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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(CRL.) 1336/2016 & CrI.M.A.No.7023/2016

JASBIR SINGH

..... Petitioner

Through: Counsel for the petitioner.
(Appearance not given)

versus

STATE OF NCT OF DELHI & ANR.

..... Respondents

Through: Ms.Kamna Vohra, ASC for the
State/R-1 with Insp.Anil, PS Kalkaji.
Ms.Manpreet Kaur, Advocate for R-2.

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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18.05.2016

1. The petitioner has invoked the writ jurisdiction of this Court under Article 226 of Constitution of India read with Section 482 CrPC praying for issuance of directions to the respondent No.1 to comply with the provisions of Section 41 & 41A CrPC and directions of the Supreme Court passed in the case of *Arnesh Kuamr vs. State of Bihar & Anr.* in the event of arrest of the petitioner in case FIR No.133/2013 dated 06.04.2013 under Sections 420/467/468/471/120-B IPC, PS Kalkaji.
2. Status report has been filed by the State wherein the grounds leading to arrest of Harvinder Singh S/o Jasbir Singh for allegedly committing forgery of substitution letter, have been given in detail.
3. In the case *Arnesh Kumar vs. State of Bihar* AIR 2014 SC 2756 following directions have been issued by the Supreme Court :

“13. Our endeavour in this judgment is to ensure that police officers do not arrest accused unnecessarily and Magistrate do not authorise detention casually and mechanically. In order to

ensure what we have observed above, we give the following direction:

- (1) All the State Governments to instruct its police officers not to automatically arrest when a case Under Section 498-A of the Indian Penal Code is registered but to satisfy themselves about the necessity for arrest under the parameters laid down above flowing from Section 41, Code of Criminal Procedure;*
- (2) All police officers be provided with a check list containing specified sub-clauses Under Section 41(1)(b)(ii);*
- (3) The police officer shall forward the check list duly filed and furnish the reasons and materials which necessitated the arrest, while forwarding/producing the accused before the Magistrate for further detention;*
- (4) The Magistrate while authorising detention of the accused shall peruse the report furnished by the police officer in terms aforesaid and only after recording its satisfaction, the Magistrate will authorise detention;*
- (5) The decision not to arrest an accused, be forwarded to the Magistrate within two weeks from the date of the institution of the case with a copy to the Magistrate which may be extended by the Superintendent of police of the district for the reasons to be recorded in writing;*
- (6) Notice of appearance in terms of Section 41A of Code of Criminal Procedure be served on the accused within two weeks from the date of institution of the case, which may be extended by the Superintendent of Police of the District for the reasons to be recorded in writing;*
- (7) Failure to comply with the directions aforesaid shall apart from rendering the police officers concerned liable for departmental action, they shall also be liable to be punished for contempt of court to be instituted before High Court having territorial jurisdiction.*
- (8) Authorising detention without recording reasons as*

aforesaid by the judicial Magistrate concerned shall be liable for departmental action by the appropriate High Court.

14. We hasten to add that the directions aforesaid shall not only apply to the cases Under Section 498-A of the Indian Penal Code or Section 4 of the Dowry Prohibition Act, the case in hand, but also such cases where offence is punishable with imprisonment for a term which may be less than seven years or which may extend to seven years; whether with or without fine.

15. We direct that a copy of this judgment be forwarded to the Chief Secretaries as also the Director Generals of Police of all the State Governments and the Union Territories and the Registrar General of all the High Courts for onward transmission and ensuring its compliance.

16. By order dated 31st of October, 2013, this Court had granted provisional bail to the Appellant on certain conditions. We make this order absolute.

17. In the result, we allow this appeal, making our aforesaid order dated 31st October, 2013 absolute; with the directions aforesaid.”

4. The directions issued by the Supreme Court in **Arnesh Kumar vs. State of Bihar** (supra) have been communicated to all concerned as copy of the judgment was forwarded to the Chief Secretaries as well Director Generals of Police of all the State Governments and Unioni Territories and the Registrar General of all the High Courts for ensuring compliance.

5. In the above circumstances, the directions given by the Supreme Court cannot be made sub-matter of writ petition for seeking enforcement by the police authorities.

6. The writ petition is dismissed.

PRATIBHA RANI, J.

MAY 18, 2016/‘st’

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