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ARREST IN CRIMINAL CASES

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If a police officer arrests and takes an Accused into custody, if it appear to him that the investigation of the case can not be completed in 24 hours, he must produce the Accused along with the records of the case before the nearest magistrate.

As per the latest judgment of the supreme court the police after arrest of the Accused shall give notice of arrest to the relative or friend of the Accused.

The magistrate upon production of the arrested person may remand the Accused to custody for a period not exceeding 15 days. In case the police seek further police custody for the purpose of investigation, the magistrate may grant the arrested to the police custody.

If the investigating authority after arrest and investigation found that there are no materials or evidence against the Accused to implicate in the case, he can set him free directing him to co operate for investigation.

In case of bailable offences the police officer can release the Accused on bail by obtaining adequate surety to appear before the police station or court whenever required. If the offence is nonbailable one the Accused shall be produced before the magistrate and bail application shall be filed before the Magistrate court for release of such arrested person.

These are the provisions of the **Code of Criminal Procedure** pertaining the Arrest.

SECTION 41. WHEN POLICE MAY ARREST WITHOUT WARRANT.

(1) Any police officer may without an order from a Magistrate and without a war rant, arrest any person-

(a) Who has been concerned in any cognizable offence, or against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists, of his having been so concerned; or

(b) Who has in his possession without lawful excuse, the burden of proving which excuse shall lie on such person, any implement of house-breaking; or

(c) Who has been proclaimed as an offender either under this Code or by order of the State Government; or

(d) 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

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

(f) Who is reasonable suspected of being a deserter from any of the Armed Forces of the Union; or

(g) 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 lie is, under any law relating to extradition, or otherwise, liable to be apprehended or detained in custody in India; or

(h) Who, being a released convict, commits a breach of any rule made under subsection (5) of section 365; or

(i) 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 there from that the person might lawfully be arrested without a warrant by the officer who issued the requisition.

(2) Any officer in charge of a police station may, in like manner, arrest or cause to be arrested any, person, belonging to one or more of the categories of person specified in section 109 or section 110.

SECTION 42. ARREST ON REFUSAL TO GIVE NAME AND RESIDENCE.

(1) When any person who, in the presence of a police officer, has committed or has been accused of committing a non-cognizable offence refuses, on demand of such officer, to give his name and residence or gives a name or residence which such officer has reason to believe to be false, he may be arrested by such officer in order that his name or residence may be ascertained.

(2) When the true name and residence of such person have been ascertained, he shall be released on his executing a bond, with or without sureties, to appear before a Magistrate if so required: Provided that, if such person is not resident in India, the bond shall be secured by a surety or sureties resident in India

(3) Should the true name and residence of such person not be ascertained within twenty-four hours from the time of arrest or should he fail to execute the bond, or, if so required, to furnish sufficient sureties, he shall forthwith be forwarded to the nearest Magistrate having jurisdiction.

SECTION 43. ARREST BY PRIVATE PERSON AND PROCEDURE ON SUCH ARREST.

(1) Any private person may arrest or cause to be arrested any person who in his presence commits a non-bailable and cognizable offence, or any proclaimed offender, and, without unnecessary delay, shall make over or cause to be made over any person so arrested to a police officer, or, in the absence of a police officer, take such person or cause him to be taken in custody to the nearest police station.

(2) If there is reason to believe that such person comes under the provisions of section 41, a police officer shall re-arrest him.

(3) If there is reason to believe that he has committed a non-cognizable offence, and he refuses on the demand of a police officer to give his name and residence, or gives a name or residence which such officer has reason to believe to be false, he shall be dealt with under the provisions of section 42; but if there is no sufficient reason to believe that he has committed any offence, he shall be at once released.

SECTION 44. ARRESTS BY MAGISTRATE.

(1) When any offence is committed in the presence of a Magistrate, whether Executive or Judicial, within his local jurisdiction, he may himself arrest or order any person to arrest the offender, and may thereupon, subject to the provisions herein contained as to bail, commit the offender to custody.

(2) Any Magistrate, whether Executive or Judicial, may at any time arrest or direct the arrest, in his presence, within his local jurisdiction, of any person for whose arrest he is competent at the time and in the circumstances to issue a warrant.

SECTION 46. ARREST HOW MADE.

(1) In making an arrest the police officer or other person making the same shall actually touch or confine the body of the person to be arrested, unless there be its submission to the custody by word or action.

(2) If such person forcibly resists the Endeavour to arrest him, or attempts to evade the arrest, such police officer or other person may use all means necessary to effect the arrest.

(3) Nothing in this section gives a right to cause the death of a person who is not accused of an offence punishable with death or with imprisonment for life.

By

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