CIRCULAR

No. 16 /2014 **Delhi Police**

Subject: Regarding arrest of any woman accused of any offence after sunset and before sunrise.

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In view of observations made by Ld. Court of ASJ Rohini Court in case FIR No. 265/13 u/s 307 IPC, P.S. South Rohini regarding arrest of woman accused after sunset, the following instructions are issued for meticulous compliance:-

1.) Sec 46(4) Cr.P.C deals with the arrest of a woman after sunset and before sunrise except in exceptional cases which reads as:-

> *46. Arrest how made –*
> *(1) .... to (3) ....*
> *(4) Save in exceptional circumstances, no woman shall be arrested after sunset and before sunrise, and where such exceptional circumstances exist, the woman police officer shall, by making a written report, obtain the prior permission of the Judicial Magistrate of the first class within whose local jurisdiction the offence is committed or the arrest is to be made.*

In cases wherein such exceptional circumstances do exist, a lady police officer shall make a written report and obtain prior permission of the Judicial Magistrate, First Class in whose jurisdiction the offence is committed or the arrest is to made. The exceptional circumstances so contemplated herein above cannot be put in a straight jacket compartment and depend upon facts of each individual case.

2.) A female officer has to be associated in the arrest of a female accused till such time the female accused is produced before the Magistrate after her arrest.

3.) As per Section 53 of Cr.PC, the female arrestee should be medically examined only by a female medical practitioner. The police officer accompanying the female arrestee should produce the arrestee before a lady medical practitioner at hospital at the time of medical examination.

4.) The following points mentioned in the judgement of Apex Court in case of **Sheela Barse Vs. State of Maharastra reported in 1983 AIR 378: 1983 SCR (2) 337** must be scrupulously followed:-

(i) Interrogation of females should be carried out only in the presence of female police officers/ constables.

(ii) Whenever a person is arrested by the police without warrant, he must be immediately informed of the grounds of his/her arrest and in case of every arrest it must immediately be made known to the arrestee that he is entitled to apply for bail.

(iii) Whenever a person is arrested by the police and taken to the police lock up, the police will immediately give an intimation of the fact of such arrest to the nearest Legal Aid Committee.

(iv) As soon as a person is arrested, police must immediately obtain from him/her the name of any relative or friend whom he/she would like to be informed about his/her arrest and the police should get in touch with such relative or friend and inform them about the arrest.

5.) The judgement of Hon'ble Apex Court in the case of **Joginder Kumar's** case reported in **1994 (4) SCC 460,** regarding arrest of a person should also be taken into account and arrest only in certain circumstances like when the allegations involves a grave offence such as murder, dacoity, robbery, rape etc. and it is necessary to arrest **the suspect to prevent him from escaping or evading the process of law;** or the suspect is given to **violent behavior** and is **likely to commit further offences;** or the suspect requires to be **prevented from destroying evidence** or interfering with witnesses or warning other suspects who have not yet been arrested; or the suspect is a **habitual offender** who unless arrested, is likely to commit similar or further offences.

All investigation officers and SHOs, therefore, may be properly briefed to ensure that the above instructions are complied with meticulously. Any laxity in this regard will be viewed seriously.

(S.K.GAUTAM) IPS
JOINT COMMISSIONER OF POLICE
P & I, DELHI

No. 2926-3226 /R.B./PHQ, dated, Delhi, the 30/05 /2014

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