The Tutors Academy The Tutors Academy The Tutors Academy The Tutors Academy The Tutors Academy The Tutors Academy The Tutors Academy The Tutors Academy The Tutors Academy The Tutors Academy

Article 22

Limit for Producing an Arrested Person Before Magistrate

Article 22 – Latest News

The Supreme Court, in a significant ruling on personal liberty, reinforces Article 21 and Article 22 of the Constitution, particularly protection against arbitrary detention and custodial abuse.

It held that the constitutional 24-hour deadline for producing an arrested person before a magistrate begins from the moment their liberty is first curtailed, not from the time of formal arrest recorded by the investigating agency.

The SC set aside the Tripura HC's refusal of bail in a drug-smuggling case, ruling that investigative activities such as questioning, searches and seizures cannot suspend constitutional safeguards or create an artificial gap between detention and arrest.

Background of the Case

Incident: Customs officers of the Divisional Preventive Force, Agartala, intercepted the appellants at 2 p.m. while they were carrying 60 kg of methamphetamine tablets.

Delay in formal arrest: Although the individuals came under the physical control of the search team at 2 p.m., formal arrest memos were signed only at 11 a.m. the following day.

Production before magistrate: They were produced at 4:45 p.m., beyond 24 hours from their initial interception.

Investigating agency's argument: The officers claimed that the intervening period was used for searches, seizures and questioning, and both the Special Court and the HC rejected their bail applications.

SC ruling: Rejected this distinction between interception and formal arrest, holding that the actual restriction of personal liberty determines when constitutional safeguards become applicable.

Constitutional and Legal Framework

Article 22(2) – Protection Against Arbitrary Detention

Every person arrested and detained must be produced before the nearest magistrate within 24 hours of arrest.

The time required for the journey from the place of detention to the magistrate is excluded. Detention beyond 24 hours requires the magistrate's authorisation.

Section 58 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023

A person arrested without a warrant cannot be detained beyond a reasonable period.

The Tutors Academy The Tutors Academy The Tutors Academy The Tutors Academy The Tutors Academy The Tutors Academy The Tutors Academy The Tutors Academy The Tutors Academy The Tutors Academy

Such detention cannot exceed 24 hours, excluding journey time, without the special order of a magistrate under the applicable law.

It reinforces the requirement of judicial oversight over police custody.

Narcotic Drugs and Psychotropic Substances (NDPS) Act, 1985

Empowers authorised officers to search, seize and arrest persons suspected of drug-related offences.

Section 37 imposes stringent conditions for granting bail in specified serious offences.

However, the NDPS Act does not provide an exemption from constitutional safeguards governing arrest and detention.

Key Observations of the Supreme Court

1. Actual Curtailment of Liberty Starts the 24-Hour Clock

An artificial distinction between arrest and detention would dilute the fundamental protection guaranteed by the Constitution.

The 24-hour period begins when a person's liberty is effectively curtailed by authorities on suspicion of involvement in an offence.

Formal documentation of arrest cannot determine the starting point. Only the time spent travelling to the magistrate is excluded.

2. No Constitutional Buffer Zone for Investigation

The Court rejected the argument that a short investigatory hold could precede formal arrest.

It also rejected the proposition that the 24-hour clock could remain suspended during searches and seizures.

The Constitution does not recognise any temporary disruption of liberty or investigative buffer zone that allows the executive to bypass fundamental rights.

3. Informal Custody Must Also Be Reasonable

Section 58 of the BNSS imposes a dual requirement: detention must remain within the prescribed period and must also be reasonable.

The Court considered prolonged custody without judicial oversight unreasonable and susceptible to misuse. It emphasised that remand is never a mechanical exercise.

Magistrates must independently examine the circumstances and reasons for detention, and can refuse police remand, if the preceding detention was unreasonable (even if an accused is produced within 24 hours).

4. Fundamental Rights Prevail Over Restrictions Under Special Laws

The Tripura HC had relied on Section 37 of the NDPS Act and the SC's ruling [State of Punjab v. Sukhwinder Singh (2026)] while rejecting bail.

The apex court clarified:

The Tutors Academy The Tutors Academy The Tutors Academy The Tutors Academy The Tutors Academy The Tutors Academy The Tutors Academy The Tutors Academy The Tutors Academy The Tutors Academy

Statutory restrictions on bail cannot override constitutional guarantees under Articles 21 and 22.

Where personal liberty is violated, restrictions under Section 37 must give way to constitutional protections.

The constitutional courts can grant bail where prolonged incarceration infringes fundamental rights despite statutory restrictions [Union of India v. K.A. Najeeb (2021)].

Thus, special legislation cannot legitimise unconstitutional detention.

5. CCTV Surveillance to Prevent Custodial Violence

Serious human rights violations often occur during investigations, when authorities attempt to extract evidence or confessions through coercive methods.

The Supreme Court directs:

CCTV cameras with audio and video recording and night-vision facilities in police stations.

Similar arrangements in offices of investigative agencies such as the CBI, NIA and ED.

Preservation of CCTV footage for at least 18 months.

Significance of the Judgment

Strengthening personal liberty: Prevents arbitrary detention through manipulation of formal arrest records.

Judicial accountability: Strengthens the role of magistrates in scrutinising detention and police remand.

Preventing custodial abuse: Reduces the possibility of torture, coercion and illegal interrogation outside judicial oversight.

Rule of law: Establishes that executive convenience and investigative requirements cannot override constitutional safeguards.

Uniform application: Ensures that constitutional protections apply irrespective of the nature of the offence or the special law involved.