

# International Journal of Law Research, Education and Social Sciences

Open Access Journal – Copyright © 2024 – ISSN 3048-7501  
Editor-in-Chief – Prof. (Dr.) Vageshwari Deswal; Publisher – Sakshi Batham



This is an Open Access article distributed under the terms of the Creative Commons Attribution-Non-Commercial-Share Alike 4.0 International (CC-BY-NC-SA 4.0) License, which permits unrestricted non-commercial use, distribution, and reproduction in any medium provided the original work is properly cited.

---

## Case Comment: Arnesh Kumar v State of Bihar: A Milestone in Preventing Arbitrary Arrests

Kumar Nishant<sup>a</sup>

<sup>a</sup>Chanakya National Law University, Patna, India

Received 07 November 2024; Accepted 09 November 2024; Published 12 December 2024

---

### INTRODUCTION

The *Arnesh Kumar v State of Bihar*<sup>1</sup> is a landmark case of 2014 that has proved to be vital in the realm of criminal law, wherein the apex court laid down crucial guidelines and issued directions to all the state governments related to arrest and detention by the police. Notably, these are known as Arnesh Kumar guidelines which provide the procedure of arresting the individual for cognizable offenses with due consideration. This case emerges in the context of a complaint filed under **Section 498A of the Indian Penal Code, 1860**<sup>2</sup> (now under Section 85 in *Bhartiya Nyaya Sanhita, 2023*<sup>3</sup>) which deals with cruelty against a married woman by her husband or his relatives and **Section 4 of the Dowry Prohibition Act, 1961**<sup>4</sup>, which deals with demanding dowry. The Apex court acknowledged that there is unrestrained misuse of this provision which led to widespread arbitrary arrest and infringement of the fundamental rights of the accused.

---

<sup>1</sup> *Arnesh Kumar v State of Bihar* (2014) SC 2756

<sup>2</sup> Indian Penal Code 1860, s 498A

<sup>3</sup> *Bhartiya Nyaya Sanhita 2023*, s 85

<sup>4</sup> Dowry Prohibition Act 1961, s 4

The ruling addressed the issues of arbitrary arrests specifically in cases concerning offences punishable with imprisonment of less than 7 years. Without proper justification, police officers often exercise their power to arrest, resulting in a violation of the fundamental rights inscribed in **Article 22(2) of the Indian Constitution**.<sup>5</sup> The unrestrained misuse of power also contributed to overcrowding of prisons and prolonged delays in delivering justice. To settle this, the apex court highlighted the significance of following procedural safeguards enshrined in **Section 41 of the Code of Criminal Procedure, 1973**<sup>6</sup> (now Section 35 of *Bhartiya Nagrik Suraksha Sanhita, 2023*<sup>7</sup>) which deals with when police may arrest without a warrant.

The Arnesh Kumar guidelines comprehensively aim to ensure that arrests are made with caution and that they are done only when necessary and justified. It also reinforces the principle of “innocent until proven guilty” and intends to prevent the accused from facing harassment based on false or vague complaints. The ruling not only provided clarity on the interpretation of **Section 41 of the CrPC**<sup>8</sup> but also recognised and addressed the misuse of **Section 498A IPC**<sup>9</sup> while ensuring a fair balance on women’s rights against wrongful arrest.

## FACTS OF THE CASE

The petitioner (Arnesh Kumar) and respondent no.2 (Sweta Kiran) solemnized their marriage on 1<sup>st</sup> July 2007. After a while, Sweta alleged that her in-laws started demanding dowry, which included a car, an air-conditioner, a television set, Rs. 8 lakh in cash and several items. She also alleged that when she told Arnesh about the matter, he took his parents’ side and intimidated her to marry another woman if the demands were not fulfilled. She asserted that due to the failure to fulfil the demand, she was thrown out of her matrimonial house by them. Then she lodged her complaint against Arnesh Kumar under **Section 498A of IPC**.<sup>10</sup> And **Section 4 of the Dowry Prohibition Act, 1961**.<sup>11</sup>

The petitioner herein denied all the allegations made by his wife and in fear of arrest, he applied for anticipatory bail. But his request for anticipatory bail was rejected earlier by Sessions Court

---

<sup>5</sup> Constitution of India 1950, art 22(2)

<sup>6</sup> Code of Criminal Procedure 1973, s 41

<sup>7</sup> *Bhartiya Nagrik Suraksha Sanhita 2023*, s 35

<sup>8</sup> Code of Criminal Procedure 1973, s 41

<sup>9</sup> Indian Penal Code 1860, s 498A

<sup>10</sup> *Ibid*

<sup>11</sup> Dowry Prohibition Act 1961, s 4

and later, by the Patna High Court. Then he approached the Supreme Court by filing a special petition to seek anticipatory bail.

## **LEGAL ISSUES**

The main issues that were raised in this case were as follows:

1. Whether a person accused under section 498A of the IPC Can apply for anticipatory bail and whether the High Court's decision to deny bail was justified.
2. Whether a police officer arrest an individual solely based on the accusation of a non-bailable and cognizable offence?
3. Whether the arbitrary arrest prevalent in cases under Section 498A of the IPC There is any necessity for guidelines to curb such practices?
4. Whether there are any remedies available to the accused if Section 498A of IPC Is misused by a woman.<sup>12</sup>

## **ARGUMENTS OF PETITIONER**

- The petitioner argues that section 498 of the IPC <sup>13</sup>Is often missus as a tour of harassment rather than protection.
- The petitioner asserts that no credible evidence was presented to substantiate the allegation, and the arrest was made solely based on unverified accusations.

## **ARGUMENTS OF RESPONDENT**

- The Respondent alleges that the petitioner and his family harassed her for dowry which led to her forced departure from the matrimonial house.
- The respondent contends that arrest is crucial to ensure a fair investigation prevent temping with evidence and safeguard the witness from the coercion by petitioner.<sup>14</sup>

---

<sup>12</sup> Janani Parvathy J, 'Arnesh Kumar vs. State of Bihar (2014)' (*iPleaders*, 20 September 2024) <<https://blog.iPLEADERS.in/arnesh-kumar-vs-state-of-bihar-2014/>> accessed 05 November 2024

<sup>13</sup> Indian Penal Code 1860, s 498A

<sup>14</sup> *Arnesh Kumar v State of Bihar* (2014) SC 2756

## OBSERVATION OF THE SUPREME COURT

**Misuse of Section 498A IPC<sup>15</sup>:** The Supreme Court underscores the widespread misuse of **Section 498A of the IPC<sup>16</sup>**, noting that individuals are often arrested solely based on allegations without adequate evidence or investigation. The apex court raised concerns over the misuse of this provision which causes unnecessary harassment and infringement of accused rights.

**Arrests must not be Routine:** The Court highlighted that arrests should not be carried out routinely. Before arresting an individual, a police officer first contacts, a preliminary investigation and ensures that there is sufficient reason to believe that the allegations are genuine.

**Guidelines for Arrest:** The Supreme Court laid down mandatory guidelines for the police to follow when they are exercising their arrest powers which is intended to prevent arbitrary arrest and safeguard the rights of the accused. The court stressed the need for procedural measures to maintain a balance between protection from mental cruelty and preventing the misuse of the provision against innocent individuals.

**Reversal of Anticipatory Bail Rejection:** The Supreme Court reversed the decision of Patna High Court of denying anticipatory bail to the petitioner. Considering the facts and circumstances of the case and the absence of significant evidence the court granted anticipatory bail to the petitioner, offering protection from his arrest.

## DECISION

The Supreme Court of India on 2<sup>nd</sup> of July 2014, entertained the Special Leave Petition (SLP) filed by Arnesh Kumar challenging his and his family's arrest under **Section 498A of IPC<sup>17</sup>** for alleged Dowry-related harassment. The division bench of the Court examined the possibility of misuse of this provision, which is both non-bailable and cognizable offences and reviewed **Section 41(1)(A) of the Code of Criminal Procedure (CrPC)<sup>18</sup>, 1973** which mandates

---

<sup>15</sup> Indian Penal Code 1860, s 498A

<sup>16</sup> *Ibid*

<sup>17</sup> *Ibid*

<sup>18</sup> Code of Criminal Procedure 1973, s 41(1)(A)

procedural safeguards, before an arrest is made. The Court acknowledged that there is unrestrained misuse of Section 498A which is meant to tackle the mental cruelty of women and resulting in arbitrary arrests without sufficient evidence. Further, the Court directed the police to refrain from making an arrest solely based on complaints. Instead, they must adhere to a nine-point checklist under **Section 41 of the CrPC**.<sup>19</sup> To assess whether an arrest was necessary.

Moreover, the Court stressed the significance of magistrates independently evaluating whether an accused should remain in custody, providing judicial supervision throughout the process.

## **GUIDELINES**

The guidelines given by the Supreme Court in this case were:

- All the State Governments instruct their police officers not to automatically arrest someone when a case under **Section 498-A IPC**<sup>20</sup> is registered but to satisfy themselves that an arrest is necessary under the parameters laid down above flowing from **Section 41 CrPC**.<sup>21</sup>
- All police officers should be provided with a checklist containing specified sub-clauses under **Section 41(1)(b)(ii) of the CrPC**.<sup>22</sup>
- The police officer shall forward the checklist duly filled and furnish the reasons and materials that necessitated the arrest while forwarding/producing the accused before the Magistrate for further detention.
- The Magistrate while authorizing detention of the accused shall peruse the report furnished by the police officer as aforesaid and only after recording his or her satisfaction, the Magistrate will authorize detention.
- The decision not to arrest an accused shall 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.

---

<sup>19</sup> Code of Criminal Procedure 1973, s 41

<sup>20</sup> Indian Penal Code 1860, s 498A

<sup>21</sup> Code of Criminal Procedure 1973, s 41

<sup>22</sup> Code of Criminal Procedure 1973, s 41(1)(b)(ii)

- Notice of appearance in terms of **Section 41-A CrPC**<sup>23</sup> Shall 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.
- Failure to comply with the directions aforesaid shall, apart from rendering the police officers concerned liable for departmental action also be liable to be punished for contempt of court to be instituted before the High Court, having territorial jurisdiction.
- Authorizing detention without recording reasons as aforesaid by the Judicial Magistrate concerned shall be liable for departmental action, as determined by the appropriate High Court.<sup>24</sup>

## ANALYSIS

While delivering the judgment the Apex Court analysed the “Crime in India 2012 Statistics” in which it was shown that 1,97,762 individuals were arrested in India in 2012 under Section 498A of the IPC,<sup>25</sup> However, the conviction rate was less than 15%. This data depicts that Section 498 A of the IPC<sup>26</sup> has been abused and has been used as a tool to harass the husbands and their relatives.<sup>27</sup> So, the judgment in Arnesh Kumar v State of Bihar is transformative in Indian Criminal Jurisprudence as it effectively curbed the unrestrained arrest powers by establishing three levels of protection against arbitrary and wrongful arrest: guidelines for the police to follow a nine-point checklist, judicial supervision by the magistrate to evaluate the necessity of detention, and measures to ensure adherence when granting bail or reviewing the lawfulness of arrests. The court explicitly addressed that the guidelines laid down, in this case, will not only apply to Section 498A cases but extend to all the cases where the offences, including punishment, are of less than seven years and categorised as a bailable offence.

The decision had a significant impact on several cases as in *Munawar v the State of Madhya Pradesh*,<sup>28</sup> the Supreme Court granted interim bail to a stand-up comedian, citing the violation

---

<sup>23</sup> Code of Criminal Procedure 1973, s 41(A)

<sup>24</sup> *Arnesh Kumar v State of Bihar* (2014) SC 2756

<sup>25</sup> Indian Penal Code 1860, s 498A

<sup>26</sup> *Ibid*

<sup>27</sup> Karan Godara, ‘Misuse of Section 498A IPC-Judicial Trend’ (2015) 4(9) Indian Journal of Research <[https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3465901#:~:text=Reflecting%20the%20extent%20of%20its,is%20as%20low%20as%2015%25.&text=Wilful%20conduct%20by%20husband%2Frelative,to%20](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3465901#:~:text=Reflecting%20the%20extent%20of%20its,is%20as%20low%20as%2015%25.&text=Wilful%20conduct%20by%20husband%2Frelative,to%20)> accessed 03 November 2024

<sup>28</sup> *Munawar v State of M P* (2023) SC 493

of the Arnesh Kumar guidelines. Similarly, in *Nausadh Ansari v the State of Bihar*,<sup>29</sup> the Supreme Court emphasised the need to ensure arrests are made only when there is an absolute necessity, and police must follow proper procedure to avoid arbitrary and unjustified detention. In *Md. Asfak Alam v State of Jharkhand*,<sup>30</sup> the Court further clarified the guidelines that arrest should only be made when there is a risk of the accused fleeing or tampering with the evidence. In the judgment of *Satendra Kumar Antil v CBI*,<sup>31</sup> the Court stated that the Arnesh Kumar guideline should be strictly followed, stating that bail should be the norm and not the exception. As in the *Abhijit Padale v State of Maharashtra*,<sup>32</sup> the Court observed that the arrest violated the directions issued in the Arnesh Kumar case because the notice was not sent before the arrest. Moreover, the Jharkhand High Court penalized a police officer for the unlawful arrest of Flipkart employees for ignoring the Arnesh Kumar guidelines.<sup>33</sup> Recently the Supreme Court issued directions to police authorities to prevent arbitrary arrests of denotified tribes and adhere to the Arnesh Kumar guidelines.<sup>34</sup> As the judgment had a broader impact and forced systematic changes in law enforcement it required police officers to operate within legal limits to avoid departmental and legal consequences.

## CONCLUSION

The Arnesh Kumar judgement plays a crucial role in society as it lays down the guidelines that help to identify arbitrary or illegal arrests. Through the decision of *Arnesh Kumar v the State of Bihar*<sup>35</sup>, the apex court struck a balance between safeguarding the rights of women facing genuine harassment and preventing the misuse of the provision of Sec. 498 A of the IPC.<sup>36</sup> To discourage unwarranted arrest of the accused the apex court issued some requirements for the police to follow before arresting a person. This decision has led to a restrain in automatic arrest and underscores the significance of conducting a proper investigation before making an arrest.

<sup>29</sup> *Naushad Ansari v State of Bihar* Crim No 3536/2024

<sup>30</sup> *Mohd Asfak Alam v State of Jharkhand and Anr* SLP No 3433/2023

<sup>31</sup> *Satender Kumar Antil v CBI* (2022) 10 SCC 51

<sup>32</sup> *Abhijit Arjun Padale v State of Maharashtra and Ors* WP No 1197/2022

<sup>33</sup> Bhavya Singh, 'Jharkhand HC Sentenced Cops For Unlawful Arrest Of Flipkart Employees Over Alleged OTP Misuse, Says Arnesh Kumar Guidelines Were Ignored' (*Live Law*, 23 December 2024)

<<https://www.livelaw.in/high-court/jharkhand-high-court/jharkhand-high-court-sentences-police-officials-unlawful-arrest-flipkart-employees-arnesh-kumar-guidelines-ignored-279172>> accessed 03 November 2024

<sup>34</sup> Gursimran Kaur Bakshi, 'Ensure Denotified Tribes Aren't Arrested Arbitrarily: Supreme Court Directs Police' (*Live Law*, 04 October 2024) <<https://www.livelaw.in/top-stories/ensure-denotified-tribes-arent-arrested-arbitrarily-supreme-court-directs-police-271540>> accessed 03 November 2024

<sup>35</sup> *Arnesh Kumar v State of Bihar* (2014) SC 2756

<sup>36</sup> Indian Penal Code 1860, s 498A

The Court seeks to safeguard personal freedom by providing clear guidelines for arrest and upholding Articles 21 and 22 of the Constitution. In various cases, this judgment acts as a vital precedent to question the arrest and granting individuals a way to obtain bail from the police station. Lastly, all this rests on the law enforcement agencies to implement the laid guidelines on the grassroots level while ensuring the fundamental rights of the individual are not being infringed and promoting a sense of fair and a just legal system.