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Supreme Court Strengthens Constitutional Safeguards Against Arbitrary Arrest, Protecting Personal Liberty, Dignity and Due Process

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Recent Development: Vihaan Kumar Judgment, 2025:

- In **Vihaan Kumar v. State of Haryana (2025)**, the Supreme Court reaffirmed that informing an arrested person of the **grounds of arrest** is a mandatory constitutional requirement under **Article 22(1)**.
- The Court held that the grounds of arrest must be communicated **effectively, meaningfully and in a language understood by the arrested person**, so that the constitutional safeguard serves its actual purpose.
- Merely informing a relative about the arrest, mentioning arrest details in an arrest memo or remand report, or making vague diary entries does **not** amount to communicating the grounds of arrest to the arrested person.
- The Court clarified that non-compliance with **Article 22(1)** also violates the right to personal liberty under **Article 21**, thereby rendering the arrest illegal.
- The judgment also held that when an arrest is vitiated for violation of Article 22(1), subsequent **remand orders are also vitiated**, and the person cannot continue in custody merely because a court has subsequently authorised remand.
- The case also involved allegations of **handcuffing and chaining the appellant to a hospital bed**, highlighting the constitutional requirement of dignity in custody and the prohibition against degrading treatment.

Vihaan Kumar Judgment: Key Holdings:

Communication of Grounds of Arrest:

- **Article 22(1)** requires that a person arrested without a warrant must be informed of the grounds of arrest as soon as may be after the arrest.
- The requirement is **mandatory and substantive**, rather than a mere procedural formality.
- The information must provide sufficient knowledge of the **basic facts constituting the grounds of arrest** and must be communicated in a manner that the arrested person can effectively understand.
- The burden of proving compliance with Article 22(1) lies on the **Investigating Officer or investigating agency** when the arrested person alleges non-compliance.

Arrest and Remand:

- Failure to communicate the grounds of arrest violates **Articles 21 and 22(1)** and vitiates the arrest.
- A subsequent order of remand cannot retrospectively cure an **unconstitutional arrest**, thereby strengthening judicial scrutiny at the remand stage.
- The judgment therefore establishes that **judicial remand is not an automatic validation of an earlier illegal arrest**.

Arrest Memo and Time of Arrest:

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- The Court examined the requirement that the **time of arrest** must be properly recorded, particularly in the context of the constitutional requirement of producing an arrested person before a magistrate within 24 hours.
- **Article 22(2)** requires every arrested person to be produced before the nearest magistrate within **24 hours**, excluding the time necessary for the journey from the place of arrest to the magistrate's court.
- The corresponding statutory safeguards are contained in **Section 58 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS)**.

Dignity of the Arrested Person:

- The Court's treatment of handcuffing and chaining in the case reinforces that **custodial control cannot override human dignity** protected under Article 21.
- Arrest therefore involves not merely physical custody but the State's continuing constitutional obligation to protect the **life, liberty and dignity** of the person in custody.

Arrest and Detention: Conceptual Distinction:

Arrest:

- **Arrest** involves the lawful taking of a person into custody by a competent authority in connection with an alleged offence.
- Arrest may be made with or without a warrant depending upon the nature of the offence and the applicable statutory provisions.
- Under the **BNSS, 2023**, the power of arrest remains subject to statutory conditions and constitutional safeguards.

Detention:

- **Detention** refers more broadly to the restraint of a person's liberty by lawful authority.
- Criminal detention generally follows arrest, while **preventive detention** operates through a distinct constitutional and statutory framework.
- The distinction is important because preventive detention is designed to prevent anticipated harmful conduct rather than punish a person for an offence already committed.

Cognisable and Non-Cognisable Offences:

- In a **cognisable offence**, the police may generally arrest without a warrant subject to the statutory conditions governing arrest.
- In a **non-cognisable offence**, the police generally cannot arrest without a warrant from a magistrate, subject to specific statutory exceptions.
- Therefore, the nature of the offence determines the extent of police power, but **constitutional safeguards apply irrespective of the category of offence**.

Constitutional Framework: Articles 21 and 22:

Article 21: Protection of Life and Personal Liberty:

- **Article 21** provides that no person shall be deprived of life or personal liberty except according to a procedure established by law.
- Judicial interpretation has transformed Article 21 from a narrow procedural guarantee into a broad protection of **fairness, dignity, liberty and substantive constitutional rights**.
- Arbitrary arrest can therefore violate Article 21 when the procedure adopted by the State fails to satisfy constitutional standards.

Article 22(1): Grounds of Arrest and Legal Representation:

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- **Article 22(1)** provides two fundamental safeguards: the arrested person must be informed of the grounds of arrest as soon as possible, and must not be denied the right to consult and be defended by a legal practitioner of their choice.
- These safeguards enable an arrested person to understand the basis of State action and seek appropriate **legal remedies**.

Article 22(2): Production Before Magistrate:

- **Article 22(2)** requires an arrested person to be produced before the nearest magistrate within **24 hours**, excluding necessary journey time.
- Continued detention beyond this period requires the authority of a magistrate, subject to the constitutional framework governing preventive detention.

Article 22 and Preventive Detention:

- The preventive detention provisions of **Article 22(3)–(7)** create a distinct constitutional framework in which some safeguards available to ordinary arrests do not operate in the same manner.
- Under **Article 22(4)**, preventive detention ordinarily cannot extend beyond **3 months** unless an Advisory Board reports before the expiry of that period that there is sufficient cause for continued detention, subject to the constitutional and statutory framework.
- Parliament may prescribe the circumstances and classes of cases in which detention may continue beyond 3 months and the maximum period of detention under **Article 22(7)**.
- Preventive detention therefore represents an exceptional constitutional mechanism that must be balanced against **personal liberty and procedural safeguards**.

Statutory Framework Under the BNSS, 2023:

Section 35: Arrest Without Warrant:

- **Section 35 of the BNSS** governs circumstances in which police officers may arrest a person without a warrant.
- The provision incorporates safeguards intended to prevent unnecessary arrests and requires the police to consider the **necessity and justification of arrest**.
- This represents the statutory evolution of the safeguards earlier contained in **Section 41 of the CrPC**.

Section 47: Information Regarding Grounds of Arrest:

- **Section 47 of the BNSS** requires the person arrested to be informed of the grounds of arrest and, in applicable cases, of the right to bail.
- This statutory protection operates alongside the fundamental right under **Article 22(1)**.

Section 58: Person Arrested Not to Be Detained More Than 24 Hours:

- **Section 58 of the BNSS** corresponds to the earlier **Section 57 of the CrPC** and reinforces the requirement concerning detention beyond 24 hours.
- It must be read with **Article 22(2)** and the requirement of production before a magistrate.

Judicial Safeguards Against Arbitrary Arrest: Important Cases:

Arnesh Kumar v. State of Bihar, 2014:

- In **Arnesh Kumar v. State of Bihar (2014)**, the Supreme Court sought to prevent unnecessary arrests, particularly in offences punishable with imprisonment of up to **7 years**.

- The Court emphasised that the existence of statutory power to arrest does not mean that arrest must automatically be made.
- Police officers must examine the **necessity of arrest** and record reasons showing why arrest is required.
- Magistrates must independently examine whether the statutory conditions for arrest and detention have been satisfied rather than mechanically authorising custody.
- The judgment therefore established the principle that **arrest is not the default consequence of registration of an offence**.

D.K. Basu. State of West Bengal, 1997:

- In **D.K. Basu. State of West Bengal (1997)**, the Supreme Court laid down safeguards against custodial violence and arbitrary arrest.
- The arresting police personnel must carry **clear identification and name tags**, and their particulars must be recorded.
- An **arrest memo** must be prepared at the time of arrest, attested by a witness and countersigned by the arrested person, with the **date and time of arrest** recorded.
- The judgment also strengthened safeguards relating to informing relatives or friends, medical examination, custody records and access to legal assistance.
- The case established that custodial safeguards are essential components of **Article 21 protection**.

Pankaj Bansal v. Union of India, 2023:

- In **Pankaj Bansal v. Union of India (2023)**, the Supreme Court held, in the context of arrests under the Prevention of Money Laundering Act, that a copy of the **written grounds of arrest** must ordinarily be furnished to the arrested person.
- The Court rejected the idea that merely reading out lengthy grounds of arrest necessarily fulfils the constitutional purpose of Article 22(1).
- The judgment emphasised that the arrested person must have sufficient information to **effectively challenge the legality of the arrest and seek appropriate legal remedies**.
- The later **Vihaan Kumar** judgment developed this principle in the broader constitutional context by focusing on effective communication of the grounds of arrest.

Prabir Purkayastha v. State (NCT of Delhi), 2024:

- In **Prabir Purkayastha v. State (NCT of Delhi) (2024)**, the Supreme Court reiterated the importance of communicating the grounds of arrest in writing in the context of the statutory and constitutional safeguards governing arrest.
- The Court held that once the Supreme Court interprets statutory provisions consistently with the Constitution, that interpretation becomes binding law under **Article 141**.
- The case strengthened the judicial approach that procedural safeguards relating to arrest must have **real and effective content**, rather than being reduced to technical formalities.

Vihaan Kumar and the Evolution of Arrest Jurisprudence:

From Formal Compliance to Effective Compliance:

- Earlier jurisprudence increasingly moved away from treating arrest safeguards as mere procedural checklists.
- **D.K. Basu** focused on safeguards against custodial abuse, **Arnesh Kumar** on the necessity of arrest, **Pankaj Bansal** on communication of written grounds and **Vihaan Kumar** on effective communication of those grounds.
- The combined jurisprudence establishes a broader constitutional principle: **State power to arrest must be necessary, reasoned, transparent and subject to judicial scrutiny**.

Burden on the Investigating Agency:

- **Vihaan Kumar** places the burden on the Investigating Officer or agency to establish compliance when the arrested person alleges violation of Article 22(1).
- This strengthens accountability because the State, rather than the detained individual, ordinarily possesses the records and institutional capacity necessary to demonstrate compliance.

The Golden Triangle and Natural Justice:

Maneka Gandhi v. Union of India, 1978:

- In **Maneka Gandhi v. Union of India (1978)**, the Supreme Court transformed the interpretation of Article 21 by holding that the procedure depriving a person of liberty must satisfy constitutional standards of **fairness, justice and reasonableness**.
- The judgment established the close relationship among **Articles 14, 19 and 21**, often described as the Constitution's **Golden Triangle**.
- **Article 14** protects against arbitrariness and guarantees equality before law.
- **Article 19** protects specified freedoms subject to constitutionally permissible restrictions.
- **Article 21** protects life and personal liberty through a constitutionally valid and fair procedure.
- The combined framework means that State action affecting personal liberty cannot be assessed solely by asking whether a formal legal power exists; the **manner and fairness of its exercise** also matter.

Why Safeguards Against Arbitrary Arrest Matter: Constitutional Significance:

Protection of Personal Liberty:

- Arrest directly interferes with an individual's **personal liberty**, making constitutional safeguards essential.
- The State's legitimate interest in investigation and crime control must be balanced against the individual's right to liberty.

Prevention of Custodial Abuse:

- Clear arrest procedures reduce the possibility of **custodial violence, illegal detention, coercion and fabricated records**.
- Recording the time and circumstances of arrest creates an evidentiary trail for judicial review.

Access to Legal Remedies:

- Knowledge of the grounds of arrest enables the accused to consult a lawyer and challenge the legality of detention.
- Effective communication therefore supports the constitutional principle of **access to justice**.

Judicial Oversight:

- Production before a magistrate within 24 hours introduces an independent judicial check on police custody.
- The **Vihaan Kumar** judgment strengthens this check by making constitutional compliance relevant to the validity of subsequent remand.

Protection of Human Dignity:

- Article 21 protects more than physical existence; judicial interpretation recognises **dignity as an integral component of life and personal liberty**.
- Custodial practices that unnecessarily degrade or humiliate an arrested person can therefore raise serious constitutional concerns.

Key Issues and Challenges: Balancing State Power and Individual Liberty:

Investigative Necessity versus Liberty:

- Effective criminal investigation may sometimes require arrest, but **investigative convenience alone cannot justify unnecessary deprivation of liberty.**
- The State must establish a legitimate and legally sustainable reason for arrest.

Misuse of Arrest Powers:

- Arrest can be misused to intimidate, coerce, silence or pressure individuals during investigations.
- Judicial safeguards seek to ensure that arrest remains an **accountable legal power rather than an instrument of harassment.**

Preventive Detention versus Fundamental Rights:

- Preventive detention permits deprivation of liberty without a conventional criminal conviction because the objective is preventive rather than punitive.
- Its exceptional nature creates a continuing constitutional challenge of balancing **national security and public order with individual liberty.**

Implementation Gap:

- Constitutional and judicial safeguards are meaningful only when police officers, investigating agencies and magistrates implement them consistently.
- Weak documentation, mechanical remand orders and inadequate legal assistance can undermine safeguards even when the formal legal framework appears strong.

Way Forward: Strengthening Arrest and Detention Safeguards:

Ensure Effective Communication:

- Police authorities should communicate the **grounds of arrest clearly, promptly and in a language understood by the arrested person.**
- Written communication should be preferred wherever practicable to create a verifiable record and facilitate legal remedies.

Strengthen Magistrate-Level Scrutiny:

- Magistrates should independently verify compliance with **Articles 21 and 22** and the relevant BNSS provisions before authorising remand.
- Remand proceedings should not become a mechanical extension of police action.

Improve Police Training:

- Police personnel should receive regular training on **constitutional rights, arrest procedures, custodial dignity, documentation and judicial guidelines.**
- Digital arrest records can improve traceability and reduce disputes concerning the timing and circumstances of arrest.

Strengthen Legal Aid:

- Prompt access to legal assistance should be ensured for persons who cannot afford private representation.
- Effective legal aid is essential for converting constitutional rights into **practical remedies.**

Prevent Unnecessary Arrest:

- Police should apply the necessity test before arrest and record the reasons supporting the decision.
- Magistrates should scrutinise whether arrest was genuinely necessary rather than treating arrest as an automatic consequence of an allegation.

Ensure Custodial Dignity:

- Authorities should strictly prohibit **torture, degrading treatment, unnecessary restraint and custodial violence**.
- Independent monitoring and effective departmental and criminal accountability can strengthen compliance.

UPSC Perspective: GS-Wise Relevance:

GS Paper II – Indian Polity and Constitution:

- The topic is directly relevant to **Fundamental Rights, constitutional safeguards, personal liberty, judicial review, separation of powers and constitutional governance**.
- Important provisions include **Articles 14, 19, 21, 22 and 141**.

GS Paper II – Governance:

- The issue concerns **police accountability, criminal justice administration, legal aid, custodial reforms and institutional accountability**.
- It also illustrates the importance of converting constitutional guarantees into effective administrative practices.

GS Paper II – Judiciary:

- The jurisprudence demonstrates how the Supreme Court uses **constitutional interpretation and judicial review** to impose substantive safeguards on the exercise of State power.
- The progression from **D.K. Basu Armesh Kumar, Pankaj Bansal, Prabir Purkayastha and Vihaan Kumar** demonstrates the evolving nature of constitutional protection of liberty.

GS Paper IV – Ethics:

- The topic can be connected with **dignity, accountability, integrity, compassion, fairness, rule of law and abuse of authority**.
- Police power must be exercised with **constitutional morality and proportionality**, particularly when individual liberty is at stake.

Value Addition for UPSC: Cases, Articles and Core Principles:

Important Supreme Court Cases:

- **Maneka Gandhi v. Union of India, 1978:** Fair, just and reasonable procedure under Article 21; relationship among Articles 14, 19 and 21.
- **D.K. Basu. State of West Bengal, 1997:** Safeguards against **custodial violence and arbitrary arrest**.
- **Armesh Kumar v. State of Bihar, 2014:** Arrest should not be routine; **necessity of arrest** must be assessed.
- **Pankaj Bansal v. Union of India, 2023:** Importance of furnishing **written grounds of arrest** in the relevant statutory context.
- **Prabir Purkayastha v. State, 2024:** Reinforcement of effective communication of grounds of arrest and binding force of Supreme Court interpretation under **Article 141**.

- **Vihaan Kumar v. State of Haryana, 2025:** Effective communication of grounds of arrest is a **mandatory Article 22(1) safeguard**, and its violation vitiates the arrest and subsequent remand.

Constitutional Provisions:

- **Article 14:** Equality before law and protection against arbitrariness.
- **Article 19:** Protection of specified freedoms.
- **Article 21:** Protection of life and personal liberty.
- **Article 22(1):** Right to be informed of grounds of arrest and right to consult a legal practitioner.
- **Article 22(2):** Production before magistrate within **24 hours**.
- **Article 22(3)–(7):** Constitutional framework governing preventive detention.
- **Article 141:** Law declared by the Supreme Court is binding on all courts within India.

Statutory Provisions Under BNSS:

- **Section 35:** Arrest without warrant and conditions governing its exercise.
- **Section 47:** Information regarding grounds of arrest and applicable right to bail.
- **Section 58:** Restriction on detention beyond **24 hours** without the requisite legal authority.

Mains-Ready Concept:

“The power to arrest is a statutory power, but the manner in which that power is exercised is constitutionally constrained.”

- The **Vihaan Kumar** judgment demonstrates that personal liberty is protected not merely by the existence of legal procedures but by their **effective, meaningful and accountable implementation**.
- India's constitutional criminal-justice framework therefore seeks to maintain a careful balance between **effective investigation and protection from arbitrary State action**.

Mains Conclusion:

- The Supreme Court's arrest jurisprudence establishes that **arrest is not merely a police procedure but an exercise of State power directly affecting constitutional liberty**.
- The combined principles emerging from **Articles 14, 21 and 22**, the **BNSS, 2023**, and landmark judgments such as **D.K. Basu, Arnesh Kumar, Pankaj Bansal, Prabir Purkayastha and Vihaan Kumar** require arrest to be **lawful, necessary, transparent, reasoned and respectful of human dignity**.
- A strong criminal justice system must therefore protect society from crime while ensuring that the State's power to investigate does not become a mechanism for **arbitrary deprivation of personal liberty**.