



ODISHA POLICE
STATE POLICE HEADQUARTER

POLICE CIRCULAR ORDER NO. 382 /2019

SUB :- Effective steps to curb drunken driving, arrest of offender and submission of prosecution report against the offenders u/s 185 of MV Act, 1988.

1. Hon'ble Supreme Court of India has constituted a "Committee on Road Safety" under the Chairmanship of Hon'ble Justice Radhakrishnan which is monitoring all road safety activities taken up by the States. The Committee has directed the State of Odisha to reduce road accident fatality by 10% every year. Despite our proactive steps, road accident fatalities in the State are increasing. During 2017, the rate of increase was 7.33% whereas it climbed to 11% in the year 2018. This increasing trend is being viewed adversely by the Committee.
2. Drunken driving is held to be one of the major factors responsible for most of the fatal as well as grievous road accident cases. Committee has categorically directed to prosecute offenders so as to convict them by imprisonment and/or imposition of fine as prescribed u/s 185 of the MV Act, 1988. Suspension of license of the offending drivers may also be effected u/s 20 of MV Act.
3. In compliance to the direction of the Committee, Govt. of Odisha in Home Department vide Notification No. 1986 dated 13.08.2019 have directed police officers to invoke legal provisions contemplated u/s 202 and Sec. 203 of MV Act, to contain drunken driving. Arrest of offenders indulging in drunken driving has also been approved to be effected. Such action is highly expedient in view of rampant violation of road safety rules leading to death and injury.

4. To start with, it is proposed to enforce checking of drunken driving at each toll gate (both NHAI and others) and other highly vulnerable accident prone areas by using breath analyser so as to arrest and prosecute the offenders.

5. While initiating action as aforesaid, the following legal and procedural aspects shall be kept in mind:

- Section 202 of MV Act, 1988 empowers a police officer to arrest any person without warrant who in his presence, commits an offence punishable u/s 184, 185 or 197 of the Act.
- Section 184 of the Act prescribes punishment for dangerous driving.
- Section 185 of the Act contains penal provisions for driving by a drunken person or by a person under the influence of drugs.
- Section 197 enjoins punishment for taking or driving of a motor vehicle unauthorisedly, without consent of the owner.
- Whenever any suspected case of drunken driving is committed in presence of a police officer, he has to detain the vehicle along with the driver/rider and put him to "breath analyser test".
- If alcohol contents exceeds 30 mg. per 100 ml. of blood or the drug consumed makes him incapable of exercising proper control over the vehicle, the person concerned shall be arrested.
- Arrest Memo shall be prepared by the officer in accordance with legal provisions enshrined u/s 41B, 46, 50, 50A, 54, 55A, 56, 57 & 60A Cr.P.C and Supreme Court guidelines.
- Within 2 hours of arrest, the arrestee shall be subjected to medical test by a registered medical practitioner for the purpose of collection of specimen of his blood.
- Where the arrestee required to provide blood specimen is a female, the specimen shall be taken by a female medical practitioner only or in presence of a female, whether a medical practitioner or not.
- While arresting the offender, the police officer shall take appropriate steps for temporary disposal of the vehicle [Sec. 202(3) MV Act].

6. For enforcement as above, the following general procedures shall be followed by police officers:-

1. A Police Officer with support staff will make a Station Diary entry before proceeding to detect drunken driving cases.
2. The offender will be arrested on detection of alcohol beyond 30mg. per 100ml. blood. If the arrestee does not furnish required surety/security for bail, he shall be forwarded to the jurisdictional court along with the "Prosecution Report".
3. He shall be forwarded to the jurisdictional court along with the "Report" generated from Breath Analyser Device which shall be enclosed in the "Prosecution Report" (in duplicate) along with signature of witnesses.
4. At least two independent witnesses will sign in the "Prosecution Report".
5. Sincere effort must be made to ascertain the correct identity and address/ cell number of the offender.
6. CCTV footages of toll gates recording the checking may be retrieved and produced before the court during trial, if required.

B K Sharma

4/9/2019.

(B K Sharma)

Director General of Police
Odisha

Memo No. /CID-SR-MV

Dtd. .09.2019

- i) Copy forwarded to all Dist. SsP/DcsP Bhubaneswar/Cuttack/SsRP Rourkela & Cuttack for information & necessary action.
- ii) Commissioner of Police, Bhubaneswar-Cuttack, Bhubaneswar/Addl. D.G. of Police Railways, Odisha, Bhubaneswar/all Range IsGP/DIsGP for information & necessary action.

Sd/-

Addl.D.G. of Police,
CID, CB, Odisha, Cuttack.

Memo No.31951/CID-SR-MV

Dtd.05.09.2019

Copy forwarded to Principal Secretary to Govt., Home Deptt., Odisha, Bhubaneswar, /Principal Secretary to Govt., Commerce & Transport Deptt., Odisha, Bhubaneswar for information.

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