

## FIRST INFORMATION REPORT (F.I.R.) & YOU

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F.I.R. is the abbreviated form of First Information Report. It is the information recorded by the police officer on duty, given either by the aggrieved person or any other person about the commission of an alleged offence. On the basis of the F.I.R. the police commences its investigation.

### **WHO CAN FILE AN F.I.R.**

Any person can file an F.I.R. He need not be the aggrieved person. It may be merely hear say and need not be by the person who has had first hand knowledge of the facts.

### **WHERE TO FILE AN F.I.R.**

An F.I.R. can be filed in the police station of the concerned area in whose jurisdiction the offence has occurred. It must be made to the officer-in-charge of the police station and if he is not available the Assistant Sub Inspector is competent to enter upon the investigation

### **HOW TO FILE AN F.I.R.**

When a wrong has been committed and the aggrieved person or any other person wants to file a F.I.R. it shall be filed in the following manner.

Go to the police station and meet the officer-in-charge.

Step by step in an orderly sequence narrate to the officer every information relating to the commission of the offence.

The officer shall reduce the information given in writing.

The information given shall be signed by the person giving it.

The information given shall be entered in a book to be kept by the officer.

### **COPY OF THE INFORMATION AS RECORDED SHALL BE GIVEN FREE OF COST TO THE INFORMANT.**

### **WHERE AN OFFICER-IN-CHARGE REFUSES TO RECORD THE INFORMATION**

If the officer in charge refuses to record the information, the information may be sent in writing and by post, to the Superintendent of Police concerned who, if satisfied that such information

discloses the commission of a cognizable offence, shall either investigate the case himself or direct an investigation to be made by any police officer subordinate to him.

## **INVESTIGATION**

Once the F.I.R. has been registered the investigation in the case shall begin.

# **ARREST & DETENTION**

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## **Need for Guidelines on Arrest**

Arrest involves restriction of liberty of a person arrested and therefore, infringes the basic human rights of liberty. Nevertheless the Constitution of India as well as International human rights law recognise the power of the State to arrest any person as a part of its primary role of maintaining law and order. The Constitution requires a just, fair and reasonable procedure established by law under which alone such deprivation of liberty is permissible.

Although Article 22(1) of the Constitution provides that every person placed under arrest shall be informed as soon as may be the ground of arrest and shall not be denied the right to consult and be defended by a lawyer of his choice and S.50 of the Code of Criminal Procedure, 1973 (Cr. PC) requires a police officer arresting any person to “ forthwith communicate to him full particulars of the offence for which he is arrested or other grounds for such arrest”.

A large number of complaints pertaining to Human Rights violations are in the area of abuse of police powers, particularly those of arrest and detention. It has, therefore, become necessary, with a view to narrowing the gap between law and practice, to prescribe guidelines regarding arrest even while at the same time not unduly curtailing the power of the police to effectively maintain and enforce law and order and proper investigation.

## **PRE - ARREST**

The power to arrest without a warrant should be exercised only after a reasonable satisfaction is reached, after some investigation, as to the genuineness and bonafides of a complaint and a reasonable belief as to both the person’s complicity as well as the need to effect arrest. [Joginder Kumar’s case- (1994) 4 SCC 260).

Arrest cannot be justified merely on the existence of power, as a matter of law, to arrest without a warrant in a cognizable case.

After Joginder Kumar's pronouncement of the Supreme Court the question whether the power of arrest has been exercised reasonably or not is clearly a justiciable one.

Arrest in cognizable cases may be considered justified in one or other of the following circumstances:

The case involves a grave offence like murder, dacoity, robbery, rape etc. and it is necessary to arrest the suspect to prevent him from escaping or evading the process of law.

The suspect is given to violent behaviour and is likely to commit further offences.

The suspect requires to be prevented from destroying evidence or interfering with witnesses or warning other suspects who have not yet been arrested.

The suspect is a habitual offender who, unless arrested, is likely to commit similar or further offences.

Except in heinous offences, as mentioned above, an arrest must be avoided if a police officer issues notice to the person to attend the police station and not leave the station without permission. (see Joginder Kumar's case (1994) SCC 260).

The power to arrest must be avoided where the offences are bailable unless there is a strong apprehension of the suspect absconding .

Police officers carrying out an arrest or interrogation should bear clear identification and name tags with designations. The particulars of police personnel carrying out the arrest or interrogation should be recorded, in a register kept at the police station.

## **ARREST**

As a rule use of force should be avoided while effecting arrest. However, in case of forcible resistance to arrest, minimum force to overcome such resistance may be used. However, care must be taken to ensure that injuries to the person being arrested, visible or otherwise, is avoided.

The dignity of the person being arrested should be protected. Public display or parading of the person arrested should not be permitted at any cost.

Searches of the person arrested must be done with due respect to the dignity of the person, without force or aggression and with care for the person's right to privacy. Searches of women should only be made by other women with strict regard to decency. (S.51(2) Cr.PC.) The use

of handcuffs or leg chains should be avoided and if at all, it should be resorted to strictly in accordance with the law repeatedly explained and mandated in judgement of the Supreme Court in Prem Shanker Shukla v. Delhi Administration [(1980) 3 SCC 526] and Citizen for Democracy v. State of Assam [(1995) 3 SCC 743].

As far as is practicable women police officers should be associated where the person or persons being arrested are women. The arrest of women between sunset and sunrise should be avoided.

Where children or juveniles are sought to be arrested, no force or beatings should be administered under any circumstances. Police Officers, may for this purpose, associate respectable citizens so that the children or juveniles are not terrorised and minimal coercion is used.

Where the arrest is without a warrant, the person arrested has to be immediately informed of the grounds of arrest in a language which he or she understands. Again, for this purpose, the police, if necessary may take the help of respectable citizens. These grounds must have already been recorded in writing in police records. The person arrested should be shown the written reasons as well and also given a copy on demand. (S.50(1) Cr.PC.)

The arrested person can, on a request made by him or her, demand that a friend, relative or other person known to him be informed of the fact of his arrest and the place of his detention. The police should record in a register the name of the person so informed. [Joginder Kumar's case].

If a person is arrested for a bailable offence, the police officer should inform him of his entitlement to be released on bail so that he may arrange for sureties. (S.50(2) Cr.PC.)

Apart from informing the person arrested of the above rights, the police should also inform him of his right to consult and be defended by a lawyer of his choice. He should also be informed that he is entitled to free legal aid at state expense [D.K. Basu's case (1997) ].

When the person arrested is brought to the police station, he should, if he makes a request in this regard, be given prompt medical assistance. He must be informed of this right. Where the police officer finds that the arrested person is in a condition where he is unable to make such request but is in need of medical help, he should promptly arrange for the same. This must also be recorded contemporaneously in a register. The female requesting for medical help should be examined only by a female registered medical practitioner. (S.53 Cr.PC.)

Information regarding the arrest and the place of detention should be communicated by the police officer effecting the arrest without any delay to the police Control Room and District / State Headquarters. There must be a monitoring mechanism working round the clock.

As soon as the person is arrested, police officer effecting the arrest shall make a mention of the existence or non-existence of any injury(s) on the person of the arrestee in the register of arrest. If any injuries are found on the person of the arrestee, full description and other particulars as to the manner in which the injuries were caused should be mentioned in the register, which entry shall also be signed by the police officer and the arrestee. At the time of release of the arrestee, a certificate to the above effect under the signature of the police officer shall be issued to the arrestee.

If the arrestee has been remanded to police custody under the orders of the court, the arrestee should be subjected to medical examination by a trained Medical Officer every 48 hours during his detention in custody. At the time of his release from the police custody, the arrestee shall be got medically examined and a certificate shall be issued to him stating therein the factual position of the existence or nonexistence of any injuries on his person.

## **POST-ARREST**

The person under arrest must be produced before the appropriate court within 24 hours of the arrest (Ss 56 and 57 Cr.PC).

The person arrested should be permitted to meet his lawyer at any time during the interrogation.

The interrogation should be conducted in a clearly identifiable place, which has been notified for this purpose by the Government. The place must be accessible and the relatives or friend of the person arrested must be informed of the place of interrogation taking place.

The methods of interrogation must be consistent with the recognised rights to life, dignity and liberty and right against torture and degrading treatment.

# **REGISTRATION OF COMPLAINT**

**Where should you register your complaint?**

1. Even if the crime is committed in an area beyond the limits of any police station, a complainant cannot be forced to go to the concerned police station. You can get your complaint registered at any police station. It is the duty of the police station to send your complaint to concerned police station.
2. After registering a complaint of a cognizable offence, insist on a copy of FIR, free of cost.
3. In case of non-cognizable offences, the police do not have a right to investigate the complaint without the orders of the Court. However, your complaint must be recorded and a receipt given at police station.

### **Where to register a complaint when an offence is committed within the limits of railways?**

1. When an offence is committed either within the jurisdiction of the railway or in a running train, it is necessary to register a complaint at the concerned railway police station.
2. "Mobile Police stations" have also been established in some long distance trains. Hence, a complaint of an offence committed in these running trains can be lodged at the Mobile Police Station. Besides this, necessary arrangement to lodge a complaint with the Guards is also available on long distance trains.

### **What to do if your complaint is not being registered at a Police Station?**

At first, please meet SHO/SO of the Police Station. If the problem persists, meet concern circle DySP (Circle Officer), SSP/SP of your District, DIG of your Zone. Names, addresses and phone numbers of all these officers have been given on this site.

## **BAILABLE AND NON BAILABLE OFFENCE**

1. Under the Code of Criminal Procedure, offences have been classified as 'bailable' and 'non-bailable' offences.
2. **In the case of bailable offences, it is binding upon the investigating officer to grant bail.** However, in case of a non-bailable offence the police do not grant bail. The decision is taken by a Judicial Magistrate/Judge only.
3. In the case of a bailable offence, if the accused produces proper surety after his arrest, and fulfills other conditions, it is binding upon the Investigating officer to release him.
4. In the case of a non-bailable offence, the Investigating Officer must produce the accused before the Judicial Magistrate/Judge concerned within 24 hours of the arrest. At that time, the accused has a right to apply for bail himself or through his representative/lawyer.
5. Similarly, if the accused has been subjected to any misbehavior by police after arrest, he has an opportunity to complain against the same before the Judicial Magistrate/Judge.

# RIGHTS OF ARRESTED PERSON

## **DIRECTION & GUIDELINES ISSUED BY THE SUPREME COURT**

1. The Police personnel carrying out the arrest and handling the interrogation of the arrestee should bear accurate, visible and clear identification and name tags with their designation.
2. The Police Officer carrying out the arrest shall prepare a memo of arrest at the time of arrest and such memo shall be attested by at least one witness, who may be either 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 counter-signed 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 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 Organization 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 his 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 or detention as soon as he is put under arrest or is detained.
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.
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 Service of the concerned State or Union Territory. Director, Health Service, should prepare such a panel for all Tahsils and District as well.
9. Copies of all the documents including the memo of arrest, referred to above should be sent to the 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 should 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.