

STANDARD OPERATING PROCEDURE (SOP)

Standard Operating Procedure (SOP) to be followed during arrest of accused in Forest and Wildlife offence.

- 1) Arrest of the accused is an integral part of investigation of forest and wildlife offence. Forest and Police officers are empowered to arrest and detain under Section 51 of Tamil Nadu Forest Act, 1882 and Section 50, 50(1)(c) 50 (3) of the Wild Life (Protection) Act, 1972.
- 2) Search and seizure should be made as per the provisions of Section 41 of Tamil Nadu Forest Act, 1882 and Section 50 of Wild Life (Protection) Act, 1972. Procedure prescribed under Section 100 of the Code of Criminal Procedure (Cr.PC), like conducting the search in the presence of two independent witnesses, preparing a list of things seized during the search, conducting the search of women occupants using women officials, handing over copy of the Search list to the occupant of the place searched etc. should be followed strictly.
- 3) The Forest Personnel carrying out the arrest and handling the interrogation of the arrestee should bear accurate, visible and clear identification and name tags with their designations. The particulars of all such Forest Personnel who handled interrogation of the arrestee must be recorded in a register.
- 4) Proceedings of arrest should be recorded on an Arrest cum Personal Search Memo. The reasons for arrest should be reasonably explained in the Memo.
- 5) All personal details of the accused like his full name with aliases, if any, parentage, age, address, two prominent identification marks, approximate built, height and weight etc should be mentioned in the Memo.

- 6) Preferably, arrests should be made in the presence of a relative or well wisher of the accused or in the presence of two independent witnesses.
- 7) Address given by the accused provided in the Aadhaar card, Ration card or any other identity card should be verified at the earliest. If the accused gives a false address, efforts should be made to find out his correct address. In case the accused deliberately gives a false address, the same should be mentioned in the Remand Report as also while opposing bail petitions filed by the accused.
- 8) Intimation of arrest should be given immediately to a family member/relative/well wisher of the accused as may be suggested by the accused and also to the jurisdictional Police Station. If the intimation is given telephonically, the same should be confirmed in writing at the earliest.
- 9) Personal Search of the arrested accused should be conducted and the seizures and articles found on his person, other than the wearing apparel should be mentioned at appropriate place in the Arrest cum Personal Search Memo. If no seizures are seized from his person, the same should also be mentioned in the Arrest cum Personal Search Memo.
- 10) Interrogation of the accused/suspect should be done at the time of search and information revealed by him should be recorded in the Search and Seizure Memo. Interrogation should include details about the offence, source of procurement, mode of transportation, details of payments, details of prospective buyers, brokers or intermediaries involved in the trade, previous transactions made by him, mobile phone numbers of the accused and his contacts, his involvement in other criminal cases, other wildlife articles hidden elsewhere either by him or others and valid documents for possession of the wildlife or articles, if any.
- 11) All physical parameters of the seizures and articles like colour, texture, size, (length & breadth) odour/smell, and general condition, should be incorporated in the Search and

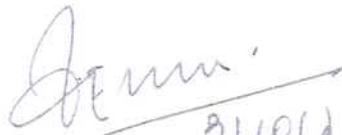
Seizure Memo. While seizing vehicles, registration number, engine number and chassis number are to be mentioned in the seizure memo.

- 12) In case of wildlife articles, thorough visual examination with regard to presence of traces of any preservatives, cuts, bullet entry points etc should be conducted and observations made should be incorporated in the Search and Seizure Memo. The details of technical assistance, if any, taken from forest officials, veterinary surgeons, forensic experts etc should be mentioned. After examination, photography and physical measurements of the seized articles, the Investigation Officer should properly mark, seal and label the seized articles preferably in transparent polythene packets so that it is easier for the court to see them at the time of first production.
- 13) Avoid arrest and interrogation of female accused between 6.00 PM and 06.00 A.M.
- 14) In case of females, the arrest should be made by a female officer. If female officers are not available, arrest should be made in the presence of at least one female witness.
- 15) Any injury and/or deformity found on the person of the accused should be mentioned in the Arrest cum Personal Search Memo. Explanation given by the accused with regard to such injuries should also be mentioned in the Memo.
- 16) The accused should be provided with medical treatment, if required. The accused in custody should be examined medically before producing in the court. A certificate of fitness should be obtained from the Assistant Civil Surgeon or a Government Doctor of equivalent rank. Such medical certificate has been made mandatory in many States for receiving accused in custody by the jail authorities.
- 17) If custody of the accused is obtained for interrogation or for further investigation, medical examination of the accused should be done once in every 48 hours.
- 18) Photographs of the arrested accused should be taken and kept in the case file. Personal Profile (dossier) of the accused should also be prepared and kept in the case. Details of

all habitual offenders should be furnished to the District Crime Records Bureau or the Modus Operandi Bureau of the local police.

- 19) Finger Prints of the arrested accused should be obtained with the assistance of the local police and furnished to the District or the State level Finger Print Bureau.
- 20) All pages of the Arrest cum Personal Search Memo should be signed by the accused, the independent witnesses and the investigating officer or the officer making the arrest. Left hand thumb impression of the accused is also to be obtained on the last page of the Arrest cum Personal Search Memo. Copy of the same should be supplied to the accused under acknowledgment.
- 21) The Hon'ble Supreme Court has laid detailed guidelines on arrest of an accused by a police officer. The guidelines are given at **Annexure-I**. These guidelines are to be followed while arresting an accused/suspect, by forest officer as well.
- 22) **Arrest of an accused – check list:**
 - (i) Power to arrest is given to a forest officer and Police officer under Section 51 of Tamil Nadu Forest Act, 1882 and Sections 50(1)(c), and 50(3) of the WLP Act 1972.
 - (ii) Identity of the accused should be established before the arrest is made.
 - (iii) Arrest-cum-Personal Search Memo in the prescribed format should be prepared at the time of arrest. Copy of the same should be given to the accused.
 - (iv) Arrested accused should be produced forthwith before the Jurisdictional Magistrate along with a Remand Report within stipulated time.
 - (v) If custodial interrogation of the accused is required, a separate petition should be filed in the court under section 167 Cr.P.C.
 - (vi) Physical coercion/torture should not be resorted to at any point of the arrest, detention or custodial interrogation of the accused.

- (vii) Photograph of the arrested person is to be taken and kept in the case file till completion of the trial.
- (viii) Finger Prints of the arrested accused may be taken with the help of local police and sent to the Finger Print Bureau.
- (ix) Arrested juveniles should be dealt with in accordance with the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2000.
- (x) Arrest of foreign nationals should be intimated to the Embassy of that country.
- (xi) Medical examination of the arrested accused, preferably by the Nearest Government Surgeon, should be done and original medical certificate should be enclosed along with the Remand Report. If the accused is taken in custody for interrogation, his medical examination is required to be done every 48 hours.
- (xii) Arrest of an accused should be made with due diligence and discretion. If the arrest is made in absence of any close relative or well wisher of the accused, such intimation should be sent immediately.
- (xiii) **In general, search, arrest of accused / suspect, seizures should be carried out strictly in accordance with rule and regulations as laid down in the Criminal Procedure Code (Cr.P.C), Hon'ble Supreme Court and High Court directions and other relevant Acts in force.**


31/10/20
**For Principal Chief Conservator of Forests
(Head of Department)**

Shri Dilip K. Basu Etc.Ashok K. ... vs State Of West Bengal & Ors on 1 August, 1997

Bench: A Anand, K Thomas

PETITIONER:

SHRI DILIP K. BASU ETC.ASHOK K. JOHARI

Vs.

RESPONDENT:

STATE OF WEST BENGAL & ORS.

DATE OF JUDGMENT: 01/08/1997

BENCH:

A.S. ANAND, K.T. THOMAS

ACT:

HEADNOTE:

JUDGMENT:

THE 1ST DAY OF AUGUST, 1997

Present:

Hon'ble Dr. Justice A.S. Anand Hon'ble Mr. Justice K.T. Thomas Dr. A.M. Singhvi, Additional Solicitor General (A.C.), Ms. Suruchi Agarwal, Sushil Kumar Jain, Y.P. Dhamija, B. Krishna Prasad, Ms. A. Subhashini, B.B. Singh, Uma Nath Singh, B.S. Chahar, Ashok Mathur, Ms. Hemantika Wahi, Ms. Nandini Mukherjee, Kailash Vasdev, C.K. Sasi Raj Kumar Mehta, Dilip Sinha, K.R. Nagaraja, Ms. S. Janani, Aruneshwar Gupta, G. Prakash, Ms. Beena Prakash, Shakil Ahmed Syed, S.N. Jadhav, D.M. Nargolkar, A.S. Pundit, R.B. Misra, Gunture Prabhakar, Prem Malhotra, M. Veerappa, R.S. Sodhi, J.K. Manhas, V. Krishnamurthy, D.N. Mukherjee, T. Sridharan, Gopal Singh, D.S. Mehra, Ms. Kamakshi Singh Mehlwal, V.G. Pragasam and Ms. Kamini Jaiswal, Advs. with him for the appearing parties.

O R D E R

The following Order of the Court was delivered: WITH

WRIT PETITION (CRL) no. 592 OF 1987 O R D E R

On December 18, 1996 in D.K. Basu Versus State of West Bengal (1997 (1) SCC 416), this court laid down certain basic "requirements" to be followed in all cases of arrest or detention till legal provisions are made in that behalf as a measure to prevent custodial violence. The requirements read as follows.

"1. The police personnel carrying out the arrest and handling the interrogation of the arrestee should bear accurate, visible and clear identification and name clear identification and name tags with their designations. The particulars of all such police personnel who handle interrogation of the arrestee must be recorded in a register.

2. That the police officer carrying out the arrest of the arrestee shall prepare a memo of arrest at the time of arrest and such memo shall be attested by at least one witness, who may either be a member of the family of the arrestee or a respectable person of the locality from where the arrest is made. It shall also be countersigned by the arrestee and shall contain the time and date of arrest.
3. A person who has been arrested or detained and is being held in custody in a police station or interrogation centre or other lock-up, shall be entitled to have one friend or relative or other person known to him or having interest in his welfare being informed, as soon as practicable, that he has been arrested and is being detained at the particular place, unless the attesting witness of the memo of arrest is himself such a friend or a relative of the arrestee.
4. 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.
5. The person arrested must be made aware of this right to have someone informed of his arrest or detention as soon as he is put under arrest or is detained.
6. 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.
7. The arrestee should, where he so requests, be also examined at the time of his arrest and major and minor injuries, if any present on his/her body, must be recorded at that time. The "Inspection Memo" must be signed both by the arrestee and the police officer effecting the arrest and its copy provided to the arrestee and the police officer effecting the arrest and its copy provided to the arrestee.
8. The arrestee should be subjected to medical examination by a trained doctor every 48 hours during his detention in custody by a doctor on the panel of approved doctors appointed by Director, Health Services of the State or Union Territory concerned. Director, Health Services should prepare such a panel for all tehsils and districts as well.
9. Copies of all the documents including the memo of arrest, referred to above, should be sent to the Illegals Magistrate for his record.
10. The arrestee may be permitted to meet his lawyer during interrogation, though not throughout the interrogation.
11. A police control room could be provided at all district and State headquarters, where information regarding the arrest and the place of custody of the arrestee shall be communicated by the officer causing the arrest, within 12 hours of effecting the arrest and at the police control room it should be displayed on a conspicuous notice board."

This court also opined that failure to comply with the above requirements, apart from rendering the official concerned liable for departmental action, would also render him liable to be punished for contempt of court and the proceedings for contempt of court could be instituted in any High Court of country, having territorial jurisdiction over the matter. This Court further observed : "The requirements mentioned above shall be forwarded to the Director General of every State/Union Territory and it shall be their obligation to circulate the same to every police station under their charge and get the same notified at every police station under their charge and get the same notified at every police station at a conspicuous place. It would also be useful and serve larger interest to broadcast the requirements on All India Radio besides being shown on the national

Network of Doordarshan any by publishing and distributing pamphlets in the local language containing these requirements for information of the general public. Creating awareness about the rights of the arrestee would in our opinion be a step in the right direction to combat the evil of custodial crime and bring in transparency and accountability. It is hoped and accountability. It is hoped that these requirements would help to curb, if not totally eliminate, the use of a questionable methods during interrogation and investigation leading to custodial commission of crimes."

More than seven months have elapsed since the directions were issued. Through these petitions, Dr. Singhvi, the learned Amicus Curiae, who had assisted the Court in the main petition, seeks a direction, calling upon the Director General of Police and the Home Secretary of every State/union Territory to report to this Court compliance of the above directions and the steps taken by the All India Radio and the National Network of Doordarshan for broadcasting the requirements. We direct the Registry to send a copy of this application, together with a copy of this order to respondents 1 to 31 to have the report/reports from the Director General of Police and the Home Secretary of the concerned State/Union Territory, sent to this Court regarding the compliance of the above directions concerning arrestees. The report shall indicate in a tabular form to which of the "requirements" has been carried out and in what manner, as also which are the "requirements" which still remain to be carried out and the steps being taken for carrying out those.

Report shall also be obtained from the Directors of All India Radio and Doordarshan regarding broadcasts made. The notice on respondents 1 to 31, in addition, may also be served through the standing counsel of the respective State/union Territories in the Supreme Court. After the reports are received, copies of the same shall be furnished to the Advocate on Record for Dr. Singhvi, Ms. Suruchi Agarwal, Advocate.

The reports shall be submitted to this court in the terms, indicated above, within six weeks from today. The matters shall be put up on board for monitoring, after seven weeks.