



**GOVERNMENT OF KARNATAKA
(Police Department)**

No: L&O/MISC/178/2026

Office of the Director General and
Inspector General of Police,
Karnataka State, Nrupatunga Road,
Bangalore, Date: 19.09.2026.

CIRCULAR

Sub: Mandatory compliance with the provisions of Section 35 of the Bharatiya Nagarik Suraksha Sanhita, 2023 and the law declared by the Hon'ble Supreme Court concerning issuance of notice, arrest and protection of personal liberty – Instructions – Issued.

Ref: 1) Govt. Letter No.HD 457 CWP 2026, dated 01.09.2026.
2) Order dated 29.08.2026 passed by the Hon'ble High Court of Karnataka in W.P. No.25680/2026 (GM-RES), Sri Mohan Gowda v. State of Karnataka and Another.

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The order passed by the Hon'ble High Court of Karnataka in Writ Petition No.25680/2026 dated 29/8/2026 has directed the Director General & Inspector General of Police to issue appropriate Circular/guidelines on the points indicated in the order for compliance by all Police Stations and Police formations throughout the State. A copy of the above High Court Order is enclosed.

That already this office has issued multiple circulars and Standard Operating Procedure relating to Section 35 of BNSS, providing specific



instructions to the police officers relating to procedure and guidelines to arrest. Those circulars and SOPs also be read along with this circular.

Section 35 of the Bharatiya Nagarika Suraksha Sanhita empowers the police officers to arrest a person without warrant in cognizable cases. The said provision provides various circumstances, wherein the police officers can arrest a person without warrant, but specifically under Sub-Section 1(b) of Section 35 of BNSS the power to arrest is conferred with qualified manner. Hence the police officer who receives complaint, credible information or suspects any person during his investigation about commission of a crime which is punishable less than or to the extent of seven years, then he shall exercise the power of arrest judiciously after satisfying with the provided principles under the said section.

Hon'ble Supreme Court of India has interpreted the section 35 of BNSS 2023 in Satender Kumar Antil –Vs- CBI 2025 SCC Online SC 1578 in para numbers 32 and 33 of the Judgement in SPL (Crl) No.5191 of 2021 and has stated the following.

“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. ”

In view of the above directions and guidelines of the Hon'ble Supreme Court of India, the followings instructions are provided to all the police officers of the State.

1. All officers shall strictly follow the procedures prescribed under Section 35 of BNSS without fail. Any violation of the law, the officers concerned are liable for disciplinary proceedings and the costs of such litigation will be borne by the officers concerned.
2. All material relating to the decision to arrest or not to arrest—including the grounds of necessity, reasons recorded, notice under Section 35(3), proof of service, compliance by the notice and any subsequent material relied upon—shall form part of the case diary and investigation records. Such records shall be made available to the supervisory officer and the Court whenever required.
3. SHOs and Investigating Officers shall remain personally responsible for compliance with these safeguards. Jurisdictional ACPs/DySPs shall examine compliance during investigation reviews, while DCPs/SPs shall undertake periodic scrutiny of cases involving arrest for offences punishable up to seven years.
4. Supervisory officers shall not treat violation of arrest safeguards as a minor procedural lapse. Whenever an allegation of illegal detention, ante-dated or post-custody notice, compelled movement, unrecorded custody or mechanical arrest is received, the jurisdictional DCP/SP shall promptly verify the records, CCTV footage, station diary, case diary, vehicle movement details and other relevant material, and take appropriate action.
5. Any wilful, deliberate or reckless violation of the law governing issuance of notice, arrest or curtailment of personal liberty shall expose the erring officer, irrespective of rank, to appropriate departmental proceedings,

apart from criminal, civil, contempt or other consequences that may follow under law.

6. Where such violation is brought before a constitutional Court, the officer concerned cannot claim immunity from being personally subjected to exemplary costs if the facts warrant such an order. Any cost imposed personally by a Court shall not be charged to or reimbursed from Government funds unless specifically permitted under law or by the Court.
7. All Commissioners of Police, Range Inspectors General of Police and Superintendents of Police shall communicate this circular to every Police Station, Sub-Division, Circle, Specialised police unit and Investigating wing under their control. Its contents shall be explained during roll calls, crime meetings and investigation reviews, and acknowledgement of every officer shall be obtained.
8. A copy of this circular shall be kept permanently in every Police Station and investigating unit and shall be made available for ready reference. The principles contained herein shall also be incorporated into induction, refresher and investigation training programmes conducted for police personnel.
9. This circular shall not be construed as restricting lawful investigation or preventing an arrest that is genuinely necessary and authorised by law. Its object is to ensure that police investigation remains lawful, fair and constitutionally valid. All personnel shall bear in mind the principle emphasised by the Hon'ble High Court: "Liberty is the rule, coercion the exception, and procedure the bridge that alone permits the State to travel from one to the other."

Receipt of this circular shall be acknowledged immediately. Commissioners of Police and Superintendents of Police shall submit a compliance report regarding communication and briefing of all personnel to Police Headquarters by 20/09/2026 for placing the consolidated compliance before the Hon'ble High Court of Karnataka.

(Dr. M.A. Saleem, IPS)
Director General and
Inspector General of Police,
Karnataka State, Bengaluru.

To:

- 1) All Commissioners of Police in the State.
- 2) All Range Inspectors General of Police.
- 3) All Superintendents of Police in the State.
- 4) All Heads of specialised police units.
- 5) All Police Training Institutions in the State.

Copy to:

- 1) Additional Chief Secretary to Government, Home Department, Vidhana Soudha, Bangalore.
- 2) Advocate General for Karnataka, Bangalore.
- 3) State Public Prosecutor, High Court of Karnataka, Bangalore.
- 4) Registrar General, High Court of Karnataka – with reference to W.P. No.25680/2026.