

HIGH COURT OF JAMMU & KASHMIR AND LADAKH

(Office of the Registrar General at Srinagar)

Notification

No: 2539 of 2023/RG

Dated: 23-10-2023

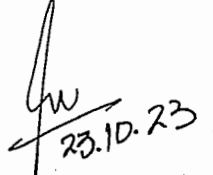
Acting in compliance to the directions of the Hon'ble Supreme Court of India in its order dated **31.07.2023** in the case titled **Md. Asfak Alam vs State of Jharkhand Cr. Appeal No 2207 of 2023**, the High Court of Jammu & Kashmir and Ladakh hereby notifies the directions contained in the said judgment as Guidelines on Arrest, Detention and Bail of accused, for the guidance of the Magistrates and the Criminal Courts subordinate to the High Court of Jammu & Kashmir and Ladakh. The said Guidelines are enumerated as under; -

1. Both the Governments of Union Territory of Jammu & Kashmir and Union Territory of Ladakh to instruct its police officers not to automatically arrest accused when a case under Section 498-A Indian Penal Code 1860, is registered but to satisfy themselves about the necessity for arrest under parameters laid down and flowing from Section 41 CrPC;
2. All the police officers be provided with the check list containing specified sub-clauses under Section 41(1)(b)(ii);
3. The police officers shall forward the check list dully filled and furnish the reasons and materials which necessitated the arrest, while forwarding/producing the accused before the Magistrate for further detention.
4. 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;
5. 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;
6. 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.
7. 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 to be instituted before High Court.



8. Authorizing detention without recording reasons as aforesaid by the Judicial Magistrate concerned shall be liable for departmental action by the High Court.
9. The aforesaid directions shall not only apply to case under Section 498-A IPC or Section-4 of the Dowry Prohibition Act, but also to such other 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.

By order of the Hon'ble High Court.


(Shahzad Azeem)
Registrar General

No: 49288-323/RG/GJ

Date: 23-10-2023

Copy forwarded to the:

1. Principal Secretary to the Hon'ble Chief Justice, High Court of Jammu & Kashmir and Ladakh.
2. Secretary to Hon'ble Mr./Mrs. Justice _____
..... for kind information of their Lordships.
3. Registrar Vigilance, High Court of J&K and Ladakh, Srinagar.
4. Director, J&K Judicial Academy, Srinagar.
5. Registrar Rules, High Court of J&K and Ladakh, Srinagar.
6. Registrar Judicial, High Court of J&K and Ladakh, Jammu/Srinagar.
7. Registrar Computer (IT), High Court of J&K and Ladakh, Jammu.
8. Registrar Inspection, High Court of J&K and Ladakh, Jammu.
..... for information
9. All Principal District & Sessions Judges of the UTs of J&K and Ladakh for information and necessary action and with the request to get the same circulated amongst all the Judicial Officers working under their respective jurisdiction.
10. Principal Secretary, Home Department, UTs of J&K and Ladakh.
11. Secretary to Govt. Department of Law, Justice and Parliamentary Affairs, UT of J&K.
12. Law Secretary, UT of Ladakh, Leh.
..... for information
13. Administrative Officer, Office of the Learned Advocate General, J&K, Jammu/Srinagar
..... for kind information of Learned Advocate General.
14. President, Bar Association, Jammu / Srinagar for information.
15. Incharge, NIC, High Court of J&K and Ladakh, Srinagar /Jammu for getting the same uploaded on the High Court website.
16. Manager, Govt. Press, J&K Jammu /Srinagar for publication in the next Govt. Gazette.
17. Incharge Library, High Court of J&K Jammu / Srinagar for information and keeping up of the record of the same.


Registrar General