

INTERSTATE EXECUTION OF ARREST WARRANTS AND TRANSIT SAFEGUARDS IN INDIA

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INTRODUCTION

In our modern times crimes are no longer local; Often the offenders of a crime flee to other places, states and even to other countries in order to escape from the arrest and legal consequences. To ensure the justice to the victim, it is important that the offenders are arrested and brought before the justice.

OFFENCE

Section 2(1)(q) of BNSS defines "offence" as any act or omission made punishable by any law for the time being in force and includes any act in respect of which a complaint may be made under section 20 of the Cattle Trespass Act, 1871 (1 of 1871). Though it may be committed against individual; it is considered to be done against the society.

INTER STATE ARREST

BNSS does not define inter-state arrest. Section 79 of BNSS provides jurisdiction of arrest warrant executable all over India. Section 79 runs as follows "A warrant of arrest may be executed at any place in India." Hence as per the BNSS, a valid arrest warrant is sufficient for arresting the offender even though he might have escaped to another state.

BNSS permits the police officer to arrest a person against whom credible information received and reasonable suspicion exists that he might have committed an offence under the jurisdiction of the police officer under Section 35(b). This section is applicable for interstate arrest also.

BNSS Section 35(d) is applicable for interstate arrests also. The Section 35(d) of BNSS says "Any police officer may without an order from a Magistrate and without a warrant, arrest any

person who has been proclaimed as an offender either under this Sanhita or by order of the State Government”. Hence once the police officer secures a warrant from the Magistrate from his jurisdiction, it makes executable even by the police officers of the state where the offender escaped to.

Apart from above option, the BNSS explicitly allows pursuit of offenders into other jurisdictions including other states in Section 45. It runs as follows “A police officer may, for the purpose of arresting without warrant any person whom he is authorised to arrest, pursue such person into any place in India.”

Also, the police officer can ask the local police station orally or using written communication to arrest the person who is on the run under section 35(1)(j) of BNSS. Section 35(1)(j) runs as follows “Any police officer may without an order from a Magistrate and without a warrant, arrest any person for whose arrest any requisition, whether written or oral, has been received from another police officer, provided that the requisition specifies the person to be arrested and the offence or other cause for which the arrest is to be made and it appears therefrom that the person might lawfully be arrested without a warrant by the officer who issued the requisition”.

If it is safe, the police officer can get help from the public in preventing further escape as provided under Section 31(a) of BNSS. This section is as follows “Every person is bound to assist a Magistrate or police officer reasonably demanding his aid in the taking or preventing the escape of any other person whom such Magistrate or police officer is authorised to arrest”

NO SPECIAL DOCUMENTS NEEDED

The arrest procedure is same irrespective of place of arrest of the offender within India. The arresting police officer can arrest the person with or without a warrant anywhere in India

Section 35 of BNSS gives power to arrest a person without a warrant. Under this section arrest without a warrant is allowed in below cases

- i. If the offence is committed in the presence of the police officer (Sec 35(1)(a))
- ii. When credible information received and reasonable suspicion exists that the person has committed cognizable offence extendable up to 7 years with or without fine and it is necessary to arrest to prevent him from continuing the offence, to ensure fair trial and to prevent him from tampering with evidence (Sec 35(1)(b))

For non-cognizable offences, it is mandatory to get the arrest warrant from the concerned magistrate before arresting a person as per Section 35(2) of BNSS. This section states that “No person concerned in a non-cognizable offence or against whom a complaint has been made or credible information has been received or reasonable suspicion exists of his having so concerned, shall be arrested except under a warrant or order of a Magistrate”. This rule is applicable for inter-state arrest also.

TN DGP GUIDELINES ON INTER-STATE ARREST

Guidelines given by Tamil Nadu DGP via circular on November 13, 2024 following Kerala High Court contempt case is important to mention regarding inter-state arrest.

The circular addresses below points related to interstate arrest:

1. Having the formal reasons in written explaining why the out of state arrest is necessary
2. Getting approval from superior police officer before crossing the home state lines
3. Maintaining comprehensive departure entry in the home station's daily diary including accurate vehicle numbers, names of all officers who are part of the team to make the arrest
4. All the officers must be in uniform displaying clear, visible name tags with designation. They must always carry their police ID cards with them.
5. Before arriving the other state, the arresting team should try to attempt to contact the local police station under whose jurisdiction the arrest is to happen.
6. The arresting team must carry documents like complaint, warrant translated into the local language of that state
7. Upon reaching the destination state, the police team should physically go to the local police station to seek local cooperation and assistance
8. Details of the arresting team, their purpose, vehicles being used must be registered in the daily diary of local police station
9. After the arrest is made, the arresting team must produce the accused to the nearest magistrate to get the Transit Warrant for bringing the accused to the home state

DK BASU GUIDELINES

The landmark case judgement of D.K. Basu v. State of West Bengal (1997) 1 SCC 416 established 11 mandatory guidelines that every police officer must follow while making an arrest or interrogation

1. Clear Identification of Police – The police personnel making the arrest should wear clear name tags with their designation
2. Grounds of Arrest – The police officer should inform the person of the reasons of their arrest
3. The Arrest Memo – The arresting officer should prepare the memo of arrest at the time of arrest. This memo should contain date and time of the arrest and must be signed at least by one witness either the family member or respectable local citizen and counter signed by the arrested person
4. Right to inform the relative or well-wisher – The arrested person has the right to inform his relative, friend or well-wisher informed of their arrest and place of detention as soon as practicable
5. Out of District Notification – If the family lives in another district, the local police or Legal Aid Center must notify them via official channels within 8-12 hours
6. Station Diary Entry – Detailed entry should be made in the station diary regarding the arrest, explicitly naming the person who was informed of the arrest, names and details of officers who are handling the custody
7. Inspection Memo on the injuries – If the arrested person requests any major or minor injuries on their body should be recorded at the time of arrest. This must be signed both by the arresting officer and the arrestee and a copy should be given to the arrestee
8. Medical Examination – The arrested person should undergo medical examination for every 48 hours by approved doctor from state appointed health panel
9. Notifying the Magistrate – Copies of all documents including arrest memo and inspection memo must be sent to the Magistrate for official records
10. Access to legal counsel – The arrestee is permitted to meet their lawyer during interrogation though not throughout the entire duration of interrogation
11. The arresting officer must notify the Police Control Room of the arrest and the place of detention within 12 hours of arrest

CONCLUSION

Arresting the offender is an important duty of the police officials and when the arrest involves crossing the border and executing it in another state brings in complexities. Though BNSS does not specify separate procedure for interstate arrests, in practical the problem involves more

coordination between two state police departments and needs accurate compliance of rules and procedures.



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