



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



S.B. Civil Contempt Petition No. 507/2023

Ravi Meena S/o Shri Bharat Lal Meena, Aged About 38 Years,
Resident Of F-5 2Nd Floor, Somya Sky Crown, Near Akshaypatra,
Jagatpura, Jaipur (Raj.).

---Petitioner

Versus

1. Pushpendra Singh Rathod, Additional Superintendent Of Police, Special Unit Second, Anti Corruption Bureau, Jaipur, Rajasthan.
2. Roop Kishore, Constable, Special Unit Second, Anti Corruption Bureau, Jaipur, Rajasthan.
3. Karan Singh, Head Constable, Special Unit Second, Anti Corruption Bureau, Jaipur, Rajasthan.

----Respondents

For Petitioner(s) : Mr. Mohit Khandelwal, with
Mr. Pranav Sharma,
Mr. Pankaj Maderna,
Mr. Hitarth Dixit,

For Respondent(s) : Mr. Ghanshyam Singh Rathore,
Mr. Santosh Singh Shekhawat,

**HON'BLE MR. JUSTICE PRAVEER BHATNAGAR
(Through Video Conferencing)
Order**

- | | |
|---|-------------------|
| 1. Date of conclusion of arguments | <u>26/02/2026</u> |
| 2. Date on which the judgment was reserved | <u>26/02/2026</u> |
| 3. Whether the full judgment or only the operative part is pronounced | Full Judgment |
| 4. Date of pronouncement | <u>23/03/2026</u> |

Reportable

1. The petitioner has filed the present contempt petition against respondent No.1 alleging willful disobedience of the directions



issued by the Hon'ble Apex Court in the case of **Arnesh Kumar v. State of Bihar, (2014) 8 SCC 273** and has prayed for initiation of strict punitive proceedings.

2. The petitioner is aggrieved by his arrest dated 01.02.2023 in FIR No.346/2021, registered on 14.09.2021 at Police Station Anti Corruption Bureau, Jaipur, for offences under Sections 7 and 7-A of the Prevention of Corruption (Amended) Act, 2018 and Section 120-B Indian Penal Code, 1860.

3. Learned counsel for the petitioner submits that a notice dated 25.01.2023 was served upon the petitioner through WhatsApp by the Investigating Officer, to which the petitioner immediately responded, requesting reasonable time to appear in view of the illness of his wife.

3.1. It is further contended that the WhatsApp communication reflected that the Investigating Officer intended to proceed under Section 41-A Code of Criminal Procedure, 1973 (in short, 'Cr.P.C') and had no immediate intention to arrest. However, despite such communication and without proper service of notice in accordance with law, the petitioner was arrested on 01.02.2023 without assigning any valid and recorded reasons. It is submitted that the aforesaid action of the respondents is contrary to the statutory scheme governing the procedure of arrest and amounts to a clear violation of the safeguards intended to protect personal liberty. In this regard, reliance has been placed upon the judgments passed in the matter of **Arnesh Kumar v. State of Bihar, (2014) 8 SCC 273**; **Satender Kumar Antil v. CBI & Anr., (2022) 10 SCC 51**; **Rakesh Kumar v. Vijayanta Arya, 2021 SCC OnLine Del 5629**;



Venugopal Nandlal Dhoot v. CBI, 2023 SCC OnLine Bom 161 and **Mohd. Zubair v. State (NCT Delhi)**, 2022 SCC OnLine SC 897.

3.2. Subsequent to the arrest, the petitioner preferred a bail application before the learned Court below, which was dismissed vide order dated 10.02.2023 and thereafter, the petitioner approached this Court by filing Bail Application No. 2292/2023, which came to be allowed vide order dated 05.04.2023, thereby enlarging the petitioner on bail.

3.3. It is also submitted that charge-sheet No. 355/2021 was filed on 09.11.2022 and that the material placed on record does not disclose any cogent reasons necessitating the arrest of the petitioner and the arrest memo and checklist do not reflect independent application of mind as mandated by law.

3.4. In view of the aforesaid submissions, it is prayed that the arrest of the petitioner stands in violation of the mandate of Section 41-A of Cr.P.C. and the law laid down by the Hon'ble Supreme Court and consequently, appropriate proceedings under the Contempt of Courts Act be initiated against the respondent for willful disobedience of the binding directions.

4. Per contra, learned counsel for the respondents has justified the action of Respondent No.1 and submitted that the petitioner did not challenge the arrest before the concerned Magistrate at the time of his production nor did he assailed the same before any competent Court. The petitioner was arrested under the provisions of Section 41(1)(b) of Cr.P.C., after preparation of the statutory checklist and recording of reasons, which are reflected in the



arrest memo dated 01.02.2023. In this regard, reliance has been placed upon judgment passed by the Gujarat High Court, in the matter of **Krinaben W/o Tushar Suryakant Trivedi v. N.P. Garasiya, Police Sub-Inspector, Special Investigation Team,** R/Misc. Civil Application No.1009/2023 decided on 08.09.2023.

4.1. Furthermore, notice dated 25.01.2023 was issued to the petitioner and upon his non-compliance and evasive conduct, arrest was necessitated. It is further contended that the petitioner had earlier approached this Court by way of S.B. Criminal Misc. Petition No. 06/2022 filed under Section 482 Cr.P.C. (now, Section 528 of BNSS) seeking quashing of FIR No. 346/2021 registered at Police Station ACB, Jaipur, which came to be dismissed by this Court vide order dated 24.01.2022. The said order was thereafter challenged by the petitioner before the Hon'ble Apex Court by way of Special Leave to Appeal. (Crl.) No. 4265/2022 titled as Ravi Meena v. State of Rajasthan & Anr., which came to be dismissed vide order dated 09.05.2022. Therefore, it is argued that the petitioner, having failed to secure relief from this Court as well as the Hon'ble Apex Court, has now invoked the present proceedings as a measure to pressurize the investigating agency.

5. Heard and perused the material available on record.

6. Before examining the grievance raised by the petitioner, it would be appropriate to refer to the statutory provisions governing the scheme of arrest and notice of appearance. For expediency, Section 41-A of Cr.P.C. is reproduced as under:

"41A. Notice of appearance before police officer -





(1) [The police officer shall], in all cases where the arrest of a person is not required under the provisions of sub-section (1) of section 41, issue a notice directing the person against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists that he has committed a cognizable offence, to appear before him or at such other place as may be specified in the notice.

(2) Where such a notice is issued to any person, it shall be the duty of that person to comply with the terms of the notice.

(3) Where such person complies and continues to comply with the notice, he shall not be arrested in respect of the offence referred to in the notice unless, for reasons to be recorded, the police officer is of the opinion that he ought to be arrested.

(4) Where such person, at any time, fails to comply with the terms of the notice or is unwilling to identify himself, the police officer may, subject to such orders as may have been passed by a competent Court in this behalf, arrest him for the offence mentioned in the notice.]”

7. The Hon'ble Apex Court in a much celebrated judgment of **Arnesh Kumar v. State of Bihar, (2014) 8 SCC 273**, issued mandatory directions to prevent arbitrary arrest and violation of fundamental right of personal liberty. The following guidelines are reproduced as under:-

“**11.** Our endeavour in this judgment is to ensure that police officers do not arrest the accused unnecessarily and Magistrate do not authorise detention casually and mechanically. In order to ensure what we have observed above, we give the following directions:

11.1. All the State Governments to instruct its police officers not to automatically arrest when a case under Section 498-A IPC is registered but to satisfy themselves about the necessity for arrest under the parameters laid down above flowing from Section 41 CrPC;



11.2. All police officers be provided with a check list containing specified sub-clauses under Section 41(1)(b) (ii);

11.3. The police officer shall forward the check list duly filled and furnish the reasons and materials which necessitated the arrest, while forwarding/producing the accused before the Magistrate for further detention;

11.4. 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;

11.5. 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;

11.6. Notice of appearance in terms of Section 41-A CrPC 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;

11.7. 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 the High Court having territorial jurisdiction.

11.8. Authorising detention without recording reasons as aforesaid by the Judicial Magistrate concerned shall be liable for departmental action by the appropriate High Court.

12. We hasten to add that the directions aforesaid shall not only apply to the cases under Section 498-A IPC 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."



8. Subsequently, in the case of **Satender Kumar Antil v. CBI & Anr., (2022) 10 SCC 51**, read with order dated 21.01.2025 passed in Miscellaneous Application No. 2034/2022 in MA No. 1849/2021 in SLP (Crl.) No. 5191/2021, the Hon'ble Supreme Court passed following directions, which are reproduced as under:-

"a) All the States/UTs must issue a Standing Order to their respective Police machinery to issue notices under Section 41-A of CrPC, 1973/Section 35 of BNSS, 2023 only through the mode of service as prescribed under the CrPC, 1973/BNSS, 2023. **It is made amply clear that service of notice through WhatsApp or other electronic modes cannot be considered or recognised as an alternative or substitute to the mode of service recognised and prescribed under the CrPC, 1973/BNSS, 2023.**

b) All the States/UTs while issuing Standing Orders to their respective Police machinery relating to Section 41-A of CrPC, 1973/Section 35 of BNSS, 2023 must be issued strictly in accordance with the guidelines issued by the Delhi High Court in **Rakesh Kumar v. Vijayanta Arya (DCP) & Ors., 2021 SCC Online Del 5629** and **Amandeep Singh Johar v. State (NCT Delhi), 2018 SCC Online Del 13448**, both of which were upheld by this Court in **Satender Kumar Antil v. CBI & Anr. (2022) 10 SCC 51**.

c) All the States/UTs must issue an additional Standing Order to their respective Police machinery to issue notices under Section 160 of CrPC, 1973/Section 179 of BNSS, 2023 and Section 175 of CrPC, 1973/Section 195 of BNSS, 2023 to the accused persons or otherwise, only through the mode of service as prescribed under the CrPC, 1973/BNSS, 2023."

9. Furthermore, the Delhi High Court in the case of **Vijayanta Arya (supra)**, observed as under:-

"**13.** Ordinarily, while the notice is required to be served personally upon the noticee, it could well have been pasted on the door of the house of the noticee, additionally, the notice can be sent through Speed Post. **Neither of the procedure was adopted by R-3.**



Admittedly, the so-called 'intimation' through Whatsapp was not in the aforesaid format. Therefore, the intimation cannot be treated as a notice under Section 41A of the Cr. P.C. or of it having been served, as per the procedure laid down. Certainly, the IO (R-3) is in breach of the prescribed procedure as well as the Supreme Court's direction in **Arnesh Kumar**. Personal liberty is a natural right of every human being. In India, it is guaranteed by the Constitution. **The liberty of an individual cannot be trifled with. It can be curtailed by the State only through the procedure prescribed by law. The police officer has acted in clear breach of the constitutional guarantee and the specific orders of the Supreme Court. R-3 is therefore guilty of having committed contempt of court."**

10. Thus, upon careful reading of the following judgments, it is clear that service of notice under Section 41-A of Cr.P.C through WhatsApp or electronic mode is not permissible and it should be issued as per the directions contained in the Judgment of **Arnesh Kumar (supra)** and **Amandeep Singh Johar v. State (NCT of Delhi), 2018 SCC OnLine Del 13448**.

11. The Director General of Police of State of Rajasthan, pursuant to the above directions, issued standing order No.11/2022 dated 01.11.2022 in which procedure for issuance of notices/order by Police Officers under Section 41-A of Cr.P.C. was laid down. The following directions are reproduced for ready reference, as under:-

Annexure A
Procedure for issuance of notices/order by
police officers under Section 41A

i. Police officers should be mandatorily required to issue notices under section 41A CrPC (in the prescribed format) formally to be served in the



manner and in accordance with the terms of the provisions contained in Chapter VI of the Code.

ii. The concerned suspect/accused person will necessarily need to comply with the terms of the notice under section 41A and attend at the requisite time and place.

iii. When the accused is unable to attend at the given time for any Valid and justifiable reason, the accused should in writing immediately, intimate the investigating officer and seek an alternative time within a reasonable period, which should ideally not exceed period of four working days, from the date on which he/she were required to attend, unless he is unable to show justifiable cause for such non attendance.

iv. Unless it is detrimental to the investigation, the police officer may permit such rescheduling, however only for justifiable causes to be recorded in the case diary. If the investigating officer believe that such extension is being sought to cause delay to the investigation or the suspect / accused person is being evasive by seeking time, (subject to intimation to the SHO/SP of the concerned Police Station/ District), deny such request and mandatorily require the said person to appear.

v. A suspect / accused on formally receiving a notice under section 41A CrPC and appearing before the concerned officer for investigation/interrogation at the police station, may request the concerned IO for an acknowledgment.

vi. In the event, the suspect / accused is directed to appear at a place other than the police station (as envisaged under Section 41 A(1) CrPC). The suspect will be at liberty to get the acknowledgment receipt attested by an independent witness if available at the spot in addition to getting the same attested by the concerned investigating officer himself.

vii. Duly indexed booklet containing serially numbered notices in duplicate/carbon copy format should be issued by the SHO of the Police Station to the Investigating Officer. The Notice should necessarily contain the following details:

- a. Serial Number
- b. Case Number
- c. Date and time of appearance
- d. Consequences in the event of failure to comply





e. Acknowledgment slip.

viii. Investigating Officer shall follow the following procedure:

- a. The original notice is served on the Accused / Suspect;
- b. A carbon copy (on white paper) is retained by the IO in his / her case diary, which can be shown to the concerned Magistrate as and when required;
- c. Used booklets are to be deposited by the IO with the SHO of the Police Station who shall retain the same till the completion of the investigation and submission of the final report under section 173 (2) of the Cr.P.C.
- d. The Police department shall frame appropriate rules for the preservation and destruction of such booklets
- e. Procedure booklets in format identical to the above prescription in guideline (vii) & (viii) with modifications having regard to the statutory provisions in the forms for the notices and acknowledgment shall be maintained.
- f. Failure on the part of the IO to comply with the mandate of the provisions of the Cr.PC and the above procedure shall render him liable to appropriate disciplinary proceedings under the applicable rules and regulations as well as contempt of Court in terms of the directions of the Hon'ble Supreme Court in the case of Arnesh Kumar Vs. State of Bihar (2014) 8 SCC 273.
- g. Publicity should be undertaken and pamphlets educating the public at large, should be issued by the DCPs/SPs of all Districts.
- h. The above information should be displayed at prominent places in Police stations, the subordinate courts and the High Court and made available to the State and District Legal Services Authorities, to inform the public of rights and recourses available to them.
- i. Training programs be specially formulated for Police Officers and Judicial Officers to sensitise them towards effective compliance of Section 41 A, 91, 160 and 175 of the CrPC.

12. The core issues that arises for consideration of this Court are as follows:-





A. Whether the arrest of the petitioner on 01.02.2023 in FIR No. 346/2021 violated the provisions of Section 41A Cr.P.C. and the directions issued in the cases of **Arnesh Kumar (supra)** and **Satender Kumar Antil (supra)**;

B. Whether respondent No.1 is guilty of willful disobedience so as to attract contempt jurisdiction.

13. Before delineating upon the aforesaid issues, the factual matrix of the present case is summarized as under:

13.1. The FIR was registered on 14.09.2021, being FIR No. 346/2021 at Police Station Anti Corruption Bureau, Jaipur, alleging commission of offences under Sections 7 and 7-A of the Prevention of Corruption (Amendment) Act, 2018 and Section 120-B IPC.

13.2. No notice under Section 41A Cr.P.C. was served upon the petitioner from the date of registration of FIR i.e., 14.09.2021 till issuance of notice dated 25.01.2023.

13.3. The petitioner furnished his representation (Annexure- 4) on 27.11.2021 to Director General of ACB, Rajasthan, Jaipur through post.

13.4. The petitioner received a notice dated 25.01.2023 sent by the Investigating Officer, through WhatsApp requiring him to appear before ACB Police Station, Jaipur on 31.01.2023 (Annexure- 6) and the same is reproduced as under:-

**"कार्यालय अतिरिक्त पुलिस अधीक्षक स्पेशल यूनिट द्वितीय भ्र.नि. ब्यूरो
राजस्थान जयपुर**

क्रमांक :- अनिब्यूरो/एस.यू. द्वितीय/177

दिनांक 25 जनवरी 2023

श्री रवि मीणा पुत्र श्री भरत लाल मीणा



निवासी एफ-5, सोम्य स्काई क्राउन
डी-मार्ट के पास, अक्षय पात्र रोड, जयपुर

**विषय:- प्रकरण संख्या 346/2021 विरुद्ध श्री राहुल कुमार गर्ग व अन्य
के सम्बन्ध में।**

उपरोक्त विषयान्तर्गत लेख है कि उक्त प्रकरण का अनुसंधान मन्
अतिरिक्त पुलिस अधीक्षक द्वारा किया जा रहा है। उक्त प्रकरण के संबंध में
आप से अनुसंधान किया जाना है।

अतः आप दिनांक 31.01.2023 को समय 10.00 ए.एम. पर मन्
अतिरिक्त पुलिस अधीक्षक के समक्ष ब्यूरो मुख्यालय के कमरा नं. 316. जे-
09, झालाना, जयपुर में उपस्थित होने का श्रम करें।

(पुष्पेन्द्र सिंह राठौड़)
अतिरिक्त पुलिस अधीक्षक
भ्रष्टाचार निरोधक ब्यूरो
एस.यू. द्वितीय जयपुर"

13.5. The petitioner replied through WhatsApp on 30.01.2023,
indicating his inability to appear immediately due to the illness of
his wife (Annexure-7) and the same is reproduced as under:-

"श्रीमाम
पुष्पेन्द्र सिंह राठौड़ जी
अतिरिक्त पुलिस अधीक्षक
अनुसंधान अधिकारी भ्रष्टाचार निरोधक ब्यूरो
जयपुर

सन्दर्भ : आपका पत्रांक भनिब्यूरो/एस. यू. द्वितीय/177 दिनांक 25-1-2023

**विषय : प्रकरण संख्या 346/2021 विरुद्ध श्री राहुल कुमार गर्ग एवं
अन्य के सम्बन्ध में।**

महोदय,

उपरोक्त के क्रम में निवेदन हैं की प्रार्थी अभी वर्तमान में कोटा
मुख्यालय पर पदस्थापित हैं। प्रार्थी की पत्नी अभी गर्भावस्था में हैं एवं वर्तमान
में शारीरिक परेशानी से पीड़ित हैं। (पत्नी के गर्भावस्था से सम्बंधित चिकित्सक
के परामर्श एवं रिपोर्ट संलग्न हैं।) प्रार्थी की बेटी अभी छोटी हैं जिसकी
देखभाल भी प्रार्थी को ही करनी पड़ती हैं। इसके साथ ही प्रार्थी दिनांक 31
जनवरी 2023 से यू.जी.सी रिफ्रेशर कोर्स में अपनी सहभागिता होने के कारण
अपने मुख्यालय पर ही उपस्थिति देने हेतु बाध्य हैं अतः उपरोक्त परिस्थितियाँ
को देखते हुए आपसे निवेदन हैं की प्रार्थी को उक्त प्रकरण में अनुसन्धान हेतु
अपनी उपस्थिति देने हेतु 30 दिवस का समय देने का कष्ट करें। प्रार्थी ने
उपरोक्त प्रकरण में पूर्व में भी अपना स्पष्टीकरण महोदय के समक्ष नवंबर
2021 में भेजा था और पुनः प्रार्थी उक्त प्रकरण में अपनी निर्दोषता साबित



करने एवं आप द्वारा निष्पक्ष जाँच में पूर्ण सहयोग देने हेतु सदैव तत्पर एवं आतुर हैं।

भवदीय

प्रार्थी

रवि मीना

दिनांक : 30-1-2023

प्रतिलिपि सूचनार्थ :

1) महानिदेशक महोदय, भ्रष्टाचार निरोधक ब्यूरो, मुख्यालय, जयपुर"

13.6. The response to the aforesaid WhatsApp notice by the petitioner remained un-replied.

13.7. The petitioner was arrested on 01.02.2023 at Jaipur, and was produced before the learned Special Judge, ACB Cases, Jaipur, where he was remanded to custody (Annexure- 8).

13.8. The petitioner, while being presented before the concerned Court, did not raise any objection with regard to the legality of his arrest.

13.9. The charge-sheet No.355/2021 was submitted on 09.11.2022 by respondent No.1, however, it does not contain any specific reasons for arresting the petitioner.

13.10. The main accused Neeraj K. Pawan and Ravindra Singh have not been arrested till date, though they have been alleged to have accepted a bribe from the complainant.

14. Upon perusing the record, it emerges that the only communication addressed to the petitioner was the notice dated 25.01.2023, sent through WhatsApp, requiring him to appear before the Investigating Officer on 31.01.2023. The petitioner promptly responded to said notice on 30.01.2023, expressing his





inability to appear immediately owing to the illness of his wife and sought reasonable time to join the investigation. However, the investigating agency neither replied to the petitioner nor took any further steps to ensure service of notice in the manner contemplated under Section 41-A of Cr.P.C. The record placed before this Court does not indicate that any attempt whatsoever was made thereafter to serve the notice through the modes recognized under law.

15. Thereafter, on 01.02.2023, the petitioner was taken into custody and produced before the learned Special Judge, ACB Cases, Jaipur, without having been served any valid notice under Section 41-A of Cr.P.C. as mandated by law. The respondents have attempted to justify their actions by contending that efforts were made to inform the petitioner to join the investigation, by way of WhatsApp messages and by visiting his residence. However, even assuming that the Investigating Officer had visited the petitioner's residence and did not find him present, it was incumbent upon the officer to ensure service of notice under Section 41-A of Cr.P.C., in accordance with law, including by affixing the notice at the residence or at any conspicuous place. The failure to adopt such recognised modes of service undermines the contention of due compliance with the statutory mandate.

16. It is to be noted that ordinarily notice under Section 41-A of Cr.P.C. is required to be served personally upon the noticee and in circumstances where personal service is not feasible, the notice may be pasted at the residence of the person concerned or sent through recognized modes such as speed post and admittedly,



none of these procedures were adopted by the Investigation Agency in the present case. The intimation made through WhatsApp does not satisfy the statutory requirement of service contemplated under Section 41-A of Cr.P.C., and therefore cannot be treated as a valid service of notice in the eyes of law.

17. Furthermore, reliance placed by the learned counsel for the respondent upon the judgment passed by the Gujarat High Court in the case of **Krinaben W/o Tushar Suryakant Trivedi (supra)** is found to be misplaced. The controversy in the aforesaid judgment was confined to the adequacy of the grounds recorded in the check-list prepared under Section 41-A of Cr.P.C., as the Court noted that the Investigating Officer had prepared the requisite check-list, recorded reasons justifying the arrest and produced the same before the Magistrate at the time of production of the accused and in those peculiar circumstances, the Court came to the conclusion that the statutory requirements stood substantially complied with and therefore declined to invoke the contempt jurisdiction.

18. However, the facts of the present case stand on an entirely different footing, as the issue in the instant case, does not pertain to the sufficiency of reasons recorded in a check-list, rather, it relates to the very legality of the notice purportedly issued under Section 41-A of Cr.P.C. It is an admitted position that the only communication relied upon by the respondents is a notice sent through a WhatsApp message dated 25.01.2023, which cannot be regarded as a notice served in the manner contemplated by law. The petitioner responded to the said communication on





30.01.2023, explaining his inability to appear owing to the illness of his wife, yet no response was forthcoming from the investigating agency and no fresh notice in accordance with law was issued and thereafter, the petitioner came to be arrested on 01.02.2023 without adherence to the statutory procedure. Therefore, the judgment relied upon by the respondents, rests on a factual premise clearly distinguishable from the circumstances of the present case and does not advance their case.

19. Moreover, the contention of the respondents regarding dismissal of the petitioner's earlier petition filed under Section 482 of Cr.P.C. and subsequent dismissal of the Special Leave to Appeal filed before the Hon'ble Supreme Court is of no consequence to the present proceedings, as the issue herein pertains to the legality of the arrest and compliance made with the provision of Section 41-A of Cr.P.C., which constitutes a distinct cause of action. The earlier proceedings were confined to the challenge made to the FIR and did not adjudicate upon the procedure adopted at the stage of arrest, therefore, the said dismissal does not dilute the petitioner's case, particularly when the record *prima facie* reflects non-compliance with the mandatory provision of Section 41-A of Cr.P.C.

20. The conduct of the Investigating Officer, therefore, demonstrates a clear departure from the procedure prescribed under the Code as well as the binding directions issued by the Hon'ble Supreme Court in the case of **Arnesh Kumar (supra)** and later on reiterated in the case of **Satender Kumar Antil (supra)**. The safeguards laid down in the aforesaid judgments are



intended to ensure that arrest is not made in a mechanical manner and that the power of arrest is exercised strictly within the parameters of law.

21. This Court is conscious of the fact that the principle of personal liberty occupies a central and cherished position within the constitutional framework. Article 21 of the Constitution guarantees that no person shall be deprived of his life and liberty except in accordance with the procedure established by law. The procedure prescribed by law is not an empty formality; it constitutes the essential safeguard against arbitrary deprivation of personal liberty. It is also to be borne in mind that when statutory protections such as those embodied in Sections 41-A of Cr.P.C. are provided to regulate the exercise of arrest powers, the investigating agency is duty-bound to observe them scrupulously and any deviation from the same strikes at the very foundation of the constitutional guarantee of liberty.

22. In the instant case, the arrest of the petitioner without ensuring proper compliance with the mandate of Section 41-A of Cr.P.C. and the directions issued by the Hon'ble Apex Court clearly reflects a breach of the prescribed procedure. The action of the Respondent No.1 therefore, amounts to violation of the binding directions issued by the Hon'ble Supreme Court and attracts the jurisdiction of this Court for contempt.

23. Accordingly, this Court is satisfied that Respondent No. 1, Pushpendra Singh Rathod, has committed contempt by violating the Principles laid down in the case of Arnesh Kumar (Supra) and





breached the personal liberty of the petitioner without adhering to the principles laid down in the aforesaid case.

24. List the matter for order on sentencing on 06.04.2026. The Respondent No.1 is directed to remain present before this Court on the next date of hearing.

25. The order be uploaded on the website forthwith.

(PRAVEER BHATNAGAR),J

Ashwani Kr Srivastava/ supp 1

