



HIGH COURT OF SIKKIM
GANGTOK

No.: ...³⁵.../HCS

Date:- ...06/09/2023

N-O-T-I-F-I-C-A-T-I-O-N

The following directions issued by the Hon'ble Supreme Court vide its judgment dated 02.07.2014 rendered in the case of *Armesh Kumar, Appellant v. State of Bihar & Anr., Respondents* as reported at (2014) 8 SCC 273 and reiterated in its recent judgment dated 31.07.2023 passed in *Md. Asfak Alam, Appellant v. State of Jharkhand & Anr., Respondents* (Criminal Appeal No.2207 of 2023) shall be strictly followed by all the Sessions Courts and all other criminal courts in the State of Sikkim while dealing with various offences :-

1. The Magistrate/Judge before whom an accused is forwarded/produced subsequent to his arrest shall first satisfy himself that the arrest made is legal and in accordance with law and all the constitutional rights of the person arrested are satisfied. It shall be ensured that the detention is not authorised casually and mechanically. Before authorizing detention the Magistrate/Judge has to address the question whether specific reasons have been recorded for arrest and if so, prima facie those reasons are relevant, and secondly, a reasonable conclusion could at all be reached by the police officer that one or the other conditions warranting arrest are attracted. To this limited extent the Magistrate/Judge will make judicial scrutiny;

2. The Magistrate/Judge before whom an accused is forwarded/produced subsequent to his arrest shall ensure that the police officer has forwarded a check-list containing the information indicating existence of any of the conditions specified in the sub-clauses under Section 41(1)(b)(ii) of the Code of Criminal Procedure, 1973 and has duly furnished the reasons and materials which necessitated the arrest;

3. The Magistrate/Judge while authorizing detention of the accused shall peruse the report furnished by the police officer in terms aforesaid and only after recording his satisfaction, the Magistrate/Judge will authorize detention;

4. Authorizing detention without recording reasons as aforesaid by the Magistrate/Judge concerned shall render him liable for departmental action by the High Court; and

5. The aforesaid directions shall apply to all such cases where offence is punishable with imprisonment for a term which may be less than seven years or which may extend to seven years, whether with or without fine.

By Order,

sd/-
(Prajwal Khatiwada)
Registrar General
High Court of Sikkim

Memo No.: 5166-68/HCS

Date : 06/09/2023

Copy to :

1. All Sessions Judges/Special Judges
2. All Chief Judicial Magistrates
3. All Judicial Magistrates
4. File


6.9.23
Registrar