

Section of BNSS

35

No. 14/3 (NCLs-SOPs)/2024-CB/1073

Government of Manipur

Police Department

OFFICE OF THE DIRECTOR GENERAL OF POLICE, MANIPUR

Imphal, the 12th October, 2024.

STANDING ORDER NO 195

Subject : Standard Operating Procedure on Arrest

1. **Introduction** : Police cannot arrest a person arbitrarily without following due process of law and justification. The term "arrest" generally means actual seizure of one's physical movement or liberty. The Police officer or other person making arrest actually touch or confine the body of the person to be arrested unless there is submission of the person to be arrested by words or action (like sign) (Section 43 BNSS).
2. **Objective** : This SOP provides guidelines related to the exercise of the power of arrest by police officers of Manipur Police. The Hon'ble Supreme Court has also issued guidelines in respect of arrest in DK Basu Vs State of West Bengal which is at (Annexure- I) for reference by investigating officers while making arrest.
3. The following categories where a police officer may
 - (a) arrest a person without an order from a Magistrate and without a warrant (Sec 35 BNSS) :
 - (i) who commits a cognizable offence in the presence of a police officer.
 - (ii) A proclaimed offender.
 - (iii) Someone in possession of anything suspected to be stolen property, having committed an offence concerning such property.
 - (iv) Someone who obstructs a police officer in the execution of their duty or escapes or attempts to escape from lawful custody.
 - (v) A deserter from the Armed Forces.
 - (vi) Someone against whom an order of extradition or other detainment has been issued.
 - (vii) A released convict who breaches any rule.
 - (viii) Against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists that he has committed a Cognizable offence punishable with imprisonment for a term which may be less than seven years

Contd/

(2)

or which may extend up to seven years, whether with or without fine, if he has not complied with the notice issued u/s 35(3) BNSS.

- (ix) Against whom credible information has been received that he has committed a Cognizable offence punishable with imprisonment for a term which may extend to more than seven years, whether with or without fine, or with death sentence and the Police officer has reason to believe on the basis of that information that such person has committed the said offence.
- (x) Who commits a non-bailable and cognizable offence or any proclaimed offender, brought to Police station by a Private Person within six hours from such arrest by the Private Person and if there is reason to believe that such person comes under the provisions of sub-section (1) of section 35 BNSS (u/s 40 BNSS). If the offence is non-cognizable it should be in compliance to Sec 39 BNSS.
- (b) Who commits a non-cognizable offence and refuses or failed to disclose name and address or such Officer has reason to believe that the name and address is false, the person may be arrested to ascertain his name and address in compliance of Sec 39 BNSS.

No person concerned in a non-cognizable offence or against whom a complaint has been made or credible information has been received or reasonable suspicion exists of his having so concerned, shall be arrested except under a warrant or order of a Magistrate. The police officer shall record the reason of arrest of a person in the case diary and if the arrest is not made, the reasons there of shall also be recorded in the case diary.

4. The procedure to be followed when a police officer is arresting a person on the directions of a supervisory police officer (Sec 55(1) BNSS).

- (i) Before effecting arrest, the sub-ordinate officer is to notify the substance of the order to the person to be arrested and such arrested person may require to see the order.
- (ii) The person to be arrested shall be a person who may lawfully be arrested without a warrant.
- (iii) The details of person to be arrested and the offence for which arrest is to be made in the requisition for arrest (Annexure-II) & (Annexure- III)
- (iv) Requisition of arrest may be issued to the sub-ordinate police of the same police station.

5. Notice Under Sec. 35 (3) when arrest of a person is not required

a. The Notice to appear before the police officer or at such place specified in the police under the three categories :

- (i) Person against whom a reasonable complaint has been made.
- (ii) Person against whom credible information has been received that he has committed a cognizable offence.
- (iii) Person against whom a reasonable suspicion exists that he has committed a cognizable offences.

Contd/-

(3)

- b. If the person complies with such notice under Sec. 35 (3), he shall not be arrested unless that he fails to comply with the terms of the notice or the police officer believes that he is required to be arrested for proper investigation of the offence (Sec. 35 (1)(b) BNSS).

6. Arrest of a Woman

- a. No woman shall be arrested after sunset and before sunrise except in exceptional circumstances Sub Section (5) of Sec 43 BNSS). When such exceptional circumstances do exist, the women police officer shall obtain prior permission of the Magistrate of first Class within whose local jurisdiction offence is committed or the arrest is to be made by making a written report to this effect.
- b. The arrest of a woman shall be made by a female police or IO shall be accompanied by a lady police officer while making the arrest.

7. Arrest of infirm or those above 60 years of age in offences punishable with less than three years (Sec. 35(7) BNSS) :

In all offences punishable with an imprisonment of less than three years and the person to be arrested is infirm or above sixty years of age, it is mandatory that arrest is made with prior permission of an officer not below the rank of Deputy Superintendent of Police.

8. No member of the Armed Forces of the Union shall be arrested for anything done in the discharge of official duties (Sec 42 BNSS) except after obtaining approval/order from the Central Government.

9. Guidelines to be followed while making Arrest (Sec. 36 BNSS) :

- (a) Every Police officer shall bear an accurate, visible and clear identification of his name while making an arrest.
- (b) He shall prepare a memorandum of arrest which shall be attested by at least one witness who may be a family member or respectable member of the locality.
- (c) The arrest memorandum shall be countersigned by the person arrested.
- (d) The person being arrested shall be informed the grounds of his arrest (Sec. 47 in sub-section (i) BNSS)
- (e) The arrested person can meet an advocate of his choice during interrogation though not throughout (Sec. 38 BNSS).
- (f) If the person arrested is accused of a bailable offence, he shall be informed that he is entitled to be released on bail and that he may arrange for sureties (person giving undertaking for his presence) on his behalf (Sec. 47 in Sub-section (2) BNSS).

Contd/-

(4)

10. Force and restraint to be used during arrest or production before Court :

- (a) If the person being arrested evades the arrest or resists it, all means necessary to effect the arrest can be used.
- (b) However, in using such force, death of a person being arrested cannot be caused if he is not accused of an offence punishable with death or with imprisonment for life.
- (c) Handcuffs can be used while making the arrest of a person or while being produced in the Court for habitual or repeat offenders, persons who escaped from custody or who has committed offence of organized crime, terrorist act, drug related crime, or illegal possession of arms and ammunition, murder, rape, acid attack, counterfeiting of coins and currency-notes, human trafficking, sexual offence against children, or offence against the State.
- (d) The arresting officer shall make a mention of the use of handcuffs and the grounds thereof in his case diary.
- (e) More restraint than is necessary to prevent his escape should not be used upon the person being arrested.
- (f) A child in conflict with law (CCL) shall under no circumstances be arrested by the Police.
- (g) Information about the arrest and place where the arrested person is being held shall be given to any of his relatives, friends or such other persons as nominated by the arrested person. This information shall be recorded in the General Diary. The police officer shall also fill the arrest intimation form (Annexure-V).
- (h) The arrest information shall be given forthwith to the designated police officer (Sec 48(1) BNSS).

11. Person arrested to be taken to Magistrate :

- (a) A person arrested without warrant or execution of warrant shall be taken to a Judicial Magistrate within twenty four hours, exclusive of the time necessary for the journey from the place of arrest to the Court.

12. Section 82(2) of BNSS, 2023 requires that a police officer arresting a person on the strength of warrant must inform such arrest and the place where the arrested person is being held to the Designated Police in the district and to such Officer of another District where the arrested person normally resides.

Contd/-

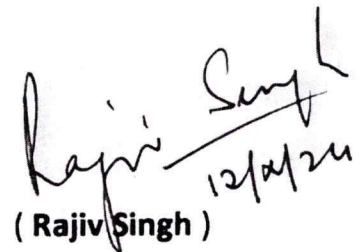
13. Search Memo :

- (a) The police officer making the arrest has power to search the person arrested and seize articles from him. In such case, police officer shall give receipt showing the articles taken from his possession (sec 49).
- (b) The search of arrested women shall only be conducted by a female officer and not with strict regard to decency.

14. Medical Examination of the person arrested :

The police officer making the arrest shall subject the arrestee to medical examination by a registered Medical Practitioner in the service of the State or Central Government.

If the arrestee is female her examination of body shall be made only with female medical officer. If no female medical officer is available, by a female registered medical practitioner (sec 53 BNSS).


(Rajiv Singh)

Director General of Police,
Manipur, Imphal.

Copy to :-

1. Additional Director General of Police (Int.)/Law & Order/Training, Manipur
2. Inspector General of Police (Int.)/Training, Manipur
3. All Superintendents of Police including NAB & Cyber Crime.
4. All Officers-in-Charge of Police Stations.
5. In-Charge, Manipur Police Computer Centre.
6. Guard File.

GUIDELINES LAID DOWN BY THE HON'BLE SUPREME COURT IN D.K. BASU CASE

The Hon'ble Supreme Court, in D.K. Basu Vs State of West Bengal, has laid down specific guidelines required to be followed while making arrests.

The principles laid down by the Hon'ble Supreme Court are given hereunder:

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 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 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 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 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 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.

(2)

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 the 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 concerned State or Union Territory, 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 Magistrate for his record.
10. The arrestee may be permitted to meet his lawyer during interrogation, though not throughout the interrogation.

(ANNEXURE – II)

**PROFORMA AND REQUISITION FOR ARREST, FROM Dy.SP FOR
OFFENCES BELOW 3 YEARS REQUISITION BY IO TO THE DEPUTY
SUPERINTENDENT OF POLICE U/S 35 (7) BNSS**

To the Deputy Superintendent of Police,
Manipur

Whereas during my investigation, a primacy case is established
Against name _____ age _____ Occ _____ R/o
_____ for offences under section _____ of BNSS,
which is punishable for imprisonment of less than 3 years.

That the detention of the above mentioned person is required for
further investigation into the case, that the person mentioned above is
infirm. _____ (description of infirmity)/ (above sixty years of age)
and permission is sought from your good self as per provisions under
section 35 (7) of B NSS

Permission may kindly be granted to arrest name _____
_____ Age _____ Occ _____ R/O
_____ for further investigation of the case.

Signature / seal of IO / OC

PROFORMA BY DEPUTY SUPERINTENDENT OF POLICE TO IO U/S 35 (7) BNSS PROFORMA

To,

The OC/IO
Manipur

Sub :- Grant of permission to Arrest _____ for
the offence u/s _____ in Cr. No _____ of
_____ PS - Reg.

Ref :- Letter Dated _____

In response to the reference cited above, on verification of the details available
permission is hereby accorded in compliance with section 35 (7) of BNSS to arrest
_____ (Name of the Accused)

Communication of details of Arrest or further action should be sent to this office.

Deputy Superintendent of Police,
Signature/Seal

(ANNEXURE – IV)

Arrest Memo

Case FIR No. _____ Date _____ u/s _____

_____ PS _____ District _____

1.	Name with alias and parentage of the arrestee	
2.	Present address of the arrestee	
3.	Permanent address of the arrestee with mobile number	
4.	Description of the person arrested	
5.	Place of arrest	
6.	Date and time of arrest	
7.	Name and address and telephone no. of the person informed of the arrest and the place he is being held (friend, relative or respected member of locality)	
8.	Name, Rank and mobile no. of Designated Police Officer	
9.	Name, Rank and no. of the officer who is making arrest	
10.	Reason of arrest (Tick which are applicable and mention details in case diaries and remand application)	1. There is reason to believe on the basis of such information, complaint or suspicion that such person has committed the offence, as mentioned above AND, 2. Any/all of the following: a) Whether arrest is necessary to prevent the accused from committing any further offence. b) For proper investigation of the offence. c) Whether the accused is a previous convict or previously involved in a criminal case give details, if any (attach separate sheet). d) Whether the address of the accused is required to be verified. e) Whether there are chances of the accused causing the evidence of the offence to disappear or tampering with

		such evidence in any manner which may affect the investigation. f) Whether the arrest is necessary for proper investigation of the case. g) Whether the arrest of accused is necessary to stop him from making any inducement/threat/promise to the witness (es) of the case or any person connected with the case to dissuade him from disclosing the facts of the case in the court or to the Police Officer, which may affect investigation. h) Whether presence of the accused cannot be ensured at the time of requirement.
11.	Whether "Grounds of arrest" has been conveyed in writing to the arrestee or not?	

1. The person arrested _____ has been informed of the grounds of the arrest and the offence.

Signature of the person Arrested:

Signature of IO

PS _____

Dated _____

Witnesses :-

(ANNEXURE – V)

Arrest Information

The accused Sh./Smt. _____ S/o, D/o, W/o (select

applicable) Sh. _____ R/o _____

_____ has been arrested in the above mentioned case, as

per law on Dated _____ at _____

Investigation Officer

Police Station –

Manipur

Dated :-

Signature of intimated person

Sh./Smt. _____ Mobile no. _____

S/o, D/o, W/o Sh. _____ R/o _____

_____ Relation with accused _____

Personal Search Memo

In the presence of the following witnesses, the personal search of Sh./Smt. _____

_____ Mobile No. / WhatsApp Mobile No. _____

E-Mail ID _____ S/o, D/o, W/o (select applicable)

Sh. _____ R/o _____

_____ was conducted as per law and following articles
have been received from his/her possession and same have been taken into the police
possession through this memo.

1. _____
2. _____
3. _____

Signature / Thumb of accused

Witness :-

1. Sh./Smt. _____ Mobile No. _____
S/o, D/o, W/o Sh. _____ R/o _____

2. Sh./Smt. _____ Mobile No. _____
S/o, D/o, W/o Sh. _____ R/o _____

Investigation Officer

Police Station –

Manipur

Dated :-