

# HIGH COURT OF MEGHALAYA SHILLONG

## GUIDELINES

Dated 22<sup>nd</sup> August, 2023

**HON'BLE SUPREME COURT OF INDIA'S DIRECTIONS IN CRIMINAL  
APPEAL NO. 2207 OF 2023 [ARISING OUT OF SPECIAL LEAVE PETITION  
(CRL.), NO. 3433/2023], TO BE FOLLOWED BY THE SESSIONS COURTS  
AND OTHER CRIMINAL COURTS DEALING WITH VARIOUS OFFENCES.**

Pursuant to directions of Hon'ble the Supreme Court's judgment dated 31<sup>st</sup> July, 2023 in Criminal Appeal No. 2207 of 2023 [Arising out of Special Leave Petition (Crl.) No. 3433 of 2023] titled "Md. Asfak Alam-vrs-The State of Jharkhand & Anr.", it is hereby directed that in order to ensure that police officers do not arrest the accused unnecessarily and Magistrates do not authorize detention casually and mechanically, all Courts concerned in the State shall strictly follow the directions of the Hon'ble Supreme Court provided hereunder:-

1. The law laid down in Arnesh Kumar (supra) shall be strictly followed;
2. In terms of the said judgment, police officers will be instructed by the State Government/concerned authorities, not to automatically arrest when a case under Section 498-A IPC is registered but to satisfy themselves about the necessity for arrest under the parameters flowing from Section 41 CrPC viz.-
  - (i) All police officers will be provided with a check list containing specified sub-clauses under Section 41(1)(b)(ii);
  - (ii) The police officers will be required to forward the check list duly filled and furnish the reasons and materials which necessitated the arrest, while forwarding/producing the accused before the Magistrate for further detention;



3. The Magistrate while authorizing detention of the accused shall peruse the report furnished by the police officer in terms of the aforesaid and only after recording its satisfaction, the Magistrate will authorize detention;
4. 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.
5. Notice of appearance in terms of Section 41-A CrPC is to 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;
6. 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 of court to be instituted before the High Court;
7. Authorizing detention without recording reasons, as aforesaid, by the Judicial Magistrate concerned shall be liable for departmental action by the High Court;
8. The directions aforesaid shall not only apply to case under Section 498-A IPC or Section 4 of the Dowry Prohibition Act, but also such cases where offence is punishable with imprisonment for terms which may be less than seven years or which may extend to seven years, whether with or without fine.

**REGISTRAR GENERAL**



**Memo No. HCM/II/54/2023/Estt/2-A**

**Dated 22<sup>nd</sup> August, 2023**

Copy to.-

1. The Registrar-cum-PPS to the Hon'ble the Chief Justice for favour of His Lordship's kind information.
2. The PS. To Hon'ble Mr. Justice H.S.Thangkhiew, for favour of His Lordship's kind information.
3. The PS. To Hon'ble Mr. Justice W.Diengdoh, for favour of His Lordship's kind information.
4. The PS. To Hon'ble Mr. Justice B.Bhattacharjee, for favour of His Lordship's kind information.
5. The Director General of Police, Meghalaya for favour of kind information and necessary action (A copy of the abovementioned judgment is enclosed herewith for taking necessary action).
6. The Director, Meghalaya State Judicial Academy, Shillong to include as part of the curriculum in the Academy.
7. All District & Sessions Judges, Meghalaya for favour of kind information, compliance and circulating the same to all the Judicial Officers under your judgeship. (A copy of the abovementioned judgment is also enclosed herewith for reference and circulation to the Judicial Officers).
8. To the System Analyst, High Court of Meghalaya for uploading the same in the official website.
9. Office file.

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22/8/23

  
**REGISTRAR GENERAL**