

ITEM NO.2A

COURT NO.5

SECTION II

**S U P R E M E C O U R T O F I N D I A**  
**RECORD OF PROCEEDINGS**

Miscellaneous Application No. 2034/2022 in MA 1849/2021 in  
SLP(Crl) No. 5191/2021 in SLP(Crl.) NO.5191/2021

SATENDER KUMAR ANTIL

Petitioner(s)

VERSUS

CENTRAL BUREAU OF INVESTIGATION &amp; ANR.

Respondent(s)

[ TO BE TAKEN UP AT 2 P.M. ]..... [ MR. SIDHARTH LUTHRA,  
SR. ADV. (A.C). ]

IA No. 79289/2023 - APPLICATION FOR PERMISSION  
IA No. 90354/2023 - APPROPRIATE ORDERS/DIRECTIONS  
IA No. 11769/2024 - APPROPRIATE ORDERS/DIRECTIONS  
IA No. 69366/2023 - APPROPRIATE ORDERS/DIRECTIONS  
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IA No. 280886/2024 - EXEMPTION FROM APPOINTMENT OF OFFICIAL  
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IA No. 99152/2023 - MODIFICATION OF COURT ORDER

WITH

MA 2035/2022 in SLP(Crl) No. 5191/2021 (II)  
IA No. 166259/2022 - CLARIFICATION/DIRECTION

Date : 15-01-2026 These matters were called on for hearing today.

**CORAM : HON'BLE MR. JUSTICE M.M. SUNDRESH  
HON'BLE MR. JUSTICE NONGMEIKAPAM KOTISWAR SINGH**

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Ms. Chubalemla Chang, Adv.  
Mr. Prang Newmai, Adv.  
Ms. Yanmi Phazang, Adv.

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Mr. Sarad Kumar Singhanian, AOR  
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Ms. Archana Sharma, Adv.  
Mr. Suriya Kannan Sabanayagam, Adv.

UPON hearing the counsel, the Court made the following

**O R D E R**

The concluding part of the reportable signed order reads as under:-

"32. The power of arrest under Section 35(6) read with Section 35(1)(b) of the BNSS, 2023 must be interpreted as a strict objective necessity, and not a subjective convenience for the police officer. It does not mean the police officer can arrest to simply ask questions. However, it means that the police officer must satisfy himself that the investigation, qua an offence punishable with imprisonment up to 7 years, cannot proceed effectively without taking the concerned individual into custody. Any interpretation to the contrary would clearly frustrate the purpose and legislative intent of Sections 35(1)(b) and Sections 35(3) to 35(6) of the BNSS, 2023.

33. On the basis of the interpretation given by us, we conclude as follows:

a. An arrest by a police officer is a mere statutory discretion which facilitates him to conduct proper investigation, in the form of collection of evidence and, therefore, shall not be termed as mandatory.

b. Consequently, the police officer shall ask himself the question as to whether an arrest is a necessity or not, before undertaking the said exercise.

c. For effecting an arrest, qua an offence punishable with imprisonment up to 7 years, the mandate of Section 35(1)(b)(i) of the BNSS, 2023 along with any one of the conditions mentioned in Section 35(1)(b)(ii) of the BNSS, 2023 must be in existence.

d. A notice under Section 35(3) of

the BNSS, 2023 to an accused or any individual concerned, qua offences punishable with imprisonment up to 7 years, is the rule.

e. Even if the circumstances warranting an arrest of a person are available in terms of the conditions mentioned under Section 35(1)(b) of the BNSS, 2023, the arrest shall not be undertaken, unless it absolutely warranted.

f. Power of arrest under Section 35(6) read with Section 35(1)(b) of the BNSS, 2023, pursuant to a notice issued under Section 35(3) of the BNSS, 2023 is not a matter of routine, but an exception, and the police officer is expected to be circumspect and slow in exercising the said power.

List the matters on March 17<sup>th</sup>, 2026 at 2.00 P.M.

(SWETA BALODI)

ASTT. REGISTRAR-cum-PS

(reportable signed order is placed on the file)

(AKSHAY KUMAR BHORIA)

COURT MASTER

ITEM NO.2

COURT NO.5

SECTION II

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Mr. Mudit Gupta, AOR  
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Mr. Abhinav Kumar, Adv.  
Mr. Manav Kaushik, Adv.

Mr. Ashish Batra, AOR  
Mr. Ankur Prakash, AOR

Ms. K. Enatoli Sema, AOR  
Mr. Amit Kumar Singh, Adv.  
Ms. Chubalemla Chang, Adv.  
Mr. Prang Newmai, Adv.  
Ms. Yanmi Phazang, Adv.

Mr. Rahul Gupta, AOR

Mr. Sarad Kumar Singhanian, AOR  
Ms. Rooh-e-hina Dua, AOR

Mr. Shrirang B. Varma, Adv.  
Mr. Siddharth Dharmadhikari, Adv.  
Mr. Aaditya Aniruddha Pande, AOR

Mr. Varinder Kumar Sharma, AOR  
Mr. S. K. Bandopadhyay, Adv.

Ms. Manisha Ambwani, AOR

Mr. Anjuman Tripathy, AOR  
Mr. Aditya Jain, AOR

Mr. Somanadri Goud Katam, AOR  
Mr. Sirajuddin, Adv.

Mr. Sunny Choudhary, AOR  
Mr. Aditya Vaibhav Singh Ga, Adv.  
Mr. Harmeet Singh Ruprah Aor, Adv.

Mr. Shuvodeep Roy, AOR  
Mr. Deepayan Dutta, Adv.  
Mr. Saurabh Tripathi, Adv.

Ms. Enakshi Mukhopadhyay Siddhanta, AOR  
Mr. Rao Raj Bahadur Singh, Adv.  
Ms. Archana Sharma, Adv.  
Mr. Suriya Kannan Sabanayagam, Adv.

UPON hearing the counsel, the Court made the following

**O R D E R**

Though, the addendum to the compliance report dated 17.03.2025, has been filed, by the learned Amicus Curiae, as early as on 25.11.2025, the compliance affidavits have still not been filed, before this Court, by certain High Courts, States, Union Territories, the Union of India and the CBI with respect to compliance of directions, laid down by this Court, in orders dated 21.01.2025, 15.10.2025 & 06.08.2024. Hence, we deem it fit to pass the following directions :-

**STATES****1. STATE OF ANDHRA PRADESH**

State of Andhra Pradesh is directed to:

- (i) Provide data with respect to compliance of directions laid down in Para. F(i) of the order dated 06.08.2024 passed by this Court.

**2. STATE OF ARUNACHAL PRADESH**

State of Arunachal Pradesh is directed to:

- (i) Ensure compliance, of directions laid down in Para. F(i) & F(iii)(d) of the order dated 06.08.2024 passed by this Court.

**4. STATE OF ASSAM**

State of Assam is directed to:

- (i) Ensure compliance, of directions laid down in Para. F(i) & F(iii)(d) of the order dated 06.08.2024 passed by this Court.

**7. STATE OF CHHATTISGARH**

State of Chhattisgarh is directed to:

- (i) Ensure compliance, of directions laid down in Para. F(i) of

the order dated 06.08.2024 passed by this Court, by providing data reflecting that a list has been prepared, by the Director General, Jail & Correctional Services, Raipur, of those UTPs who have been granted bail, but not yet released in those cases where no family member or friend is coming forward to stand as surety or furnish bonds on behalf of the UTPs and ensure compliance of the SOP for UTPs in such cases.

## 12. STATE OF HARYANA

State of Haryana is directed to:

- (i) Provide details of non-compliance of Para.100.2 in the 6 cases in Districts - Bhiwani, Palwal, Panipat & Sirsa, as reflected in the Tabular Chart (Part A - at Page 45, Annexure B) in the Affidavit dated 20.09.2024 filed by the High Court of Punjab & Haryana;
- (ii) Provide details of necessary action taken against the erring Investigating Officer, in FIR No.268/2022 dated 24.07.2022 registered at PS Khwaja Sarai, Faridabad, for non-compliance of Sec.41-A CrPC, 1973/Sec.35(3) BNSS, 2023 with respect to accused namely, Rohan Kaushik, Pushpa Sharma & Dinesh Sharma.

## 13. STATE OF HIMACHAL PRADESH

State of Himachal Pradesh is directed to:

- (i) Ensure compliance, of directions laid down in Para. F(i) & F(iii)(d) of the order dated 06.08.2024 passed by this Court.

## 15. STATE OF JHARKHAND

State of Jharkhand is directed to:

- (i) Provide data with respect to compliance of directions laid down in Para. F(i) of the order dated 06.08.2024 passed by this Court.

**16. STATE OF KARNATAKA**

State of Karnataka is directed to:

- (i) Ensure compliance, of directions laid down in Para. F(i) of the order dated 06.08.2024 passed by this Court.

**17. STATE OF KERALA**

State of Kerala is directed to:

- (i) Provide data, with respect to compliance of Para. F(i) & F(iii)(d) of the order dated 06.08.2024 passed by this Court.

**21. STATE OF MAHARASHTRA**

State of Maharashtra is directed to:

- (i) Ensure compliance, of Para.100.2 of Satender Kumar Antil vs. CBI & Anr. (2022) 10 SCC 51, by providing a clarification with respect to cases of non-compliance of Sec. 41 & 41-A CrPC, 1973 in Mumbai, as placed on record by the Amici on 06.08.2024 by way of Additional Documents, and provide details of action taken against such erring officers in FIR bearing CR No.450 of 2024 registered at Ghatkopar Police Station, Mumbai;
- (ii) Ensure compliance, of Para.100.7 of Satender Kumar Antil vs. CBI & Anr. (2022) 10 SCC 51, by seeking an appropriate response from the Law & Judiciary Department of the Government and also provide details of the status of proposals for creation of posts and making budgetary provisions sent by the High Court of Bombay (as per Paras. 7-9 of its Affidavit dated 04.05.2024);
- (iii) Ensure compliance, of directions laid down in Para. F(i) & F(iii)(d) of the order dated 06.08.2024 passed by this Court.

**22. STATE OF MANIPUR**

State of Manipur is directed to:

- (i) Ensure compliance, of directions laid down in Para. F(i) & F(iii)(d) of the order dated 06.08.2024 passed by this Court.

**23. STATE OF MEGHALAYA**

State of Meghalaya is directed to:

- (i) Ensure compliance, of directions laid down in Para. F(i) of the order dated 06.08.2024 passed by this Court, by providing data, with respect to information recorded in Para. 9 of the Affidavit dated 06.12.2024 filed by the State & also take steps to ensure compliance of directions laid down in Para. F (iii)(d) of the order dated 06.08.2024 passed by this Court.

**24. STATE OF MIZORAM**

State of Mizoram is directed to:

- (i) Ensure compliance, of directions laid down in Para. F(i) & F(iii)(d) of the order dated 06.08.2024 passed by this Court.

**26. STATE OF ODISHA**

State of Odisha is directed to:

- (i) Ensure compliance, of directions laid down in Para. F(i) & F(iii)(d) of the order dated 06.08.2024 passed by this Court.

**28. STATE OF PUNJAB**

State of Punjab is directed to:

- (i) Ensure compliance of directions laid down in Para. F(i) & F(iii)(d) of the order dated 06.08.2024 passed by this Court.

**29. STATE OF RAJASTHAN**

State of Rajasthan is directed to:

- (i) Ensure compliance of directions laid down in Para. F(i) & F(iii)(d) of the order dated 06.08.2024 passed by this Court.

**31. STATE OF TAMIL NADU**

State of Tamil Nadu is directed to:

- (i) Provide data showing compliance of directions laid down in Para. F(i) & F(iii)(d) of the order dated 06.08.2024 passed by this Court.

**32. STATE OF TELANGANA**

State of Telangana is directed to:

- (i) Provide data showing compliance of directions laid down in Para. F(i) of the order dated 06.08.2024 passed by this Court.

**33. STATE OF TRIPURA**

State of Tripura is directed to:

- (i) Ensure compliance of directions laid down in Para. F(iii)(d) of the order dated 06.08.2024 passed by this Court.

**34. STATE OF UTTARAKHAND**

State of Uttarakhand is directed to:

- (i) Provide updated details on the pending request made by the High Court of Uttarakhand for the creation of 30 new Special Courts in the State of Uttarakhand (as stated in Para. 10 & Annexure XIV of the Affidavit dated 27.11.2024

filed by the High Court of Uttarakhand).

### **35. STATE OF UTTAR PRADESH**

State of Uttar Pradesh is directed to:

- (i) Ensure compliance of Para. 100.2 of Satender Kumar Antil vs. CBI, (2022) 10 SCC 51 in Districts - Barabanki, Bijnor, Gautambuddha Nagar, Hardoi, Kannauj and Sravasti, and provide details of action taken against erring officers;
- (ii) Ensure compliance of Para. 100.2 of Satender Kumar Antil vs. CBI, (2022) 10 SCC 51 in Districts - Gautam Budh Nagar & Sambhal at Chandausi and provide details of action taken against erring officers;
- (iii) Ensure compliance of directions laid down in Para. F(i) & F(iii)(d) of the order dated 06.08.2024 passed by this Court.

### **36. STATE OF WEST BENGAL**

State of West Bengal is directed to:

- (i) Ensure compliance of directions laid down in Para. F(i) & F(iii)(d) of the order dated 06.08.2024 passed by this Court.

### **UNION TERRITORIES**

#### **3. UNION TERRITORY OF ANDAMAN & NICOBAR ISLAND**

Union Territory of Andaman & Nicobar Island is directed to:

- (i) Circulate the orders dated 06.08.2024 & 15.10.2024 passed by this Court to the concerned authorities and take steps to ensure compliance of directions laid down in Para. F(iii)(d) of the order dated 06.08.2024 passed by this

Court.

**6. UNION TERRITORY OF CHANDIGARH**

Union Territory of Chandigarh is directed to:

- (i) Ensure compliance of directions laid down in Para. F(i) & F(iii)(d) of the order dated 06.08.2024 passed by this Court.

**9. UNION TERRITORY OF NCT OF DELHI**

Union Territory of NCT of Delhi is directed to:

- (i) Ensure compliance of directions laid down in Para. F(i) & F(iii)(d) of the order dated 06.08.2024 passed by this Court;
- (ii) Provide details of what action has been taken against erring officers at Pahar Ganj PS (in Bail Matter No. 2245/2024) & Madhu Vihar PS (in FIR No. 108/2024) and inform the concerned Principal District Judge in accordance with directions laid down in Para. F(iii)(d) of the order dated 06.08.2024 passed by this Court.

**14. UNION TERRITORY OF JAMMU & KASHMIR**

Union Territory of Jammu & Kashmir is directed to:

- (i) Ensure compliance of directions laid down in Para. F(i) & F(iii)(d) of the order dated 06.08.2024 passed by this Court.

**18. UNION TERRITORY OF LADAKH**

Union Territory of Ladakh is directed to:

- (i) Ensure compliance of Para. I of the order dated 13.02.2024 passed by this Court and implement the SOP (constitution of an 'Empowered Committee & an 'Oversight Committee' to help poor prisoners;
- (ii) Ensure compliance of directions laid down in Para. F(i) &

F(iii)(d) of the order dated 06.08.2024 passed by this Court.

**19. UNION TERRITORY OF LAKSHADWEEP**

Union Territory of Lakshadweep is directed to:

- (i) Ensure compliance of directions laid down in Para. F(i) & F(iii)(d) of the order dated 06.08.2024 passed by this Court.

**27. UNION TERRITORY OF PUDUCHERRY**

Union Territory of Puducherry is directed to:

- (i) Ensure compliance of directions laid down in Para. F(iii)(d) of the order dated 06.08.2024 passed by this Court.

**37. UNION OF INDIA**

Union of India is directed to:

- (i) Inform this Court as to whether any assessment has been made to ascertain the requirement of creating additional Special Courts (CBI) in Districts with high pendency of cases, along with requisite data;
- (ii) Re-circulate the RoD dated 13.03.2024 issued by the MHA, relating to the VC meeting convened under the chairmanship of the Addl. Secretary (WS) on 13.03.2024, to all States/UTs in which the procedure of transfer of funds from the SNA Account has been addressed.

**HIGH COURTS**

**1.1 HIGH COURT OF ANDHRA PRADESH**

High Court of Andhra Pradesh is directed to:

- (i) Ensure full compliance of Direction (d) laid down in order dated 21.01.2025, passed by this Court, by taking steps to ensure that there is compliance, at all levels, for the UTPs mentioned in the collated reports [Annexures C-E] to

either get the benefit of the SOP or that the concerned Judicial Officers take steps to modify their bail conditions in order to give effect to their release from custody.

#### **14.1 HIGH COURT OF JAMMU & KASHMIR AND LADAKH**

High Court of Jammu & Kashmir and Ladakh is directed to:

- (i) Provide data, with respect to compliance of Direction (d) laid down in order dated 21.01.2025 passed by this Court.

#### **17.1 HIGH COURT OF KERALA**

High Court of Kerala is directed to:

- (i) Ensure full compliance of Direction (d) laid down in order dated 21.01.2025, passed by this Court, by placing on record the Minutes of Meetings of the Committee after the monthly reports by concerned authorities have been received and analysed by the Committee.
- (ii) Ensure compliance of Para. 100.11 of Satender Kumar Antil vs. CBI, (2022) 10 SCC 51 with respect to applications u/S. 438 of the CrPC, 1973 pending before the High Court of Kerala (as mentioned in para. 6 & Annexure V(a) & V(b) of the Affidavit dated 20.09. 2024;
- (iii) Provide data with respect to the application of Satender Kumar Antil vs. CBI, (2022) 10 SCC 51 to Petitions filed u/S.438 of the CrPC, 1973;
- (iv) Ensure full compliance of directions laid down in Para. F(i) of the order dated 06.08.2024, passed by this Court, by issuing necessary directions as per the Model Affidavit.

#### **21.1 HIGH COURT OF BOMBAY**

We have taken note of the small error committed in Serial Number 12 of Annexure - A, of the addendum dated 25.11.2025 to the compliance report dated 17.03.2025, filed by the learned Amicus, wherein it

has been mentioned that the High Court of Bombay has fully complied with the directions issued by this Court in order dated 21.01.2025. However, it is submitted by the learned Amicus that the High Court of Bombay has only partly complied with the said directions. Accordingly, the High Court of Bombay is directed to:

- (i) Ensure full compliance of Direction (d) laid down in order dated 21.01.2025, passed by this Court, by ensuring time bound compliance of implementation of the SOP for poor prisoners at all levels as per the directions issued by this Court.

#### **22.1 HIGH COURT OF MANIPUR**

High Court of Manipur is directed to:

- (i) Provide data with respect to compliance of Direction (d) laid down in order dated 21.01.2025 passed by this Court.

#### **28.1 HIGH COURT OF PUNJAB & HARYANA**

High Court of Punjab & Haryana is directed to:

- (i) Ensure full compliance of Direction (d) laid down in order dated 21.01.2025, passed by this Court, by ensuring time bound compliance of implementation of the SOP for poor prisoners at all levels as per the directions issued by this Court.
- (ii) Ensure compliance of directions laid down in Para. F (i) of the order dated 06.08.2024, passed by this Court, by using the format of the Model Affidavit as directed by this Court vide order dated 15.10.2024.

#### **29.1 HIGH COURT OF RAJASTHAN**

High Court of Rajasthan is directed to:

- (i) Ensure compliance of directions laid down in Para. F (iii) of the order dated 06.08.2024 passed by this Court.

**30.1 HIGH COURT OF SIKKIM**

High Court of Sikkim is directed to:

- (i) Provide data to ensure full compliance of Direction (d) laid down in order dated 21.01.2025 passed by this Court.

**33.1 HIGH COURT OF TRIPURA**

High Court of Tripura is directed to:

- (i) Provide data to ensure full compliance of Direction (d) laid down in order dated 21.01.2025 passed by this Court.

**AGENCIES****38. CENTRAL BUREAU OF INVESTIGATION**

Central Bureau of Investigation is directed to:

- (i) Inform as to what action is to be taken against erring officers, as per rules, for non-compliance of directions under Article 141 of the Constitution and if an advisory memo is the appropriate action as per rules.

In such view of the matter, a last and final chance is given, to all the aforementioned States, Union Territories, the Union of India and the CBI, to ensure strict compliance with the directions issued, in this order, within a period of 3 weeks from the date of receipt of a copy of this order. The compliance affidavits/reports will have to be filed within a period of one week thereafter, after duly serving the office of the learned Amicus.

We have heard the Learned Amicus Curiae, and the Learned ASG, appearing for the Union of India, on the issue of interpretation of Section 35(1)(b) of the BNSS, 2023.

**Order with detailed reasons to follow.**

**List the matters on March 17<sup>th</sup>, 2026 at 2.00 P.M.**

**(SWETA BALODI)  
ASTT. REGISTRAR-cum-PS**

**(AKSHAY KUMAR BHORIA)  
COURT MASTER**