrest is necessary—**
 - (a) to prevent such person from committing any further offence; or**
 - (b) for proper investigation of the offence; or**
 - (c) to prevent such person from causing the evidence of the offence to disappear or tampering with such**



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evidence in any manner;
or

(d) to prevent such person
from making any
inducement, threat 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; or

(e) as unless such person is
arrested, his presence in
the Court whenever
required cannot be
ensured,

and the police officer shall record
while making such arrest, his reasons in
writing;

Provided that a police officer shall, in
all cases where the arrest of a person is not
required under the provisions of this sub-
section, record the reasons in writing for not
making the arrest; or

(c) against whom credible information has been received that he has committed a cognizable offence punishable with imprisonment for a term which may extend to more than seven years whether with or without fine or with death sentence and the police officer has reason to believe on the basis of that information that such person has committed the said offence; or

(d) who has been proclaimed as an offender either under this Sanhita or by order of the State Government; or

(e) in whose possession anything is found which may reasonably be suspected to be stolen property and who may reasonably be suspected of having committed an offence with reference to such thing; or



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(f) who obstructs a police officer while in the execution of his duty, or who has escaped, or attempts to escape, from lawful custody; or

(g) who is reasonably suspected of being a deserter from any of the Armed Forces of the Union; or

(h) who has been concerned in, or against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists, of his having been concerned in, any act committed at any place out of India which, if committed in India, would have been punishable as an offence, and for which he is, under any law relating to extradition, or otherwise, liable to be apprehended or detained in custody in India; or

(i) who, being a released convict, commits a breach of any rule made under sub-section (5) of Section 394; or

(j) for whose arrest any requisition, whether written or oral, has been received from another police officer, provided that the requisition specifies the person to be arrested and the offence or other cause for which the arrest is to be made and it appears therefrom that the person might lawfully be arrested without a warrant by the officer who issued the requisition.

(2) Subject to the provisions of Section 39, no person concerned in a noncognizable offence or against whom a complaint has been made or credible information has been received or reasonable suspicion exists of his having so concerned, shall be arrested except under a warrant or order of a Magistrate.

(3) The police officer shall, in all cases where the arrest of a person is not required under sub-section (1) 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.



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(4) 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.

(5) 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.

(6) 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.

(7) No arrest shall be made without prior permission of an officer not below the rank of Deputy Superintendent of Police in case of an offence which is punishable for imprisonment of less than three years and such person is infirm or is above sixty years of age."

(emphasis supplied)

18. Section 35(1) of the BNSS, 2023, through the use of the word "may," makes the position of law rather clear that the power of arrest is discretionary and optional. The power of arrest under Section 35(1)(a) to Section 35(1)(j) of the BNSS, 2023 are distinct and different from each other, with the commonality being an offence which is cognizable in nature.

19. To attract the power of arrest under Section 35(1)(b) of the BNSS, 2023, the conditions mentioned thereunder ought to be complied with scrupulously. Section 35(1)(b)(i) and Section 35(1)(b)(ii) of the BNSS, 2023 must be read together, meaning thereby that compliance with Section 35(1)(b)(i) of the BNSS, 2023 is a *sine qua non* in all cases of arrest.

20. Section 35(1)(b)(i) of the BNSS, 2023 speaks about the "reason to believe" on the part of the police officer. Such a reason to believe should



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be formed on the basis of a complaint, information, or suspicion that the person concerned has committed the offence. However, this alone would not suffice. Additionally, any one of the conditions mentioned under Section 35(1)(b)(ii) of the BNSS, 2023 must also be satisfied. In other words, it is not required that all the conditions mentioned under Section 35(1)(b)(ii) of the BNSS, 2023 should be available, but only the existence of one of them that is required.

21. After being satisfied that there is a necessity of arrest, a police officer is bound to record his reasons either for arrest, as provided for under Section 35(1)(b) of the BNSS, 2023, or for merely issuing a notice under Section 35(3) of the BNSS, 2023. Section 35(1)(b) of the BNSS, 2023, thus, carves out an exception, with its inbuilt safeguards.

22. Suffice it is to state that an investigation can go on even without an arrest. While undertaking the exercise of collecting the evidence for the purpose of forming his opinion over the commission of a cognizable offence, a police officer shall pose a question, to himself, on the necessity of an arrest. This safeguard is provided as, in any case, the power to arrest an accused person is always available with a police officer even after he records his reasons, in writing, for not doing so at an earlier stage.

Joginder Kumar v. State of UP, (1994) 4 SCC 260

"20...No arrest can be made because it is lawful for the police officer to do so. The existence of the power to arrest is one thing. The justification for the exercise of it is quite another. The police officer must be able to justify the arrest apart from his power to do so. Arrest and detention in police lock-up of a person can cause incalculable harm to the reputation and self-esteem of a person. No arrest can be made in a routine manner on a mere allegation of commission of an offence made against a person. It would be prudent for a police officer in the interest of protection of the constitutional rights of a citizen and perhaps in his own interest that



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no arrest should be made without a reasonable satisfaction reached after some investigation as to the genuineness and bona fides of a complaint and a reasonable belief both as to the person's complicity and even so as to the need to effect arrest. Denying a person of his liberty is a serious matter. The recommendations of the Police Commission merely reflect the constitutional concomitants of the fundamental right to personal liberty and freedom. A person is not liable to arrest merely on the suspicion of complicity in an offence. There must be some reasonable justification in the opinion of the officer effecting the arrest that such arrest is necessary and justified. Except in heinous offences, an arrest must be avoided if a police officer issues notice to person to attend the Station House and not to leave the station without permission would do."

(emphasis supplied)

23. Section 35(3) of the BNSS, 2023, once again, reiterates the object of the enactment that an arrest by a police officer is not mandatory in all cases. This provision applies to all cognizable offences. However, insofar as the offences punishable with imprisonment up to a period of 7 years are concerned, this provision will have to be read along with Section 35(1)(b) of the BNSS, 2023, and its proviso which mandates the furnishing of reasons, in writing, for both, making an arrest and when there is no requirement to do so. As stated above, the requirement of not arresting an accused is *qua* the stage of issuing notice under Section 35(3) of the BNSS, 2023. Hence, it is amply clear that a harmonious construction of Section 35(1)(b) and Section 35(3) of the BNSS, 2023 needs to be made.

Satender Kumar Antil v. Central Bureau of Investigation, 2025 SCC OnLine SC 1578

"22. Section 35(4) of the BNSS, 2023 imposes a duty on the recipient of the notice to the effect that once the notice is served, the person must comply with every term of the notice. Section 35(5) of the BNSS, 2023 provides that as long as the person to whom the notice is issued, appears



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as is required and continues to comply with the notice, they cannot be arrested in relation to the alleged offence. Arrest may be made only if the Investigating Agency records specific reasons as to why the arrest is necessary."

(emphasis supplied)

24. Section 35(5) of the BNSS, 2023 facilitates the liberty of a person by imposing an implied prohibition of arrest when a person complies with a notice issued under Section 35(3) of the BNSS, 2023. This provision reiterates the fact that any subsequent arrest, being an exception, is warranted only when a police officer forms an opinion for such an arrest, which he is duty bound to record, in writing, by furnishing adequate reasons.

25. With respect to the submission made by the learned Amicus, *qua* the contradiction in the reasoning of the High Court of Bombay in *Chandrashekhar Bhimsen Naik* (supra), on a reading of the judgment, we did not find any contradiction, as stated. The judgment has clearly dealt with the mandatory compliance of the provisions of Section 35 of the BNSS, 2023, by the police officer.

26. Hence, we give our imprimatur to the views expressed by the High Court of Bombay and, as already observed by us in this order that, as a matter of course, a notice under Section 35(3) of the BNSS, 2023 is to be issued to an accused or any individual concerned, *qua* an offence punishable with imprisonment up to 7 years and, that, as long as a person to whom a notice under Section 35(3) of the BNSS, 2023 is issued has complied and continues to comply with the terms of the notice then, as per Section 35(5) of the BNSS, 2023, it is not open for the police officer to arrest him unless, for reasons to be recorded, the police officer is of the opinion that he ought to be arrested.

Satender Kumar Antil v. Central Bureau of Investigation, 2025 SCC OnLine SC 1578



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"23. Section 35(6) of the BNSS, 2023 lays down the procedure to be followed in case of non-compliance with the notice issued by the Investigating Agency under Section 35(3) of the BNSS, 2023. Non-compliance with a notice does not ipso facto mandate arrest, as there lies a discretion with the Investigating Agency, which must be of the opinion that the arrest of the concerned person is necessary for the purpose of investigation. In other words, failure to comply with the notice does not lead to automatic arrest. Rather, it is the last resort available to the Investigating Agency, after due exercise of discretion regarding the necessity of arrest.

24. Therefore, the abovementioned provision contains an element of substantivity, which becomes evident from the discretion provided to the Investigating Agency. The substantive element is in the nature of a safeguard, especially when the liberty of an individual is involved.

25. The protection of one's liberty is a crucial aspect of the right to life guaranteed to each and every individual, under Article 21 of the Constitution of India (hereinafter referred to as the 'Constitution'). The procedure encapsulated in Section 35(6) of the BNSS, 2023, seeks to secure this fundamental right, from encroachment by the relevant Authority, and therefore, any attempt to interpret the provision as a mere procedural one, would amount to rewriting the provision itself."

(emphasis supplied)

27. We have already clarified the position *qua* Section 35(6) of the BNSS, 2023 in our earlier order dated 16.07.2025 wherein, it has been stated that even assuming that the person to whom a notice under Section 35(3) of the BNSS, 2023 has been issued, fails to comply with the terms of the notice or is unwilling to identify himself, an arrest is not a matter of course.



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28. We have also clarified, on the earlier occasion, that the procedure contained in Section 35(6) of the BNSS, 2023 has been introduced on the touchstone of Article 21 of the Constitution of India. These inbuilt safeguards are required to be complied with by the police officer, in letter and spirit.

29. From a conspectus of the above, it is amply clear that even if the conditions mentioned under Section 35(1)(b) of the BNSS, 2023 are in existence, there can be no mandatory arrest, as a police officer still may or may not decide to do so.

30. While making an arrest under Section 35(6) of the BNSS, 2023, after the stage of issuing a notice seeking presence under Section 35(3) of the BNSS, 2023, the circumstances and factors that were in existence at the time of issuing the said notice shall not be taken into consideration by a police officer while making an arrest subsequently. In other words, for effecting an arrest under Section 35(6) of the BNSS, 2023, it must be based upon materials and factors which were not available with the police officer at the time of issuing a notice under Section 35(3) of the BNSS, 2023. Therefore, the power of arrest under Section 35(6) of the BNSS, 2023 is to be exercised rather sparingly, only under circumstances as aforementioned."

(Emphasis supplied at each instance)

The Apex Court, in the afore-quoted judgment, has succinctly delineated when the power of arrest may be wielded by the police and, equally importantly, the procedure that must precede its exercise. The declaration of law is unequivocal. Once the investigating agency chooses to set in motion the procedure contemplated under sub-section (3) of Section 35 of



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the BNSS by issuance of a notice, it must thereafter remain faithful to that procedure. Having chosen the path of notice, the police cannot abandon it midway and resort to arrest at their whim. It is only when the accused or the noticee fails to comply with the notice, refuses to cooperate with the investigation or otherwise, would attract the circumstance of taking him into custody.

11. A notice under Section 35(3) of the BNSS cannot become a piece of paper ceremonially handed over to a citizen after his liberty has, in substance, already been curtailed. **The procedure must precede the coercion; it cannot be manufactured to justify the coercion.** Any other interpretation would reduce the statutory safeguard into a hollow ritual and permit the police to accomplish indirectly what the law prohibits them from doing directly.

12. The police force is undoubtedly an indispensable arm of the State, entrusted with the solemn obligation of preserving public order, preventing crime and protecting the life and liberty of the citizen. Yet, the very amplitude of the power placed in its hands



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demands an equally exacting degree of restraint in its exercise. Police power is not a charter for police absolutism. In a constitutional democracy governed by the rule of law, the police are not a law unto themselves; they are as much subject to the Constitution and the command of the law as the citizen against whom they act; power to arrest cannot become an instrument of oppression; and authority to enforce the law cannot be employed to circumvent the law itself. The uniform may confer authority, but it does not confer immunity from constitutional discipline. Every coercive power of the police carries within it a corresponding obligation to exercise that power fairly, reasonably and for the purpose for which the law has conferred it. The rule of law draws no distinction between the mighty and the meek, between the keeper of the law and the person governed by it. If those entrusted with enforcing the law are permitted to transgress its boundaries with impunity, the law ceases to be a shield for the citizen and becomes a weapon in the hands of the State.



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13. The concern of this Court does not stop with the solitary episode presented in the case at hand. The acts of Police Officers manning the Whitefield Police Station have, on more than one occasion, become the subject matter of proceedings before this Court and before co-ordinate Benches of this Court, where the binding declarations of the Apex Court concerning arrest and personal liberty are alleged to have been violated with disturbing regularity. **When a binding declaration of law is repeatedly observed in its breach, the Court cannot remain a silent spectator and treat every infraction as an isolated aberration.**

14. It is, therefore, imperative that the Director General and Inspector General of Police issue a circular/guidelines binding every Police Station in the State, directing scrupulous compliance with the law declared by the Apex Court in the judgments noticed hereinabove. The circular may take the form of a Government Order, standing instruction, departmental guidelines or such other binding instrument as may be considered appropriate.



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15. The guidelines shall make it clear that every Police Officer, irrespective of rank, whether manning a Police Station, a Sub-Division or exercising supervisory jurisdiction, is bound to adhere to the law governing issuance of notice, arrest and curtailment of personal liberty. It shall further indicate that any willful, deliberate or reckless violation of the binding declaration of law would expose the erring officer to initiation of appropriate departmental proceedings, apart from such consequences as may ensue in law. Where such violations are brought before constitutional Courts, the Officer concerned cannot claim immunity from being personally mulcted with exemplary costs, should the facts of the particular case warrant such an order.

16. The Director General and Inspector General of Police shall, therefore, take note of the observations made in the course of this order and issue appropriate circular/guidelines, in the manner indicated hereinabove, to all Police Stations and police formations throughout the State. The guidelines shall specifically advert to the consequences of breach of the law declared by the Apex Court concerning arrest and the safeguards attendant thereto, including initiation of



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departmental proceedings wherever deliberate or reckless violation is established.

17. The purpose of this direction is not to fetter legitimate investigation, nor to blunt the lawful powers of the police. It is precisely the converse—to ensure that investigation remains legitimate because, it remains within law. The message must, therefore, percolate from the highest echelon of the police establishment to the constable at the Police Station that **liberty is the rule, coercion the exception, and procedure the bridge that alone permits the State to travel from one to the other.**

18. Registry is directed to communicate this order to the Secretary of Home Department and the Director General and Inspector General of Police - the Head of the Police Force, the Government of Karnataka.

19. The compliance with regard to such guidelines being issued shall be reported to this Court on 25.09.2026.



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20. The Officers who are present today, shall also be present on the next date of hearing i.e., 25.09.2026, at 2.30 p.m.

21. Interim order granted earlier, is extended till the next date of hearing.

22. Heard in part.

23. List the matter on 25.09.2026, at 02.30 p.m., for further hearing.

Sd/-
(M.NAGAPRASANNA)
JUDGE

NVJ
List No.: 1 Sl No.: 152

ಡೈರೆಕ್ಟರ್ ಜನರಲ್ ಮತ್ತು ಇನ್ಸ್‌ಪೆಕ್ಟರ್ ಜನರಲ್
ಆಫ್ ಪೊಲೀಸ್‌ರವರ ಕಾರ್ಯಾಲಯ,
ಕರ್ನಾಟಕ ರಾಜ್ಯ, ನೃಪತುಂಗ ರಸ್ತೆ,
ಬೆಂಗಳೂರು - 560 001



**Government of Karnataka
(Police Department)**

No.L&O/MISC/06/2026 (Vol-II)

Office of the
Director General and
Inspector General of Police,
Nrupatunga Road, Bengaluru-01.
Dated :21.09.2026

CIRCULAR

Sub Guidelines for registration of FIRs in cases arising out of social media posts.

- Ref**
- 1) Judgement of the Hon'ble Apex Court passed in Ashwini kumar upadhyay V/s union of India and others in Writ Petition Civil No 943/2021 and other connected matters.
 - 2) Judgement of the Hon'ble Apex Court passed in State of Telangana vs. Nalla Balu @ Durgam Shashidhar Goud & Anr, Special Leave Petition (Criminal) Dairy No. 71178/2025, Dated 02.02.2026.
 - 3) Order Dtd:29.08.2026 Passed by Honble High Court of Karnataka in Writ petition No: 25680/2026 (GMRES, Sri Mohan Gowda V/s State of Karnataka and others.

*** **

The Honourable Supreme Court in Writ Petition Civil No 940/2022 Shaheen Abdullah Vs Union of India and others had observed that that the Honourable court is charged with the duty to protect the fundamental rights and also preserve the constitutional values and the secular democratic character of the nation and in particular, the rule of law. The Honourable court had directed in the same order that as and when any speech or any action takes place which attracts

offences such as sections 153A, 153B and 295A and 505 of the IPC etc., Suo-moto action will be taken to register cases when if no complaint is forthcoming and proceed against the offenders in accordance with law. This office has issued a circular number L&O(3)/32/2022-23 on 06-08-2023.

The Honourable court in the final judgement of the case in ref (1) has concluded that:

“ 164. For the foregoing reasons and discussion, our conclusions are summarised as follows: -

- I. The creation of criminal offences and the prescription of punishments lie squarely within the legislative domain. The constitutional scheme, founded upon the Doctrine of Separation of Powers, does not permit the judiciary to create new offences or expand the contours of criminal liability through judicial directions.
- II. The precedents of this Court consistently affirm that while constitutional Courts may interpret the law and issue directions to secure the enforcement of fundamental rights, they cannot legislate or compel legislation. At the highest, the Court may draw attention to the need for reform; the decision whether, and in what manner, to legislate remains within the exclusive domain of the Parliament and the State Legislatures.
- III. The contention that the field of hate speech remains legislatively unoccupied is misconceived. The existing framework of substantive criminal law, including the provisions of the IPC and allied legislations, adequately addresses acts that promote enmity, outrage religious sentiments, or disturb public tranquillity. The field is, therefore, not unoccupied.
- IV. The material placed before this Court indicates greater extent of the highlighted by the petitioners arise not from the absence of law, but from deficits in its consistent and effective enforcement. Such concerns, however significant, cannot justify the judicial assumption of legislative functions.

- V. The statutory framework under the CrPC (now the Bharatiya Nagarik Suraksha Sanhita, 2023), provides a comprehensive and layered mechanism to set the criminal law in motion. The duty of the police to register an FIR upon disclosure of a cognizable offence is mandatory, as settled in *Lalita Kumari* (supra).
- VI. In cases of non-registration of FIR, the CrPC/BNSS provide efficacious remedies. An aggrieved person may approach the Superintendent of Police under Section 154(3) of CrPC or corresponding Section 173(4) of BNSS and thereafter invoke the jurisdiction of the Magistrate under Section 156(3) of CrPC (corresponding Section 175 of BNSS) or proceed by way of a complaint under Section 200 of CrPC (corresponding Section 223 of BNSS). These remedies constitute a complete statutory architecture.
- VII. The availability of such remedies, coupled with the supervisory jurisdiction of constitutional Courts under Articles 32 and 226 of the Constitution demonstrates that no legislative vacuum exists warranting the intervention sought. The appropriate course lies in ensuring faithful and even-handed enforcement of existing law.
- VIII. The supervisory jurisdiction of the Magistrate under Section 156(3) of CrPC or corresponding Section 175 of BNSS is of wide amplitude and includes supervisory oversight over the investigation at appropriate stages. This power is intended to ensure that the investigation is conducted in a fair, impartial, and lawful manner, and may be exercised simultaneously during the stage of investigation, where the material on record discloses any deficiency, inaction, or taint in the investigative process.
- IX. The requirement of prior sanction under Sections 196 and 197 of CrPC (corresponding Sections 217 and 218 of BNSS) operates at the stage of taking cognizance and does not extend to the pre-cognizance stage of registration of FIR or investigation under Section 156(3) of CrPC (corresponding Section 175(3) of BNSS). An order directing investigation under Section 156(3) of

CrPC does not amount to taking cognizance within the meaning of Section 190 of CrPC (corresponding Section 210 of BNSS).

- X. While we decline to issue directions of the nature sought, we deem it appropriate to observe that issues relating to 'hate speech' and 'rumour mongering' bear directly upon the preservation of fraternity, dignity, and constitutional order. It would be open to the Union of India and competent legislative authorities to consider, in their wisdom, whether any further legislative or policy measures are warranted in light of evolving societal challenges or to bring about suitable amendments as suggested by the Law Commission's 267th Report dated 23rd March, 2017"

It has been observed that the police officers are registering the case relating to social media posts mechanically without undertaking preliminary enquiries as stipulated by the Hon'ble Supreme Court of India in Imran Pratapgadhi vs State of Gujarat, Criminal Appeal No. 1545/2025, dated 28.03.2025. This office has already issued a circular bearing No. CRM-3/41/2024, dated 04.07.2025, Further, the Hon'ble Supreme Court of India has upheld the guidelines framed by the Telangana High Court relating to the registration of FIRs in cases arising out of social media posts in the referred judgement.

In this regard a circular was issued vide No:L&O/MISC/06/2026 Dtd:07.02.2026. In view of Directions by Hon'ble High Court of Karnataka vide ref (2) the following directions are issued to the police officers of the state are instructed to adhere to the guidelines to avoid mechanical registration of the FIRs and arrest relating to social media posts. Therefore, when any complaint or information is received seeking registration of the FIR relating to social media posts, then the following guidelines shall be followed by the police officers'

- 1. Verification of locus standi:** Before registering any FIR for alleged defamation or similar offences, the police must verify whether the complainant qualifies as the "person aggrieved" in terms of law. Complaints

by unrelated third parties lacking standing are not maintainable, except where the report concerns a cognizable offence.

2. **Preliminary inquiry in cognizable offences:** Where a representation/complaint discloses a cognizable offence, the police shall, prior to registration of crime, conduct a preliminary inquiry to ascertain whether the statutory ingredients of the alleged offence are, prima facie, made out.
3. **High threshold for media post/speech-related offences:** No case alleging promotion of enmity, intentional insult, public mischief, threat to public order, or sedition shall be registered unless there exists prima facie material disclosing incitement to violence, hatred, or public disorder. This threshold must be applied in line with the principles laid down in *Kedar Nath Singh v. State of Bihar*, 1962 Supp (2) SCR 769, and *Shreya Singhal v. Union of India*, (2015) 5 SCC 1.
4. **Protection of political speech/post:** The police shall not mechanically register cases concerning harsh, offensive, or critical political speech. Only when the speech amounts to incitement to violence or poses an imminent threat to public order may criminal law be invoked. Constitutional protections for free political criticism under Article 19(1)(a) of the Constitution must be scrupulously enforced. .
5. **Defamation as a non-cognizable offence:** Since defamation is classified as a non-cognizable offence, the police cannot directly register an FIR or crime in such matters. The complainant must be directed to approach the jurisdictional Magistrate. Police action may follow only upon a specific order of the Magistrate under Section 174(2) of the BNSS.
6. **Compliance with arrest guidelines:** In all cases, the police shall strictly comply with the principles laid down in *Arnesh Kumar v. State of Bihar*, (2014) 8 SCC 273. Automatic or mechanical arrests are impermissible, and

the principle of proportionality in the exercise of criminal process must be observed.

- 7. Prior legal scrutiny in sensitive cases:** In matters involving political speech/post or other sensitive forms of expression, the police shall obtain prior legal opinion from the Public Prosecutor before registering an FIR, to ensure that the proposed action is legally sustainable
- 8. Frivolous or motivated complaints:** Where a complaint is found to be frivolous, vexatious, or politically motivated, the police shall close the matter under Section 176(1) of the BNSS, citing absence of sufficient grounds for investigation.”
- 9.** All officers shall strictly follow the safeguards prescribed in Nalla Balu v. State of Telangana and Sri Mohan Gowda v. State of Karnataka concerning social media complaints, FIR registration, preliminary enquiry, notice and arrest.
- 10.** Any violation of the prescribed procedures shall make the concerned officer liable for departmental proceedings and other legal consequences under law.
- 11.** All material relating to the decision to register an FIR, conduct a preliminary enquiry, issue notice or effect arrest shall be properly recorded in the case diary and investigation records.
- 12.** SHOs and Investigating Officers shall remain personally responsible for compliance with these safeguards.
- 13.** Jurisdictional ACPs/DySPs shall examine compliance during investigation reviews, while DCPs/SPs shall undertake periodic scrutiny of cases relating to social media posts.

14. Allegations of illegal detention, mechanical arrest or non-compliance with Section 35 of the BNSS shall be promptly verified by the jurisdictional DCP/SP, and appropriate action shall be taken.
15. Any wilful, deliberate or reckless violation of the safeguards shall expose the erring officer, irrespective of rank, to appropriate departmental proceedings.
16. Commissioners of Police, Range IGPs/DIGs and Superintendents of Police shall ensure that these guidelines are communicated to every Police Station, Sub-Division, Circle and investigating officer.
17. The guidelines shall be explained during crime meetings, station briefings, investigation reviews and training programmes.
18. All Commissioners of Police and Superintendents of Police shall submit a consolidated compliance report to Police Headquarters confirming communication and implementation of these guidelines.

Receipt of this circular shall be acknowledged immediately. Commissioners of Police and Superintendents of Police shall submit a compliance report regarding communication and briefing of all personnel to Police Headquarters by 22/09/2026 for placing the consolidated compliance before the Hon'ble High Court of Karnataka

(Dr. M.A. Saleem, IPS)

Director General and
Inspector General of Police,
Karnataka State, Bengaluru.

TO:

1. All Compols
 2. All Rangepols
 3. All Dispols
- including KGF & Railways

