

## **ABOUT ARREST / BAIL**

### **1 ) What is 'Arrest ' ?**

Ans : As per Ballentine's Law Dictionary 1948 Ed.P.105, arrest means the taking, seizing, or detaining of another, either by touching, or putting hands on him, or by any act which indicates an intention to take him into,

subjects the person arrested to the actual control and will of the person making the arrest.

Chapter V and section 41 to 59 of Criminal Procedure Code 1973, deals with Arrest of Persons.

As per section 41 (1) Cr.P.C, any police officer may, without an order from a Magistrate can arrest any person,

(a) who has been concerned in any cognizable offence, or a reasonable complaint has the credible information has been received or a reasonable suspicion exists; or

(b) who has in his possession of any implement of house breaking or

(c) who has been proclaimed as an offender or

(d) in whose possession anything is found which may reasonably be suspected to be stolen property or

(e) who obstructs a police officer while in the execution of his duty, or who has escaped from lawful custody;

(f) reasonably suspected of being a deserter from any of the Armed Forces.

As per section 42 of Cr.P.C., any person who, in the presence of a police officer, has committed, accused of committing a non-cognizable offence, refuses on demand of such officer to give identity of his residence, can be arrested.

As per section 50 of Cr.P.C., person arrested without warrant has to be informed about the ground and about his entitlement regarding bail.

As per section 53 of Cr.P.C., when a person is arrested and if there are reasonable grounds for be examination of his person will afford evidence as to the commission of an offence, it shall be lawful for medical practitioner, acting at the request of a police officer not below the rank of sub-inspector (and acting in good faith in his aid and his direction), to make such an examination of a person is reasonably necessary, and to use such force as is reasonably necessary for that purpose.

When a person of a female is to be examined under this section, the examination shall be made under the supervision of, a female registered medical practitioner.

As per section 56 of Cr.P.C., A police officer making an arrest without warrant shall, without unnecessary subject to the provisions herein contained as to bail, take or send the person

arrested before a Magistrate jurisdiction in the case or before the officer in-charge of a police station.

As per section 57 of Cr.P.C., No police officer shall detain in custody a person arrested without warrant period than under all the circumstances of the case is reasonable, and such period shall not, in the special order of a Magistrate under section 167, exceed 24 hours exclusive of the time necessary from the place of arrest to the Magistrate's Court.

As per section 151 of Cr.P.C., a person can also be arrested to prevent commission of cognizable offence.

## 2 ) What is meant by "Bailable / Non-bailable offences"?

Ans : 1. Under the Code of Criminal Procedure 1973 (first shedule), offences have been classified as 'bail' or 'non-bailable' offences.

2. In the case of bailable offences, it is binding upon the investigating officer to grant bail. However non-bailable offence, the police can not grant bail and bail can be granted by a Judicial Magistrate.

3. In case of bailable offences, if the accused produces proper surety, and fulfills other condition upon the Investigating officer to grant bail.

4. In the case of a non-bailable offence, the Investigating Officer must produce the accused before Magistrate / Judge concerned within 24 hours of his arrest. At that time, the accused has a right to consult with his lawyer.

## 1 ) What is an F .I.R ?

Ans : F.I.R. means First Information Report, made to police, about commission of a cognizable offence

amounts to putting law in to motion by giving information relating to the commission of a cognizable

an officer in charge of a police station, (which shall be reduced into writing and read over to the informant and

shall be signed by the person giving such information.

It is mandatory to give a copy of the first information report (as recorded by police) to the informant free of cost.

## 2) How do I lodge F.I.R. ?

Ans : The informant/ complainant should go to the police station having jurisdiction over the area (where

offence committed) and report to officer in-charge station house officer about commission of a cognizable offence

information is given on telephone, the informant /complainant should subsequently go to the police Station for

registration of F.I.R.

3) What is a cognizable case or What is cognizable offence ?

Ans : A cognizable case means a case in which a police officer may, in accordance with the First Schedule

(1973), or under any other law for the time being in force, arrest without warrant.

4 ) What is the meaning of the term 'taking cognizance'?

Ans: The term 'taking cognizance' has not been defined in Code of Criminal Procedure. When any Magistrate

cognizance under section 190 (1) (a) Cr.P .C., he must not only have applied his mind to the contents

but he must have done so for the purpose of proceeding in a particular way as per procedure prescribed in

Cr.P.C., and there after sending the complaint for further enquiry. A magistrate can also order investigation under

section 156(3) of Cr.P.C.

5) What is a Non cognizable offence ?

Ans : Non cognizable offence means in which a police officer has no authority to arrest without warrant.

6 ) How do I lodge a NC complaint ?

Ans : Information about such offences is to be given in a similar manner as explained under F .I.R.. The officer

would reduce the complaint in writing (about commission of Non cognizable offence) and give a copy to the

complainant free of cost.

No police officer can investigate a non-cognizable case unless he obtains prior permission of Magistrate

having power to try such case.

7) What is meant by a 'complaint' ?

Ans : Complaint means any allegation made orally or in writing to a Magistrate, with a view to his taking cognizance under

code of criminal procedure (1973), that some person (whether known or unknown), has committed an offence.

8) What is meant by public place ?

Ans : Public place includes (and means) the foreshore, the precincts of every public building or monument

accessible to the public for drawing water, washing or bathing or for the purpose of recreation.