

Rights of Arrested Person

① Right to know the Grounds of Arrest:-

S.50 states that every police or any other person who is authorised to arrest a person w/o a warrant shall inform the arrested person his grounds of arrest that is the offence for which he is arrested & he should also tell the arrested person his right to bail (unless it's non bailable offence).

S.50A obligates the person making the arrest to inform of the arrest to any of his friends or relative or any other person in his interest. Police officer should inform the arrested person that he has the right to info about his arrest to the nominated person as soon as he is put in custody.

S.55 states that whenever a police officer has authorised his subordinate to arrest any person w/o a warrant, the subordinate officer needs to notify the person arrested of the substance of written order given specifying the offence & other grounds of arrest.

S.75 states that the police officer (or any other officer) executing the warrant should notify the substance to the arrested person & show him the warrant if required.

Timely info important as it gives the arrested person an opportunity to rectify any mistake, misapprehension or mis understanding. Also enables him to apply for bail, writ of habeas corpus etc.

→ In re Madhu Limaye: Madhu Limaye (PL) was a member of LS and several other persons were arrested. He contended that the reasons or grounds of arrest had never been communicated to them & was in violation of Art 22(1) of Indian Constⁿ which requires that the grounds of arrest be told & he/she shall not be denied to consult or be defended by a legal practitioner. Hence the court held that Madhu Limaye & others were entitled to be released on this ground alone.

Rules emerging from decision such as Joginder Singh v. State of UP and Basa v. State of Bengal have been enacted in S.50A making it obligatory on the part of the police officer not only to inform friend/relative of the arrested person about

his arrest etc but also to make entry in a register maintained by the police.

(2) Right to be informed of right to bail:-

S. 50(2) Every police officer arresting w/o warrant any person other than a person accused of a non-bailable offence is required to inform the person arrested that he is entitled to be released on bail and that he may arrange for sureties on his behalf.

(3) Right to be produced before Magistrate w/o delay:-

Whether the arrest has been made with or w/o a warrant the person arresting is required without any unnecessary delay and subject to the provisions regarding bail, to produce the arrested person before the Magistrate or court having jurisdiction in the case. **S. 56 & S. 76 & Art 22(3)**

(4) Right to not being detained for more than 24 hours w/o judicial scrutiny:-

Whether the arrest is w/o warrant or under a warrant the arrested person must be brought before the Magistrate or court within 24 hours.

S. 57 No police officer shall detain custody a person arrested w/o warrant for a longer period than under all circumstances of the case is reasonable & such period shall not in the absence of a special order of a Magistrate u/s 167 exceed 24 hours exclusive of the time necessary for the journey from the place of arrest to Mag. Court.
If not complied with then the detention shall be unlawful as stated in **Mandaj v. State of MP.**

This right has been created with the view:-

(1) To prevent arrest and detention for the purpose of extracting confessions or as means of compelling people to give info.

(ii) To prevent police stations being used as though they were prisons.

(iii) To afford to an early recourse to a judicial officer independent of the police on all questions of bail or discharge.

→ **Kathi (2) v. State of Bihar**: SC has strongly urged upon the state & its police authorities to ensure that this constitutional and legal requirement to produce an arrested person a judicial magistrate within 24 hours of the arrest be scrupulously observed. This provision enables the Mag to keep check over the police investigation and it is necessary that the Mag should try to enforce this requirement & where it is found disobeyed come heavily upon the police.

→ **Poojan v. Sub Inspector of Police**: It is said that whenever a complaint is received by a Mag that a person is arrested within his jurisdiction but has not been produced before him within 24 hours or a complaint has made to him that a person is being detained within his jurisdiction beyond 24 hours of his arrest, he can & should call upon the police officer concerned to state whether the allegations are true and if so on what and under whose custody he is being held. If the officer denies the arrest the magistrate can make an inquiry into the issue and pass appropriate orders.

(5) Right to consult a legal practitioner.

Both constitution Art 22(1) and CrP (S. 303) recognise the right of the arrested person to consult a legal practitioner of their choice.

Acc to **S. 41D** any person who is arrested and interrogated by the police shall be entitled to meet advocate of his choice during interrogation. Non compliance with this vitiates the trial. This right begins from the moment of arrest. The consultation with the lawyer may be in the presence of police officer but not within his hearing.

⑥ Right to free legal Aid :-

Khatry (2) v. State of Bihar: SC held that the state is under constitutional mandate (v/Art 21) to provide free legal aid to an indigent accused person. This obligation does not arise only when the trial commences but also when the accused is for the first time produced before the mag. as also when he is remanded from time to time.

SC has cast a duty on all Magistrates and courts to inform the indigent accused about his right to get free legal aid.

Suk Das v. UT of Arunachal Pradesh: This constitutional right cannot be denied if the accused failed to apply for it. It is now clear that unless refused, failure to provide free legal aid to an indigent accused would the trial entailing setting aside of the conviction & sentence.