STANDING ORDER NO. SPUWAC/01/2024

ATTENDANCE, ARREST, SEARCH AND ESCORT OF WOMEN BY POLICE

1. INTRODUCTION

Instructions have been issued from time to time pointing out the mandatory provisions of law laid down in the Bharatiya Nagarik Suraksha Sanhita (BNSS) and Punjab Police rules etc. on the subject cited above emphasizing the need for their strict compliance. Attention of all concern is, therefore, again drawn to the provisions contained in sections 35, 49, 109 & 179 BNSS and P.P.R 26.18-A (1) (2) (3) and the instructions of central government/ police department issued in this regard, which are summarized below for compliance by all concerned:-

2. ATTENDANCE/APPEARANCE OF WOMAN (ACCUSED)

A woman can be issued a notice u/s 35 BNSS to ensure her attendance for investigation of a case registered u/s 173 BNSS. Woman attending police investigation under section 35 of BNSS shall, on no account, be detained in police stations or with the Investigating Officer any longer than is necessary for the recording of information, which they are willing to give. In no case shall they remain with the Investigation team between sun-set and sun-rise. The Investigating Officer must ensure that woman is interrogated in presence of a female and under no circumstances in a closed space. The woman so summoned must be examined preferably in an open/ visible space.

In case a woman is required to be questioned or interrogated as a witness, she shall not be summoned to the police stations as the provision to section 179 BNSS prohibits a woman to appear in place other than her residence for the purpose of examination by the police. Rather, a notice under section 179 of BNSS shall be issued to a woman mentioning the details & time where she can be questioned, which should ordinarily be a place where the woman resides. Further, the questioning of a woman shall be made preferably in the presence of other family members or a woman police officer.

3. PROCEDURE FOR ARREST OF A WOMAN

Section 43(1) BNSS provide the procedure for arrest of a woman.

Moreover, based on the guidelines laid down by The Hon'ble Supreme Court of India as well as the Hon'ble High Court of Delhi from time to time, a detailed standing order No. L&O/70/2024 enumerating the procedure to be followed for effecting arrest of a person has been issued by PHQ.

In view of the above, it is directed that the following guidelines shall be followed by the police officers while affecting the arrest of a woman:-

i. 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 under section 43 BNSS.

ii. Where a woman is to be arrested, unless the circumstances indicate to the contrary, her submission to custody on an oral intimation of arrest shall be presumed and, unless the circumstances otherwise require or unless the police officer is a female, the police officer shall not touch the person of the woman for making her arrest.

iii. All arrest of woman whether without or with warrant (bailable or non- bailable) shall be carried out by a police officer not below the rank of Assistant Sub-Inspector, who shall be accompanied by a lady constable/head constable. Similar procedure shall be adopted when woman in police custody have to be escorted/interrogated for purposes of investigation. If lady police is not available, the arrest shall be affected in the presence of responsible persons of the locality (preferably woman) or male relatives of the person to be arrested. A report regarding the result of interrogation, if done, shall also be sent to the ACP concerned on the same day through SHO.

iv. When the arrest of a woman is made under compelling circumstances by an officer lower in rank than an Assistant Sub-Inspector, reason shall be clearly explained.

v. Where bail is admissible, woman shall not be detained longer than is necessary for the production of bonds or sureties.

vi. In cases where imprisonment is less than or extends upto seven years, the procedure laid down in under section 35 BNSS as well as the guidelines issued by Hon'ble Supreme Court of India in Arnesh Kumar Vs State of Bihar case shall be followed before effecting arrest of a woman.

vii. Every Police Officer/Investigating Officer making any arrest under this Sanhita shall forth with give the information regarding such arrest and place where the arrested person is being held to any of her relatives, friends or such persons as may be disclosed or nominated by arrested person for purpose of giving such information and also to the designated police officer in the district under section 48 BNSS.

viii. The Investigation Officer shall inform the arrested person of her right under sub-section 1, as soon as she is brought to the Police Station under section 48 BNSS.

4. PERSONAL SEARCH OF WOMAN AFTER ARREST

Section 49 (2) BNSS provisions that a woman shall be searched only by a woman with strict regard to her decency. During search of a closed space such as house etc., where personal search of a woman has to be done.

5. MEDICAL EXAMINATION

Medical examination of woman accused should be carried only under the supervision of female medical practitioners.

6. CUSTODY OF WOMAN

The Hon'ble Supreme Court in Sheela Barse Vs State of Maharastra, held that it is the duty of the police officer making arrest to see that arrested females are segregated from men and kept in female lock-up in the police station. In case there is no separate lock-up, woman should be kept in a separate room. Woman should be guarded by female constable/police officer. They must be questioned in the presence of police woman.

In view of the above directions of the Apex Court, it is hereby directed that a woman in police custody, shall be lodged only in female lock up of police station only that too with "the prior permission of gazetted officer/SHO/Inspr. Investigation concerned, who shall be personally responsible to arrange the posting of a woman police officer to ensure safe and decent custody of the female prisoner.

7. POLICE REMAND APPLICATIONS

No application for remand to police custody shall be made in respect of woman accused without the approval of the ACP/SHO/Inspr. Investigation concerned. In exceptional circumstances when police requires remand of a woman, the above mentioned officers must satisfy themselves about the grounds seeking remand and ensure the proper arrangements have been made for her safe custody, under the charge of a female police officer. As per 187 BNSS, Investigating Officer may also seek police custody for a period not exceeding 15 days in whole or in part at any time during initial 40 or 60 days.

8. ESCORT OF FEMALE PRISONERS

Female prisoners/under-trial shall be escorted from Central Jail or other Institutions to courts and vice-versa in a separate vehicle by a police party, which shall include lady police.

9. SUPERSESSION CLAUSE

This Standing Order supersedes the previous Standing Order No. SPUWAC/01/2022 issued vide No. 18551-18700/Record Branch/PHQ dated Delhi, the 28-04-2022.

10. DISCLAIMER

It is made clear that this Standing Order is exclusively for internal smooth functioning of Police Department.

6/9/24

(SANJAY ARORA)
COMMISSIONER OF POLICE:
DELHI.

No. 9857-10,000/Record Branch/PHQ dated Delhi, the 6/9/24

Copy forwarded to:-

1. All Special Commissioners of Police, Delhi.
2. All Joint Commissioners of Police, Delhi including Jt. Director, Delhi Police Academy, Delhi/New Delhi.
3. All Additional Commissioners of Police, Delhi.
4. OSD to C.P., Delhi.

5. All Deputy Commissioners of Police, Districts/Units including PHQ, C.P. Sectt., FRRO and Deputy Director/Delhi Police Academy, Delhi/New Delhi.
6. DCP/HQ(IV)/PHQ with the direction to upload the Standing Order in Intra-DP.
7. LA to CP and FA to C.P., Delhi.
8. All ACsP/Insprs./PHQ.
9. PS/Reader to C.P., Delhi
10. HAR/PHQ.
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