

Procedure of Arrest

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What is Arrest?

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- Arrest may be defined as
“Physical restraint of the person
under the authority of the Law in
respect of alleged violation of law
or default”.

**THE GUIDELINES OF
THE SUPREME COURT
IN
D.K. BASU'S CASE
ON ARREST
OR
DETENTION**

(1997) 1 Supreme Court cases 416

Criminal Procedure code 1973

Sec.41B. Procedure of arrest and duties of officer making arrest

(a) bear an accurate, visible and clear identification of his name which will facilitate easy identification;

MEMO OF ARREST

(b) prepare a memorandum of arrest which shall be—

(i) attested by at least one witness, who is a member of the family of the person arrested or a respectable member of the locality where the arrest is made

(ii) countersigned by the person arrested

TO HAVE ONE FRIEND OR RELATIVE INFORMED

(c) inform the person arrested, unless the memorandum is attested by a member of his family, that he has a right to have a relative or a friend named by him to be informed of his arrest.

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Arrest and venue of custody must be notified

The time, place of arrest and venue of custody of an arrestee must be notified by the police where the next friend or relative of the arrestee lives outside the district or town through the Legal Aid Organisation in the District and the police station of the area concerned telegraphically within a period of 8 to 12 hours after the arrest

Arrested must be made aware of his
right to have some one informed

The person arrested must be made
aware of his right to have
someone informed of his arrest or
detention as soon as he is put under
arrest or is detained.

Entry of detention or arrest be made in GD

An entry must be made in the Diary at the place of detention regarding the arrest of the person which shall also disclose the name of the next friend of the person who has been informed of the arrest and the names and particulars of the police officials in whose custody the arrestee is.

Examination of injuries on the accused

The arrestee should, when he so requests, be also examined at the time of his arrest and major or minor injuries if any present on his / her body must be recorded at the time. The “inspection memo” must be signed both by the arrestee and the police officer affecting the arrest and its copy be provided to the arrestee.

Medical examination of the arrestee every
48 hours.

The arrestee should be subjected to medical examination by trained doctor every 48 hours during his detention in custody by a doctor on the panel of approved doctors appointed by the Director, Health Services of the State or Union Territories concerned. The Director, Health Services should prepare such a panel for all Tahils and Districts as well.

Copies of all Documents to be sent to the Magistrate

Copies of all the documents including the memo of arrest referred above, should be sent to the area Magistrate for his record.

Meeting his Lawyer during investigation

41D. Right of arrested person to meet an advocate of his choice during interrogation.—
When any person is arrested and interrogated by the police, he shall be entitled to meet an advocate of his choice during interrogation, though not throughout interrogation.

Control Room in all districts and State Hqrs

41C. Control room at districts.—

(1) The State Government shall establish a police control room—

(a) in every district; and

(b) at State level.

(2) The State Government shall cause to be displayed on the notice board kept outside the control rooms at every district, the names and addresses of the persons arrested and the name and designation of the police officers who made the arrests.

CAUTION

Consequences of failure of
the above parameters

CAUTION

1. Failure on the part of the officer render him liable to be punished for the contempt of court.
2. Proceedings may be instituted in any High Court of the country having jurisdiction.

APPLICABILITY

In addition to the Police, the directions would apply with equal force to the other governmental agencies also viz ;

- a) Director of Revenue Intelligence
- b) Director of Enforcement
- c) Coastal Guard

APPLICABILITY

The directions would apply with equal force to the other governmental agencies also viz ;


- d) Central Reserve Police Force(CRPF)
- e) Border Security Force (BSF)
- f) The Central Industrial Security Force(CISF)
- g) The State Armed Police

APPLICABILITY

The directions would apply with equal force to the other governmental agencies also viz ; Intelligence Agencies like ;

- a) Intelligence Bureau
- b) RAW
- c) Central Bureau of Investigation (CBI)
- d) C.I.D.
- f) Traffic Police
- g) Mounted Police and ITBP

Magistrates are bound to satisfy that the directions of SC in D.K. Basu's case are complied



As soon as the arrestee is produced before the Judicial Magistrate, he shall be entitled to verify and satisfy that the directives of the Supreme Court are complied.

ANY QUESTIONS

Thank you