

Constitutional Limits on Arrest: Protecting Personal Liberty Under Articles 21 and 22

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Constitutional Limits on Arrest Latest News

- The Supreme Court, in ***Vihaan Kumar v. State of Haryana (2025)***, reinforced safeguards against arbitrary arrest, holding that every arrested person must be **properly and meaningfully informed of the grounds of arrest**.
- This ruling reaffirms constitutional protections under **Articles 21 and 22**, prompting a closer look at how India's legal framework balances the state's power to arrest with an individual's right to personal liberty and dignity.

The Vihaan Kumar Judgment: Key Holdings

- Failure to inform the arrested person of the grounds of arrest amounts to a violation of **Article 22(1)** and **Section 50** of the CrPC (now Section 47 of the BNSS, 2023).

- Merely informing the arrested person's relatives, or providing ambiguous records, does not satisfy the constitutional requirement — the information must be communicated directly to the arrested person in a manner they can understand.
- If the initial arrest is unconstitutional, all subsequent remand orders are also rendered illegal.
- The arrest memo must record the time of arrest, as required under **Article 22(2)** and **Section 57 of the CrPC** (now Section 58 of the BNSS).
- The police must produce the arrested person before a local magistrate within 24 hours, excluding travel time.
- The Court also condemned degrading treatment in custody, affirming the right to dignity under Article 21, and directed the state to amend procedures to prevent future violations.

Arrest vs. Detention

- **Detention:** A temporary hold for investigation purposes; the person is not charged with any offence.
- **Arrest:** Formal police custody based on probable cause of having committed an offence.
- Article 22 of the Constitution governs both arrest and detention.
- Non-cognisable offences (e.g., simple hurt, defamation): Arrest requires a warrant.
- Cognisable offences (e.g., murder, rape): Arrest can be made without a warrant.

Judicial Guidelines Against Misuse: Arnesh Kumar Case

- In **Arnesh Kumar v. State of Bihar (2014)**, the Supreme Court laid down guidelines to prevent misuse of criminal law through arbitrary arrests:
 - Arrest should be an **exception**, not the norm, in offences punishable with less than seven years' imprisonment.
 - Police must assess the necessity of arrest under Section 41 of the CrPC (now Section 35 of the BNSS) before making one.
 - Routine arrests, made merely because the power exists, are impermissible — necessity must be demonstrably justified.
 - Allowing prosecution based on frivolous or false allegations amounts to abuse of legal process and violates principles of natural justice.

Constitutional Framework: Article 22 and Beyond

- Article 22 provides key procedural safeguards for arrested persons:
 - The right to be informed of the grounds of arrest.
 - The right to consult and be defended by a lawyer of choice as soon as possible.
 - The right to be presented before the nearest magistrate within 24 hours.
- **Preventive Detention:** Article 22 also addresses preventive detention, where these procedural safeguards do not apply.
 - India's concept of preventive detention draws from **Regulation 14-B** of the British Defence of the Realm Act, 1914, under which **non-punitive detentions** are considered preventive.
 - Such detention can continue for three months, beyond which an Advisory Board must approve any extension.

The 'Golden Triangle' and Natural Justice

- The Supreme Court's landmark ruling in ***Maneka Gandhi v. Union of India*** (1978) established the "Golden Triangle" of the Constitution, linking Articles 14, 19, and 21:
 - Article 14 (equality before law) is the antithesis of arbitrariness and the source of substantive natural justice.
 - Article 19(1) incorporates procedural natural justice.
 - Article 21 (right to life and personal liberty) draws upon both.
- Any arbitrary exercise of the power of arrest or detention, therefore, amounts to a violation of this Golden Triangle — reinforcing that personal liberty is deeply rooted in the constitutional scheme of natural justice.

Conclusion

- Through judgments like *Vihaan Kumar* and *Arnesh Kumar*, the judiciary continues to reinforce that arrest is not a routine exercise of police power but a constitutional act demanding accountability.
- These safeguards, rooted in Articles 21 and 22, ensure that India's democratic promise of liberty is not eclipsed by arbitrary state action.

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