



Government of Jammu and Kashmir
Home Department
Civil Secretariat, Srinagar.

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Subject:- Standard Operating Procedure(s) to be followed in NDPS cases.

CIRCULAR No: 02 - Home of 2017
D a t e d: 25 - 09-2017

The Narcotic Drugs and Psychotropic Substances Act, 1985, provide for stringent provisions for offences related to drug abuse and trafficking. Despite the fact that major offences under the aforesaid Act are non-bailable, it has been observed that in several cases the drug offenders secure acquittal on technical grounds. A large number of offenders in NDPS cases are acquitted due to non-compliance of mandatory provisions and the prescribed procedure. The acquittals in serious offences particularly in NDPS cases create a sense of insecurity in the society and undermine the faith of the common man in the administration of criminal justice. As such, it is incumbent upon the Investigating Agencies/Prosecutors discharge their assigned duties in a professional manner to achieve the desired objective of law.

2. In the above context, the Division Bench of the Hon'ble High Court at Jammu in PIL No.05/2013, titled **(Court on its Own Motion vs. State and Others)** has been monitoring the progress of steps taken by the State to ensure that in NDPS cases, the investigation is conducted in a proper and professional manner by adhering to the mandatory provisions of the Act and to minimise the acquittals in such cases.

3. To accomplish the aforesaid purpose and to ensure conviction of offenders in NDPS cases, all the enforcement agencies of the State are

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expected to work in close coordination and adhere to the provisions of the aforesaid Act during investigation of case, while ensuring vigorous follow up during prosecution of such cases.

4. In view of the above, it is enjoined upon all the officers, entrusted with the investigation/prosecution in NDPS cases to strictly adhere to the provisions of the Narcotic Drugs and Psychotropic Substances Act, 1985 and the procedures laid down in Standard Operating Procedures (SOP's) formulated by the State Crime Branch. A copy of Standard Operating Procedures (SOP's) is annexed herewith as **Annexure-"I"** to this Circular.

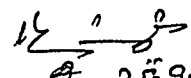
Sd/-
(R. K. Goyal) IAS
Principal Secretary to Government,
Home Department.

No: Home/OWP/14/2013
Encl: as above

Dated: 25 .09. 2017

Copy to the :-

1. Director General of Police, J&K.
2. Inspector General of Police, Kashmir/Jammu.
3. Inspector General of Police, Crime Branch.
4. Secretary to Government, Department of Law, Justice and Parliamentary Affairs.
5. OSD to the Hon'ble Minister for Law, Justice and Parliamentary Affairs.
6. Director Prosecution, PHQ.
7. All SSP's/SP's for information and necessary action.
8. Private Secretary to Principal Secretary to Government, Home department.
9. Circular file/Stock file


(Mushtaq Ahmad) KAS
Deputy Secretary to Government,
Home Department

INTRODUCTION

Despite seizure of 968 quintals of narcotic drugs and about seven lakh intoxicants in the last 5/6 years, the problem has not received due attention of Investigators and the Prosecutors. As a result the number of acquittals in such cases greatly outnumbered the convictions, as for every conviction there are about nine acquittals.

As per NDPS Act, Sections 41 and 42 are attracted when there is a prior information about the presence of contraband article in any building, conveyance or enclosed place, whileas section 43 applies when information as such is not about the presence of a contraband article at any of such place but such article is likely to be brought in any public place. Thus, it is clear that provisions of Section 42 of NDPS Act would be only applicable when search, seizure and arrest have to be effected without warrant or authorization in any building, conveyance or enclosed place. If such places are not be entered into and searched, the provisions of Section 42 will not be applicable. The powers which have been conferred are to enter, search, seize and arrest without warrant or authorization. Under proviso to sub-section (1) of Section 42 of the NDPS Act, if such officer has reason to believe that a search warrant for authorization cannot be obtained without affording opportunity for the concealment of evidence of facility for the escape of an offender, he may enter and search such building, conveyance or enclosed place at any time between sunset and sunrise **after recording the grounds of his belief**. Where "prior information" related to the commission of an offence as provided under Chapter IV of the NDPS Act, there is time for obtaining warrant or authorization, efforts should be made to obtain such warrant and authorization from the Magistrate or the Gazetted Officer. Such information should be recorded in writing and a copy thereof sent to the superior immediate officer. Search and seizure can be effected between sunrise and sunset even without obtaining such warrant. Where search has to be effected after sunset and before sunrise, the officer so competent has to record his reason of belief and send a copy thereof to his immediate superior and he can search the building, conveyance or place.

Section 42 speaks of 'empowered officer' and such officer when in possession of such information relating to commission of offence under Chapter IV, either on his personal knowledge or

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information supplied by any one, must record 'information' in writing and do the following things:-

- (1) Enter into and search any such building, conveyance or place;
- (2) In case of resistance, break open any door and remove any obstacle to such entry;
- (3) Seize drug or substance and all materials; and
- (4) Detain and search, and, if he thinks proper arrest any person whom he has reasons to believe to have committed any offence punishable under this Act.

Where such empowered officer has reason to believe that a search warrant or authorization cannot be obtained without affording opportunity for the concealment of evidence or facility for the escape of an offender, he may enter and search such building, conveyance or enclosed space at any time between sunset and sunrise after recording the grounds of his belief. Where an officer takes down any information in writing under sub-section (1) or records grounds for his belief under the proviso thereto, he shall within 72 hours send a copy thereof to his immediate official superior. Provisions of Sections 41 and 42 are also mandatory. These provisions make it obligatory that such officers mentioned therein upon receiving information should reduce the same into writing and record reasons for belief while carrying out arrest or seizure as provided under the proviso of Section 41(2) of the Act. To that extent they are held as mandatory. **The provisions of NDPS Act, viz. Section 41(2) proviso to Section 42(1) and Section 50 have to be mandatorily complied with. If they are violated, it would vitiate the trial.** No such requirement as contemplated under sections 41 or 42 is applicable where such empowered officer is conducting search and seizure in public places.

The object of mandatory provisions is to protect the accused from false implication in the case as a legal right to the accused to get his search either before Magistrate or Gazetted Officer. A search before a Gazetted Officer or a Magistrate would impart much more authenticity and credit worthiness to the proceedings. The provisions of Section 50 of the NDPS Act protect the personal liberty and freedom of an accused person. It serves dual purpose and such search inspires confidence and evidence becomes more reliable and trustworthy. **The provisions of section 50 are mandatory in nature and not purely procedural and breach thereof vitiates the trial.** After a person is arrested and before a search is conducted, it is mandatory on the part of the officer to inform the accused that he has a legal right to be searched before a Gazetted Officer or a Magistrate. The accused will get the benefit, if there is a failure to

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comply with this provision. **Section 50 applies only in cases of search of the person. It does not extend to search of a vehicle or container or bag or premises.** Notice is mandatory in personal search. When compliance of Section 50 is not made, such violation is a serious one and prejudice is caused to the accused.

Sub-section(4) provides that where any person in or about such place is reasonably suspected of concealing about his person any article for which search should be made, such person may be searched and if such person is a woman the search shall be made by another woman with strict regard to decency. Hence, it can safely be concluded that compliance of Section 50 is mandatory.

While making a search and seizure, independent witnesses should be roped in but in absence of any public witness the statement of police officials are required to be scrutinized with due care and caution in order to see whether the offence is brought home against the accused beyond reasonable doubts. As per section 51 of the NDPS Act, the provisions of the Code of Criminal Procedure shall apply in so far as they are not inconsistent with the provisions of this Act to all warrants issued and arrests, searches and seizures made under this Act. Hence, provisions of Section 100 and 165 Cr.PC. are applicable. The provisions under section 100 and 165 Cr.PC. are procedural in nature and breach thereof does not render the evidence so collected as illegal or inadmissible at the trial but this evidence would be examined by the court with due care and caution.

The concept of a reasonable and fair trial would be one in which the accused as well as the victim or the aggrieved person gets justice. Various reasons have been cited above for these acquittals under NDPS Act but some focus is required on faulty investigation. Many of the cases fail on account of faulty investigation. If we identify the reasons for defective investigation, we will find that it starts right from the stage of filing of FIR to maintenance of case diary, search and seizure of articles/contrabands and documents. It is the duty of the investigating agencies to investigate fairly and thoroughly and collect all evidence whether for or against the accused. Protection of society being the paramount consideration, the laws procedures and police practice must be such as to ensure the guilty are apprehended and punished with utmost dispatch and in the process, the innocent are not harassed. Keeping in mind the grave consequences which are likely to follow on proof of possession of illicit articles/contrabands under the NDPS Act, namely, the shifting of the onus to the accused and severe punishment to which he becomes liable, the legislature has enacted and provided certain

safeguards in various provisions of the Act including Section 42 and 50 of the Act. A constitutional bench of Hon'ble Apex Court of India has held that while conducting search and seizure in addition to the safeguards provided under the Code of Criminal Procedure, the safeguards provided under the Act are also required to be followed. The harsh provisions of the Act cast a duty upon the prosecution to strictly follow the procedure and compliance of the safeguards. If the search is not carried out strictly in accordance with the safeguards indicated or in violation of procedural prescription, anything recovered suffers from illegality. The courts have held that no reliance can be placed on the evidence when there is failure to comply with provisions relating to search and seizure. In some cases investigation was conducted by some police officer who made recovery, seized the contraband and arrested the accused which was held to be invalid by the courts. Investigation should be conducted by some other independent officer. It is the duty of investigating officer to take necessary precaution after sealing the article to entrust his seal to the respective person (independent witness) so as to avoid the chance of tampering the seal.

The Supreme Court has in various cases held that cases where faulty investigation is evident, it is required that they be dealt with utmost sensitivity. In such cases, the broader probabilities are required to be examined and the courts are not to get swayed by minor contradictions or insignificant discrepancies which are not of substantial character. The evidence is required to be appreciated having regard to the background of the entire case and not in isolation. The ground realities are to be kept in view. Thus, it must be kept in view that every defective investigation need not necessarily result in the acquittal. In defective investigation, the only requirement is of extra caution by courts while evaluating evidence. It would not be just to acquit the accused solely as a result of defective investigation. Therefore, a pro-active approach of the court can be useful to meet the ends of justice where the investigating officer has deliberately rendered the investigation defective.

Besides above major reasons, there are some other reasons for acquittal in NDPS case: such as **delays in trial**. There are a large number of people awaiting trial in jails. The long time gap between the occurrence of a crime and the trial, usually casts doubts on the accuracy of the evidence. Often evidence becomes questionable, leading to acquittal on the grounds of **insufficient evidence**. **Witnesses turn hostile** during trial adding to high rate of acquittals. The situation needs remedial measures at once so that rule of law

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and effectiveness of the criminal justice delivery system are not only maintained but improved.

Despite the fact that around 275-300 cases are registered every year under the Act, the rate of acquittals is a matter of great concern as it elucidates the gap between the investigation and the law. As per the statics of the last five years, the J&K Police has seized 968 quintals of narcotic drugs, which include 47792 Kg opium derivates, 2820 Kg Cannibis, 1075 Kg Charas, 133 Kg Heroin/Brown Sugar, 43.4 Kg Ganja, 5 Kg opium etc. and about 7 lakh intoxicants. As per the records maintained by the SCRB, during the period ranging from 2008 to 2013, about 225 cases have ended up in conviction whereas 867 have been acquitted.

COMMON REASONS FOR FAILURE OF CASES

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- The person, who recovers the contraband from the accused, lodges the FIR and investigates the same.
- Separate occurrences/incidents are clubbed in one FIR and investigated.
- Civil witnesses are not associated during the course of investigation despite their availability on the spot. Army/PMF personnel are not cited as witness during a joint surprise check.
- Weight balance is often taken from the open market either from some fruit vendor or shopkeeper but weighing of the contraband is not proved at the stage of trial. The person from whom such weighing machine/balance was taken is invariably not examined as a witness.
- Contraband in a huge quantity is stated to be seized and sealed on the spot by the I.O. However, during the course of trial the seizure is proved to be of lesser quantity and not in consonance with the seizure memo.
- Places, from where the recoveries/seizures are made/effected are not proved because of contradictions by the witnesses in their deposition during the course of trial.
- Recovery and seizure from the accused is not proved because of contradictions in the statement of witnesses, their hostility etc. during the course of trial.
- Weight of samples taken and sent to FSL for chemical analysis are often disputed as bigger quantity of samples, taken by the I.O in the presence of a Magistrate and sent to FSL turns out to of lesser quantity when weighed by the FSL expert thereby raising a suspicion.
- Personal search of the accused is not proved as the Gazetted Officers conducting the search are neither cited as witness nor examined during the course of trial.

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- Cases solely based on the confession of the accused before the officer conducting the search/seizure in the absence of other incriminating evidence collected by the police.
- Witnesses are not properly examined. Material witnesses are not examined u/s 164-A Cr.PC.
- Different packs of contraband are recovered and seized but samples are taken from only few.
- No entries are made in the Malkhana register about the seizures, samples taken for re-sealing etc. in order to prove the safe custody of the seized contraband.
- Samples are usually sent late to the Forensic Labs and their retention under safe custody is not proved through the entries made in the Malkhana register during the course of trial. No explanation is given for delay in sending the samples.
- Impression seal affixed on the seized contraband/samples is kept on spurdnama (custody) of some police personnel/Munshi of the concerned Police Station and not with an independent witness which creates suspicion and gives rise to the chances of tampering of the samples.
- Tampering of seals of samples by the person in whose custody the sample seals are kept.
- Re-sealing of samples is not proved as the Magistrate who conducts the resealing is neither examined nor cited as a witness.
- Large numbers of samples are got re-sealed through the Magistrate but only few are sent to or received by the FSL.
- Seal impression of the seal used for packaging the samples is not sent to FSL for comparison.

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- Police Officials who are deputed alongwith the samples of the seized contraband to FSL and the Malkhana Incharge from whom such samples are taken are not examined nor cited as witnesses.
- Samples are sent to different laboratories however, fate of all the samples is not shared with the court.
- While formulating definite opinions, sometimes the FSL experts forward the samples to some other experts in order to detect the percentage of narcotic contraband. However, such reports are neither presented nor shared with the courts by the prosecution.
- When accused is arrested at a later stage on the basis of clues/identification provided by some witnesses, no ID parade is conducted before a Magistrate to pin point the actual accused.
- FSL reports/oral depositions of the FSL expert's often prove the seized contrabands by their common names but the scientific species to which such contraband belong as mentioned in the Schedule of NDPS Act, are neither specified in the report/ nor stated through depositions during the course of trial.
- Mandatory provisions, as laid down in Chapter V of the Act, particularly Sec. 42, 43, 50, 52-A, 55 and 57 are not complied with. There is an intentional and deliberate breach of Sec 55 by the Investigating Officer (s).
- In majority of cases police witnesses including SHO, I.O, FSL expert, Complainant and Ex-Magistrate are not examined by the prosecution which results in the failure of the case.
- No witness including the police witnesses are examined during the course of trial or lesser number of witnesses are examined or deferred witnesses are not produced

by the prosecution or the Police witnesses often don't support the story of the prosecution.

- Reader to the I.O or some other supporting staff who prepared the FIR, seizure memos and final report are not cited as witness nor examined.
- Case property is not produced in the court for the purpose of identification by the prosecution.
- Seal used for sealing/re-sealing is not located/ proved at the stage of trial.
- No sincere efforts are made by the prosecution to examine the material witnesses including the I.O which has a direct bearing on the case.
- Investigating Officers often fail to explain the contradiction which emerges out from the facts of the case and the testimony of witnesses during the course of trial.

PROCEDURE TO BE FOLLOWED (Do's and Don'ts)

- The need of the hour is to build a team of dedicated officers in the field of narcotics law enforcement who are well trained and equipped with updated knowledge and allied skills to effectively combat this menace. To achieve this objective, training programmes need to be conducted at all levels in order to enhance and hone the specialized skills required to improve performance and effectiveness of the personnel involved in drug law enforcement which shall ensure greater understanding of drug law enforcement and help in evolving uniform practices for effective counter measures. It will also

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enhance quality of cooperation amongst the investigating teams and various drug law enforcement agencies and bring about synergy in anti-drug measures. Therefore, all officer, of and upto, the rank of Sub-Inspector be specially trained in a phased manner to deal with the provisions of NDPS Act and placed/ posted at the newly created specialized cells/teams in each police station/District Hqrs.

- The training should include participation of all stakeholders i.e. State Police Custom, Central & State Excise, Forest Department, PMFs, RPF, CBI, IB, DRI, Courier Agencies, State Drug Controllers etc in each training programme which will ensure interaction among different agencies during training programmes and increase the quality and speed of inter-agency cooperation.
- The training must include the topics relating to drug law administration & enforcement including NDPS Act & Rules, Financial investigation, PITNDPS, Money Laundering, Composite seizures and other linkages, Modus Operandi, National Drug Scenario, important case studies, important court judgments, identification and spot testing of narcotic drugs, concealment methods, rummaging of vessels/ships in the sea for drugs and applicability of customs & other Acts including Computer Based Training Modules etc. and must be conducted at specialized places like National Academy of Customs Excise & Narcotics (NACEN), CBI Academy, National Institute of Criminology & Forensic Science, BSF, SSB, National and State Police Academies, Judicial Academies etc.
- Training courses be organised in such a way that atleast 400 officers undergo basic course and 200 officers undergo refresher courses annually. A 2-3 day module on the subject be incorporated in the basic training of Dy. SPs and Sub-Inspectors.
- Investigation of cases under NDPS be henceforth conducted by a specialized cell/team of officers specifically trained to deal with cases under the NDPS Act with an officer not below the rank of Sub-Inspector as its head under the close supervision of a gazetted officer, who shall monitor the progress of investigation on day to day basis and issue written guidelines to the team.

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- A panel of gazetted officers from the civil departments of the area, whose services shall be utilised on rotational basis, an FSL expert related with the subject, an Ex-Magistrate having jurisdiction in the area, a gazetted officer of Police, NCB expert, an expert from the deptt. of Weight & Measures and a crime photographer shall be kept prepared in a ready state through an administrative order, which shall, on receiving an information reach the spot immediately and carry out the legal formalities, as are required under the provisions of the NDPS, Act.
- The specialized investigation cell/team shall be equipped with the specialized investigation kit, to be procured by the Govt./PHQ and kept at the disposal of all the police districts, which shall include the material relating to packaging of contrabands, sealing sticks, impression seal, weighing scale and preliminary test kits containing re-agents etc. These kits shall be mandatorily carried by these teams to the spots, as and when information is received and put to maximum use as per requirements in a most professional manner.
- A checklist of all the steps to be taken on the spot and during the course of investigation, which is included with the recommendations, shall be kept ready in the specialized investigation kit and all the steps shall be tick marked on completion by the I.O before finalization of the investigation. The checklist, if used properly shall minimise the scope of deviation from the prescribed procedure and shall ensure quality investigation.
- All sort of informations received regarding commission of offences under the NDPS Act, search & seizure conducted together with the grounds of belief explained under the proviso thereof, shall be mandatorily reduced into writing in the daily diaries of the police stations and a detailed report in this regard shall be shared, without any fail, with the superior officers, at the earliest possible time, preferably within a period of 72 hours, as required under section 42 of NDPS Act.
- A memo containing details of all the proceedings conducted on the spot shall also be prepared under the signatures of all the persons /witnesses present on the spot.
- Under no circumstances, the person/officer/official who conducted the search/seizure on the spot or who lodged the

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complaint, shall carry out the investigation or remain associated with the investigation team.

- At the time of recovery of contraband, an inventory of such contrabands shall be made in detail relating to their description, quality, quantity, mode of packing, marks, number of other such identifying particulars, country or origin etc. and the entire consignment shall be seized. Minimum of two samples from each packet including a control sample with quantity of each representative sample drawn shall be 5 gms in case of all Narcotic Drugs and Psychotropic Substances, except ganja & charas where the quantity to be drawn shall be 24 gms. In case of Controlled Substances, if the same are in powder or liquid state, each sample size shall be 5 gm/5 ml and if it is a tablet/capsule form then each sample size shall contain at least a strip of 10 tablets/capsules. All these samples shall be packed and sealed in separate packets/boxes through FSL expert present on the spot under the seal of the Magistrate present on the spot, by making use of the seal kept in the specialized investigation kit for the purpose. Remaining contraband shall also be seized in separate packet (s) under the seal kept for the purpose and necessary seizure memos shall be prepared on the spot with specific entries related to time and place. Photography and Videography of the place of occurrence/recovery and process of such seizures shall also be done in order to maintain transparency.
- All entries regarding recoveries and seizures made on the spot be incorporated in the daily diaries/CD files, at the earliest with the resume of such recoveries/seizures in the CD files. All such samples taken on the spot for scientific examination shall be, as far as practicable, preferably within 24 hours, sent, through a special messenger, to the concerned Forensic Science Laboratory for chemical examination and reports. Statement of the special messenger deputed for the purpose shall be recorded u/s 161 Cr.PC and kept in the CD file to maintain the chain of evidence.
- Reports of all contrabands seized shall be forwarded within 48 hours of such seizure to Director General, Narcotics Control Bureau, Ministry of Home Affairs, Govt. of India on the prescribed FORM-F.
- All seizures shall be kept in the malkhana of the police station concerned with specific entries in the malkhana register under

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the charge of SHO/Munshi to prove the safe custody of the seized contraband, including the samples, in case the samples, owing to some extreme exigency, are not sent to FSL within the prescribed time as per the mandate of Sec. 55 of NDPS Act. Statements as witnesses of SHO/Munshi/Malkhana Incharge shall be reduced in writing to maintain the chain of evidence.

- In case, owing to some administrative exigency, if the Magistrate is not present on the spot, all the contraband seized and sealed on the spot in the presence of the independent civil witnesses, shall as far as practical, be taken before the nearest Magistrate at the earliest possible time, preferably within a period of 24 hours for taking out the samples for scientific examination. Chain of custody of the seized contraband shall be preserved through reports in Daily Diary and malkhana registers.
- All such seized/sealed packets of contrabands shall be placed before the Magistrate concerned who shall break open the seals affixed by the police, check the contents of the seizure to his satisfaction and knowledge and then take out the required samples, as per the prescribed specifications, duly measured/weighed and pack the same in separate packs under his own seals, as mandated under Sec. 52-A NDPS Act. These packs shall be immediately transmitted to FSL through some special messenger with the authority letter of the Magistrate, who shall be kept as a witness and his statement recorded u/s 161 Cr.PC and kept in CD file to maintain continuity of evidence. The Magistrate shall also be a witness to taking of samples, checking of the contraband and issuing the authority letter/authorization for FSL expert.
- The seals used by the I.O, SHO and the Magistrate shall be kept under custody (spurdnama) of some independent witness, who shall produce the said seal and appraise the court accordingly at the time of trial. This process shall further ensure transparency and minimise the presumptive chances of tampering with the seals affixed on the seized contrabands/ samples thereof.
- In case of chance recovery and its subsequent seizure owing to the reasonable belief that such person may part with the contraband lying in his personal possession, such seizures together with the reasons of belief shall be reduced in writing by the person making such recovery/seizure and his

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statement to this effect shall be reduced in writing by the I.O. As far as practicable, such recovery/seizure shall be immediately brought into the notice of the Incharge Police Station through all possible mediums of communication viz. Docket, mobile call, SMS, telephone call or through some special messenger. All such means of information shall be specifically detailed in writing, as evidence, to maintain sanctity of evidence.

- In case where a reasonable suspicion arises that some person is having a contraband in his possession, the officer/official present on the spot shall, as far as practicable, withhold such search and try to preserve the spot/accused till the team of officers specially empowered to deal with such circumstances, as prescribed under Sec. 50 of the NDPS Act arrives and carry out such search strictly in accordance with the mandate of ibid section.
- While enforcing the mandate of Sec. 50 of the NDPS Act, an option in writing, duly readover and explained in the language the person about to be searched understands, shall be provided and such search shall be carried out by the gazetted officers of the civil department, Magistrate or gazetted officer of the Police, already empanelled for the purpose and available on spot. The signatures shall be obtained from the accused on the option memo together with the signatures of witnesses and kept in the CD file as evidence. As there is no legal provision for attestation of the option memo or seizure memo or mere reference of such gazetted officers in the CD file as evidence, therefore, all such officers present on the spot and conducting the personal search shall sign as witnesses to option memo/seizure memo. The searching officer shall get himself searched through some other officer in presence of the accused before conducting the search of the accused and details of such searches and seizures shall be reduced in writing in the same manner as the said search/seizure has been conducted.
- In case, if some person is suspected to be in possession of a contraband but the officer present on the spot believes that there is every possibility that till such time the team of officers specially empowered to effect search/seizure arrives on the spot, the accused may part with the possession of the contraband, he shall in reference to Sub-section 5 & 6 of Sec 50 conduct the search/seizure on the spot immediately and record the proceedings in totality together with the reasons of

his belief and transmit the same to the investigating team together with the records of proceedings, seizures and his own statement.

- As far as practical the respectables/civilians of the area, who are present on the spot of occurrence or recovery, be associated with the investigation and kept as material witnesses in order to ensure transparency and sanctity of the investigation. In case of non-association or reluctance on the part of such civilians present on the spot, their detailed particulars be recorded in the CD file together with the reasons for their reluctance/non-association with the investigation as witnesses, so that the court can be appraised accordingly at the time of trial.
- All persons arrested and seizures made u/s 41, 42, 43 & 44 of NDPS Act shall be forwarded, without unnecessary delay to the I/C Police Station as required under Sec. 52 NDPS. All persons arrested shall be kept in police lockups/judicial lockups under proper remands/lawful custody with their regular medical checkups and every effort shall be made to complete the investigation and file the chargesheet on merits within the prescribed time frame.
- Whenever any person makes any arrest or seizure under this Act, he shall, within 48 hours of such arrest or seizure, make a full report of all the particulars of such arrest or seizure to his immediate superior official as per the mandatory requirement of Sec. 57 of NDPS Act.
- While investigating such type of cases every endeavour shall be made by the Specialized Investigation cells/teams to investigate all the related aspects of the crime keeping all the possible options open by the use of latest scientific technologies in order to bring the guilt of the accused to fore. Recovery of the contraband is fine but not sufficient in view of the present day crime scenario, as such, the chain of the drug exchanging hands, its origin and destination, links with the terrorist activities etc. is also required to be probed in an effective manner.
- All articles, things, conveyance etc. used in the transportation of narcotics be also seized with a proper inventory prepared on the spot, as these things/items are liable to be confiscated under Sec. 60 & 61 of the Act as per the procedure laid down in Sec. 63.

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- All samples sent to FSL shall, as far as practicable within a short span of time and on priority, be analysed and examined scientifically by the FSL experts and a report in this regard, specifying all the contents with their parameters including the species, as prescribed in the schedule appended to NDPS Act, be provide to the concerned investigating agency for finalization of the investigation on merits.
- The Govt. may make all suitable arrangements to post/induct a good number of reputed scientific experts in the FSL concerning the field in order to ensure effective and timely disposal of cases under examination with the FSL and maintain credibility and minimise delays.
- The services of the legal experts of the Police Department/NCB, who are otherwise not connected with the prosecution of the case at the time of trial, shall be utilized at regular intervals during the course of investigation to minimize the legal tangles and ensure compliance of the mandatory provisions of the Act.
- Keeping in view the large number of cases under the NDPS Act, the Govt. may empower/designate **Special Fast Track Courts** in all districts of the state for conducting exclusive trials of these cases in order to having an effective mechanism to deal with such type of cases and achieve desired results as there are still a considerable good number of cases under trial in various courts.
- PPs/APPs appointed by the Govt. to conduct the trial of such type of cases have proved ineffective to a larger extent because of their nature of engagement and unaccountability, as such, the services of Police Prosecutors of the designation of Dy. Directors/ Chief Prosecuting Officers can be utilized for conducting the prosecution of these cases in these Special Fast Track Courts to have effective and accountable prosecution for which the Govt./PHQ may designate/post these prosecutors to conduct the prosecution at the earliest in view of the fact that there are still a considerable number of cases under trial in various courts of the State.
- The Govt./PHQ may also provide the necessary infrastructure/ manpower including provisions of official/ residential

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accommodation for these designated prosecutors enabling them to discharge their duties more effectively.

- All District SPs, Dy.SP. and the Specialized Investigation cells/teams shall be duty bound to ensure production of prosecution witnesses in the court of law during the course of trial of these cases. Besides the incharge of the Specialized Investigation cells/teams being the chief I.O shall act as the pairvi officer in order to ensure effective prosecution by keeping track of the trial. In the event of transfer of the I.O, the replacement officer shall be immediately nominated as pairvi officer so that cases do not fail for want of effective liaising, tracking and follow up.
- For an effective execution of process during the trial of cases, **"Witness Monitoring Cells"** be created at Zonal/District levels which shall work in close coordination with each other and the prosecutor of the concerned court. These cells shall work under the overall supervision of the Zonal IGPs/District SPs and any laxity on the part of these cells shall be dealt with departmentally under the relevant rules.
- The seized contrabands kept under safe custody in malkhanas of the police stations or the courts shall be, without any inordinate delay, produced/presented before the court conducting the trial of the case, for the purpose of trial/identification through the related witnesses in order to prevent failure of the case for want of production of the seized contraband. The concerned prosecutor shall monitor the production of seized contrabands through the pairvi officer on the given dates.
- The Special Fast Track Courts shall decide all cases under NDPS within a period of 6 months from the date of filing of challan subject to grant of extension by the Hon'ble High Court in appropriate cases of exceptional nature inviting indulgence of the court. A calendar of trial in respect of each case shall be fixed and matters pertaining to bail should be decided within one week's time from filing of such application.
- After the culmination of the trial, in case of conviction, all the seized contrabands shall be destroyed/disposed of, under the orders of the Concerned Court after the appeal time is over, in the manner prescribed by the court and it shall be the duty of the concerned prosecutor to obtain all such orders from

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the court and ensure disposal of the contraband in order to prevent its recycling. Statement on monthly basis regarding the destruction/disposal of the seized contraband pertaining to the cases shall be shared with the PHQ through Zonal IGPs, where a proper data shall be maintained.

- Cases which end up in acquittal shall be appealed against without any unnecessary loss of time. In case of delay or laxity on the part of the concerned prosecutor, strict administrative/departmental action shall be initiated by the concerned supervisory officers/units.
- Similarly, in case of faulty investigations, deviation of the prescribed laws, burking of crime or illicit practices adopted by the investigating cell/team or its supervisory officer or during the pendency of the cases at the time of trial, effective departmental actions shall be immediately initiated against the erring officers/officials found responsible for the lapses and stringent & exemplary punishments shall be awarded in each case.
- Cases in which strictures have already been passed by different courts, the District SPs shall submit the action taken reports (ATRs) on all the actions taken/enquiries conducted and punishments imposed on the erring officials involved in the defective/perfunctory investigation of the cases which ended in acquittal since the last five years, to the PHQ through their respective Zonal IGPs, who shall monitor the process and ensure that these reports are furnished by each District, without fail.
- Govt. should take effective measures through wide publicity in print and electronic media to make the general public aware of the menace of drugs, the strict laws and the procedures relating to drug trafficking to dissuade the potential criminals.
- All the District SPs in close coordination with the NCB units stationed in the state of J&K and the State Crime Branch shall take all possible steps in curbing the menace of drugs, its production and transportation besides effective measures shall be made to destroy the illegal/unmanned/wild vegetation/plantation of bhang, poppy etc. having potential to be converted as a narcotic drug within the meaning of NDPS Act.

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- Effective steps shall also be taken to process the cases for preventive detentions of habitual offenders under the provisions of Prevention of Illicit Traffic in Narcotic Drugs & Psychotropic Substances Act, 1988.

MANDATORY LEGAL PROVISIONS UNDER CHAPTER-V NDPS, Act 1985).

Section 41. Power to issue warrant and authorisation;

(1) A Metropolitan Magistrate or a Magistrate of the first class or any Magistrate of the second class specially empowered by the State Government in this behalf, may issue a warrant for the arrest of any person whom he has reason to believe to have committed any offence punishable under this Act, or for the search, whether by day or by night, of any building, conveyance or place in which he has reason to believe any narcotic drug or psychotropic substance or controlled substance in respect of which an offence punishable under this Act has been committed or any document or other article which may furnish evidence of the commission of such offence or any illegally acquired property or any document or other article which may furnish evidence of holding any illegally acquired property which is liable for seizure or freezing or forfeiture under Chapter VA of this Act is kept or concealed.

(2) Any such officer of gazetted rank of the departments of central excise narcotics, customs, revenue intelligence or any other department of the Central Government including the para-military forces or the armed

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forces as is empowered in this behalf by general or special order by the Central Government, or any such officer of the revenue, drugs control, excise, **police** or any other department of a State Government as is empowered in this behalf by general or special order of the State Government if he has reason to believe from personal knowledge or information given by any person and taken in writing that any person has committed an offence punishable under this Act or that any narcotic drug or psychotropic substance or controlled substance in respect of which any offence under this Act has been committed or any document or other article which may furnish evidence of the commission of such offence or any illegally acquired property or any document or other article which may furnish evidence of holding any illegally acquired property which is liable for seizure or freezing or forfeiture under Chapter VA of this Act is kept or concealed in any building, conveyance or place, **may authorise any officer subordinate to him** but superior in rank to a peon, sepoy or a constable **to arrest such a person or search a building, conveyance or place whether by day or by night or himself arrest such a person or search a building, conveyance or place.**

(3) The officer to whom a warrant under sub-section (1) is addressed and the officer who authorised the arrest or search or the officer who is so authorised under sub-section (2) shall have all the powers of an officer acting under section 42.

Section 42. Power of entry, search, seizure and arrest without warrant or authorisation;

(1) Any such officer (being an officer superior in rank to a peon, sepoy or constable) of the departments of central excise, narcotics, customs, revenue intelligence or any other department of the Central Government including paramilitary forces or armed forces as is empowered in this behalf by general or special order by the Central Government, or any such officer (being an officer superior in rank to a peon, sepoy or constable) of the revenue, drugs control, excise, police or any other department of a State Government as is empowered in this behalf by general or special order of the State Government, if he has reason to believe from personal knowledge or information given by any person and taken down in writing that any narcotic drug, or psychotropic substance, or controlled substance in respect of which an offence punishable under this Act has been committed or any document or other article which may furnish evidence of

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the commission of such offence or any illegally acquired property or any document or other article which may furnish evidence of holding any illegally acquired property which is liable for seizure or freezing or forfeiture under Chapter VA of this Act is kept or concealed in any building, conveyance or enclosed place, may between sunrise and sunset,—

(a) enter into and search any such building, conveyance or place;

(b) in case of resistance, break open any door and remove any obstacle to such entry;

(c) seize such drug or substance and all materials used in the manufacture thereof and any other article and any animal or conveyance which he has reason to believe to be liable to confiscation under this Act and any document or other article which he has reason to believe may furnish evidence of the commission of any offence punishable under this Act or furnish evidence of holding any illegally acquired property which is liable for seizure or freezing or forfeiture under Chapter VA of this Act; and

(d) detain and search, and, if he thinks proper, arrest any person whom he has reason to believe to have committed any offence punishable under this Act: **Provided** that if such officer has reason to believe that a search warrant or authorisation cannot be obtained without affording opportunity for the concealment of evidence or facility for the escape of an offender, he may enter and search such building, conveyance or enclosed place at any time between sunset and sunrise after recording the grounds of his belief.

(2) Where an officer takes down any information in writing under sub-section (1) or records ground for his belief under the proviso thereto, he shall within seventy-two hours send a copy thereof to his immediate official superior.

Section 43. Power of seizure and arrest in public place;

Any officer of any of the departments mentioned in section 42 may—

(a) seize in any public place or in transit, any narcotic drug or psychotropic substance or controlled substance in respect of which he has reason to believe an offence punishable under this Act has been committed, and, along with such drug or substance, any animal or conveyance or article liable to confiscation under this Act, any document or other article which he has reason to believe may furnish

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evidence of the commission of an offence punishable under this Act or any document or other article which may furnish evidence of holding any illegally acquired property which is liable for seizure or freezing or forfeiture under Chapter VA of this Act;

(b) detain and search any person whom he has reason to believe to have committed an offence punishable under this Act, and if such person has any narcotic drug or psychotropic substance or controlled substance in his possession and such possession appears to him to be unlawful, arrest him and any other person in his company.

Explanation.—For the purposes of this section, the expression "public place" includes any public conveyance, hotel, shop, or other place intended for use by, or accessible to, the public'.

Section 44. Power of entry, search, seizure and arrest in offences relating to coca plant, opium, poppy and cannabis plant;

The provisions of sections 41, 42 and 43 shall so far as may be, apply in relation to the offences punishable under Chapter IV and relating to coca plant, the opium poppy or cannabis plant and for this purpose references in those sections to narcotic drugs, or psychotropic substance 1[or controlled substance], shall be construed as including references to coca plant, the opium poppy and cannabis plant.

Section 45. Procedure where seizure of goods liable to confiscation not practicable;

Where it is not practicable to seize any goods (including standing crop) which are liable to confiscation under this Act, any officer duly authorised under section 42 may serve on the owner or person in possession of the goods, an order that he shall not remove, part with or otherwise deal with the goods except with the previous permission of such officer.

Section 46. Duty of land holder to give information of illegal cultivation;

Every holder of land shall give immediate information to any officer of the police or of any of the departments mentioned in section 42 of all the opium poppy, cannabis plant or coca plant which may be illegally cultivated within

his land and every such holder of land who knowingly neglects to give such information, shall be, liable to punishment.

Section 47. Duty of certain officers to give information of illegal cultivation;

Every officer of the government and every panch, sarpanch and other village officer of whatever description shall give immediate information to any officer of the police or of any of the departments mentioned in section 42 when it may come to his knowledge that any land has been illegally cultivated with the opium poppy, cannabis plant or coca plant, and every such officer of the Government, panch, sarpanch and other village officer who neglects to give such information shall be liable to punishment.

Section 48. Power of attachment of crop illegally cultivated;

Any Metropolitan Magistrate, Judicial Magistrate of the first class or any Magistrate specially empowered in this behalf by the State Government 2[or any officer of a gazetted rank empowered under section 42] may order attachment of any opium poppy, cannabis plant or coca plant which he has reason to believe to have been illegally cultivated and while doing so may pass such order (including an order to destroy the crop) as he thinks fit.

Section 49. Power to stop and search conveyance

Any officer authorised under section 42, may, if he has reason to suspect that any animal or conveyance is, or is about to be, used for the transport of any narcotic drug or psychotropic substance 3[or controlled substance], in respect of which he suspects that any provision of this Act has been, or is being, or is about to be, contravened at any time, stop such animal or conveyance, or, in the case of an aircraft, compel it to land and—

(a) rummage and search the conveyance or part thereof;

(b) examine and search any goods on the animal or in the conveyance;

(c) if it becomes necessary to stop the animal or the conveyance, he may use all lawful means for stopping it, and where such means fail, the animal or the conveyance may be fired upon.

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Section 50. Conditions under which search of persons shall be conducted;

(1) When any officer duly authorised under section 42 is about to search any person under the provisions of section 41, section 42 or section 43, he shall, if such person so requires, take such person without unnecessary delay to the nearest Gazetted Officer of any of the departments mentioned in section 42 or to the nearest Magistrate.

(2) If such requisition is made, the officer may detain the person until he can bring him before the Gazetted Officer or the Magistrate referred to in sub-section (1).

(3) The Gazetted Officer or the Magistrate before whom any such person is brought shall, if he sees no reasonable ground for search, forthwith discharge the person but otherwise shall direct that search be made.

(4) No female shall be searched by anyone excepting a female.

(5) When an officer duly authorised under section 42 has reason to believe that it is not possible to take the person to be searched to the nearest Gazetted Officer or Magistrate without the possibility of the person to be searched parting with possession of any narcotic drug or psychotropic substance, or controlled substance or article or document, he may, instead of taking such person to the nearest Gazetted Officer or Magistrate, proceed to search the person as provided under section 100 of the Code of Criminal Procedure.

(6) After a search is conducted under sub-section (5), the officer shall record the reasons for such belief which necessitated such search and within seventy-two hours send a copy thereof to his immediate official superior.

Section 52. Disposal of persons arrested and articles seized;

(1) Any officer arresting a person under section 41, section 42, section 43 or section 44 shall, as soon as may be, inform him of the grounds for such arrest.

(2) Every person arrested and article seized under warrant issued under sub-section (1) of section 41 shall be forwarded without unnecessary delay to the Magistrate by whom the warrant was issued.

(3) Every person arrested and article seized under sub-section (2) of section 41, section 42, section 43 or section 44 shall be forwarded without unnecessary delay to—

- (a) the officer-in-charge of the nearest police station, or
- (b) the officer empowered under section 53.

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(4) The authority or officer to whom any person or article is forwarded under sub-section (2) or sub-section (3) shall, with all convenient despatch, take such measures as may be necessary for the disposal according to law of such person or article.

Section 52A. Disposal of seized narcotic drugs and psychotropic substances;

(1) The Central Government may, having regard to the hazardous nature of any narcotic drugs or psychotropic substances, their vulnerability to theft, substitution, constraints of proper storage space or any other relevant considerations, by notification published in the Official Gazette, specify such narcotic drugs or psychotropic substances or class of narcotic drugs or class of psychotropic substances which shall, as soon as may be after their seizure, be disposed of by such officer and in such manner as that Government may, from time to time, determine after following the procedure hereinafter specified.

(2) Where any narcotic drug or psychotropic substance has been seized and forwarded to the officer-in-charge of the nearest police station or to the officer empowered under section 53, the officer referred to in sub-section (1) shall prepare an inventory of such narcotic drugs or psychotropic substances containing such details relating to their description, quality, quantity, mode of packing, marks, numbers or such other identifying particulars of the narcotic drugs or psychotropic substances or the packing in which they are packed, country of origin and other particulars as the officer referred to in sub-section (1) may consider relevant to the identity of the narcotic drugs or psychotropic substances in any proceedings under this Act and make an application, to any Magistrate for the purpose of—

(a) certifying the correctness of the inventory so prepared; or

(b) taking, in the presence of such Magistrate, photographs of such drugs or substances and certifying such photographs as true; or

(c) allowing to draw representative samples of such drugs or substances, in the presence of such Magistrate and certifying the correctness of any list of samples so drawn.

(3) Where an application is made under sub-section (2) the Magistrate shall, as soon as may be, allow the application.

(4) Notwithstanding anything contained in the Indian Evidence Act, 1872 (1 of 1872) or the Code of Criminal

Procedure, 1973 (2 of 1974), every court trying an offence under this Act, shall treat the inventory, the photographs of narcotic drugs or psychotropic substances and any list of samples drawn under sub-section (2) and certified by the Magistrate, as primary evidence in respect of such offence.

Section 53. Power to invest officers of certain departments with powers of an officer-in-charge of a police station;

(1) The Central Government, after consultation with the State Government, may, by notification published in the Official Gazette, invest any officer of the department of central excise, narcotics, customs, revenue intelligence 2[or any other department of the Central Government including para-military forces or armed forces] or any class of such officers with the powers of an officer-in-charge of a police station for the investigation of the offences under this Act.

(2) The State Government may, by notification published in the Official Gazette, invest any officer of the department of drugs control, revenue or excise 1[or any other department] or any class of such officers with the powers of an officer-in-charge of a police station for the investigation of offences under this Act.

Section 53A. Relevancy of statements under certain circumstances;

(1) A statement made and signed by a person before any officer empowered under section 53 for the investigation of offences, during the course of any inquiry or proceedings by such officer, shall be relevant for the purpose of proving, in any prosecution for an offence under this Act, the truth of the facts which it contains,—

(a) when the person who made the statement is dead or cannot be found, or is incapable of giving evidence, or is kept out of the way by the adverse party, or whose presence cannot be obtained without an amount of delay or expense which, under the circumstances of the case, the court considers unreasonable; or

(b) when the person who made the statement is examined as a witness in the case before the court and the court is of the opinion that, having regard to the circumstances of the case, the statement should be admitted in evidence in the interest of justice.

(2) The provisions of sub-section (1) shall, so far as may be, apply in relation to any proceedings under this Act or the rules or orders made thereunder, other than a proceeding

before a court, as they apply in relation to a proceeding before a court.

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Section 54. Presumption from possession of illicit articles;

In trials under this Act, it may be presumed, unless and until the contrary is proved, that the accused has committed an offence under this Act in respect of—

(a) any narcotic drug or psychotropic substance or controlled substance;

(b) any opium poppy, cannabis plant or coca plant growing on any land which he has cultivated;

(c) any apparatus specially designed or any group of utensils specially adopted for the manufacture of any narcotic drug or psychotropic substance or controlled substance; or

(d) any materials which have undergone any process towards the manufacture of a narcotic drug or psychotropic substance or controlled substance, or any residue left of the materials from which any narcotic drug or psychotropic substance or controlled substance has been manufactured, for the possession of which he fails to account satisfactorily.

Section 55. Police to take charge of articles seized and delivered;

An officer-in-charge of a police station shall take charge of and keep in safe custody, pending the orders of the Magistrate, all articles seized under this Act within the local area of that police station and which may be delivered to him, and shall allow any officer who may accompany such articles to the police station or who may be deputed for the purpose, to affix his seal to such articles or to take samples of and from them and all samples so taken shall also be sealed with a seal of the officer-in-charge of the police station.

Section 56. Obligation of officers to assist each other;

All officers of the several departments mentioned in section 42 shall, upon notice given or request made, be legally bound to assist each other in carrying out the provisions of this Act.

Section 57. Report of arrest and seizure;

Whenever any person makes any arrest or seizure under this Act, he shall, within **forty-eight hours** next after such arrest

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or seizure, make a full report of all the particulars of such arrest or seizure to his immediate superior official.

Section 58. Punishment for vexatious entry, search, seizure or arrest;

(1) Any person empowered under section 42 or section 43 or section 44, who—

(a) without reasonable ground of suspicion enters or searches, or causes to be entered or searched, any building, conveyance or place;

(b) vexatiously and unnecessarily seizes the property of any person on the pretence of seizing or searching for any narcotic drug or psychotropic substance or other article liable to be confiscated under this Act, or of seizing any document or other article liable to be seized under section 42, section 43 or section 44; or

(c) vexatiously and unnecessarily detains, searches or arrests any person, shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees, or with both.

(2) Any person wilfully and maliciously giving false information and so causing an arrest or a search being made under this Act shall be punishable with imprisonment for a term which may extend to two years or with fine or with both.

Section 59. Failure of officer in duty or his connivance at the contravention of the provisions of this Act;

(1) Any officer, on whom any duty has been imposed by or under this Act and who ceases or refuses to perform or withdraws himself from the duties of his office shall, unless he has obtained the express written permission of his official superior or has other lawful excuse for so doing, be punishable with imprisonment for a term which may extend to one year or with fine or with both.

(2) Any officer on whom any duty has been imposed by or under this Act or any person who has been given the custody of—

(a) any addict; or

(b) any other person who has been charged with an offence under this Act, and who wilfully aids in, or connives at, the contravention of any provision of this Act or any rule or order made thereunder, shall be punishable with rigorous imprisonment for a term which shall not be less than ten years but which may extend to twenty years, and shall also be

liable to fine which shall not be less than one lakh rupees but which may extend to two lakh rupees.

Explanation.—For the purposes of this sub-section, the expression "officer" includes any person employed in a hospital or institution maintained or recognised by the Government or a local authority under section 64A for providing de-addiction treatment.

(3) No court shall take cognizance of any offence under sub-section (1) or sub-section (2) except on a complaint in writing made with the previous sanction of the Central Government, or as the case may be, the State Government.

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INVESTIGATORS CHECK LIST

In order to ensure that nothing material has been overlooked by the investigating officers/ prosecutors during the course of investigation/ trial which ultimately has a direct bearing on the fate of the case, a checklist shall be kept ready and tick marked appropriately during the course of investigation/trial.

DURING INVESTIGATION

1. Was the information recorded by him?
{Sec 41 (1)} ☐
2. Was the personal belief and the ground for conducting search in the absence of authorization recorded in writing by him?
{Sec 42 (1)} ☐
3. Was a copy of the said document as at 1 or 2, as applicable, sent to his official superior within 72 hours?
{Sec 42 (2)} ☐
4. Was the copy of search authorization shown and signatures of two independent witnesses and the owner/occupier available in the premises at the time of search obtained/procured thereon? ☐
5. Did the search team offer their own personal search by the owner/occupier of the premises before beginning the search of the premises? ☐
6. Was a written notice under section 50 of the NDPS Act served on the occupants of the premises or on the person who is intercepted at a public place and was the response to such a notice recorded in writing thereon? ☐

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7. Was a lady officer present in the search team to ensure that a female is searched by a female?
{Sec 50 (4)} ☐
8. Was the reason to believe that the person about to be searched will part with the possession of drugs and other incriminating articles as such cannot be taken to such officer, recorded in writing?
{Sec 50 (5)} ☐
9. Was the copy of the document, as at 8, sent to his immediate superior within 72 hours?
{Sec 50 (6)} ☐
10. Were all the recovered substances tested on the spot with drug detection kits etc. to verify the presence of narcotics etc. and were the necessary documents prepared in this regard? ☐
11. Were all the recovered documents, articles or things scrutinized/examined to determine their relevance to the commission of offence under the Act? ☐
12. Were all the recovered and relevant items liable to seizure and confiscation entered carefully in an inventory and documented in the seizure memo? ☐
13. Were all the goods, documents, articles, things and assets found relevant to the commission of offence and subsequent investigations, recovered during search, seized and the fact of seizure documented in the memo? ☐
14. Were two representative samples drawn from each package or lot of the suspect seized substances on the spot? ☐
15. Was it ensured that the representative samples are of specified weights? ☐
16. Were all the packages including the representative samples properly packed, marked and sealed? ☐



17. Was the seizure memo/site plan of place of recovery prepared/drawn carefully on the spot and correctly indicating the sequence of events including start and end time of the search proceedings? ☐
18. Was it ensured that the seizure memo of all the recovered/ seized documents/ articles/ things bear signatures of the person whose premises was searched or from whom the recovery was made, two independent witnesses, the I.O, and the lady officer present on the spot for the search of a lady? ☐
19. Was a notice to examine the owner/occupant and recovery witnesses under Sec. 67 of the Act issued and their statements recorded by the I.O? ☐
20. Was a written arrest memo informing the grounds of arrest prepared in respect of the person arrested? ☐
21. Was the arrest made in the presence of a witness and his signatures obtained on the arrest memo? ☐
22. Was the fact of arrest intimated to one of the relative or friend of the person who was arrested and the same endorsed on the arrest memo? ☐
23. Were the guidelines prescribed by the Hon'ble Supreme Court of India in case titled Govt. of West Bengal Vs. D.K Basu followed? ☐
24. Was the personal search memo (fard jamatalashi) prepared? ☐

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25. Was the arrested person produced before a magistrate within 24 hours of his arrest? ☐
26. Was a report of seizure and arrest sent to the immediate superior within 48 hours of seizure/arrest? (Sec 57) ☐
27. Were the seized goods and samples deposited in the Malkhana at the earliest after seizure and entries made in the Malkhana register accordingly and statement of Malkhana Incharge recorded? ☐
28. Were the samples forwarded/ sent to FSL for analysis and report, within 72 hours of seizure? ☐
29. Were proceedings under Sec. 68 F of the NDPS Act relating to seizing/freezing all assets etc. initiated, order issued and served in this regard upon the person searched and proceedings shared with the Jurisdictional Competent Authority (NCB) within 48 hours of such search/action? ☐
30. Were all the leads/clues evaluated, analysed and investigated subsequently to establish independent corroborating evidence of the roles of the accused persons, their links etc. in the crime? ☐
31. Was the investigation file put up before superior officers to inform them of the progress in the case on a regular basis at least once in a week/fortnight for their instructions and guidance? ☐
32. Was the test report received from FSL in time? If not, is it being followed up? ☐
33. Was the investigation completed on time at least two weeks before the time to file chargesheet? ☐

34. Was the draft chargesheet evidence collected etc. vetted through superior officer/legal officers before its presentation?

☐

35. Is the chargesheet complete in all respects and includes all material facts & evidences collected during investigation, details of all the witnesses and accompanied with all the original documents at the time of its presentation before the court?

☐

36. Was an application made for pre-trial disposal of the seized goods under Sec 52-A of NDPS Act?

☐

37. Was the application for pre-trial disposal of the seized goods disposed of by the magistrate? If yes, was the process of disposal initiated and certificate to that effect placed in CD file as evidence?

☐

DURING TRIAL

1. Is the progress of trial satisfactory? If not, was the concerned prosecutor consulted and steps taken to ascertain the reasons and casus of delay?

☐

2. Whether all the prosecution witnesses attended the trial and were examined?

☐

3. Whether the police witnesses/ public servants attended the court and recorded their statements? If not whether any intimation was sent to their immediate superiors for information in order to secure his attendance in the court?

☐

4. Whether any departmental action initiated against the erring officials/officers who failed to attend the trial of the case despite notice?

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5. Was a judgment of conviction or acquittal and confiscation of goods u/s 60,61,62 and 63 of NDPS Act passed in the case? ☐
6. Whether the disposal proceedings of drugs and other items, ordered by the court, initiated as per the prescribed procedure? ☐
7. Whether the judgment order analysed in case of acquittal or in case of lighter punishments awarded in cases and discussed with the concerned prosecutors/legal experts of the department to file appeals in the higher forums? ☐

ANNEXURE-A**NAME OF ORGANIZATION OFFICE/UNIT**

(Mention complete address/contact number)

**(Authorization to search premises u/s 41(2) of the NDPS Act
1985)**To
(Mention name and designation)

of the officer being authorized to
conduct search)



.....
.....
.....

Whereas from the information laid before me it transpires that an offence in respect of Narcotic Drugs/Psychotropic Substances/ Controlled Substances has been committed in contravention of the provisions of the NDPS Act 1985 and that there is reasonable belief that such substances and other articles, things, documents which may provide evidence of the contravention of the Act and of holding illegally acquired property which are liable to seizure/forfeiture under Chapter VA of the Act are kept and concealed in the premises/at

.....

..... under the control and occupation of
Shri..... S/o.....

Now therefore, by virtue of powers vested in under Section 41(2) of the NDPS Act, 1985, you are hereby authorized to search the aforesaid premises by day or by night and seize such substances, articles, things, documents and inform the undersigned about the result of the search and action taken in respect of substance, articles, things, documents recovered therefrom.

Valid for.....day.
(Signatures)

Date of Issue:.....
G.O

Name and designation of the

With his Office Seal

ANNEXURE-B

NAME OF ORGANIZATION OFFICE/UNIT

(Mention complete address/contact number)

(Notice u/s 50 of the NDPS Act 1985)

To

.....
.....



Subject: Notice under section 50 of the NDPS Act, 1985.

Sir,

Whereas there is reason to believe that Narcotic Drugs/Psychotropic Substances/Controlled Substances and/or documents, articles and things, documents which may provide evidence of commission of an offence under the NDPS Act, 1985 are in your possession, therefore, your personal search is to be conducted by the undersigned. If you so require, such search will be conducted in presence of the nearest Gazetted Officer or Magistrate.

Date:.....

(Signatures)

(Name and designation of the Officer)

Statement of(the person about to be searched)

I have been informed and have understood the Notice of Personal Search under Sec. 50 of the NDPS Act. I require/do not require that my personal search may be conducted in presence of the nearest Gazetted Officer or Magistrate.

(Signatures)

Issued on.....

Name of the person

Witnesses:

- 1.
- 2.

ANNEXURE-C

NAME OF ORGANIZATION OFFICE/UNIT

(Mention complete address/contact number)

(ARREST MEMO)

In view of the recovery and seizure of
from the
 possession of Shri on
and also based on preliminary investigations
 including statement of Shri

..... dated U/s
67 of NDPS Act, 1985, it transpires that Shri
.....age aboutyears S/o
Shri.....R/o.....has
committed an offence punishable u/s
16/17/18/19/20/21/22/23/24/25/26/27/27A/28/29/30/31 (strike
out if not applicable to the case) read with Sec 8 of NDPS Act
1985.

Accordingly ShriS/o
..... has been placed under arrest at about
.....hrs on He has been informed and
explained the grounds of his arrest.

Date:.....

(Signatures)

(Name and designation of the Officer)

I have been informed and explained the grounds of my
arrest. The fact of my arrest has been witnessed by Shri
.....S/o.....R/o.....
.....who is my friend/ relative.

Received copy of the arrest
Memo.

(Signatures of the person arrested)

Signatures of Witness (s):

ANNEXURE-D

NAME OF ORGANIZATION OFFICE/UNIT

(Mention complete address/contact number)

(PERSONAL SEARCH MEMO)

(Jama Talashi)

Subsequent to the arrest of Shri
..... S/o R/o
....., his 'Jama Talashi' was conducted in
the presence of two witnesses and the following items have
been recovered from his possession:

- 1.
- 2.
- 3.
- 4.
- 5.

(Signature)

Date:.....

(Name and designation of the Officer)

Signatures of Witness (s):

1.

2.

Signature of the Arrestee.....

Name & Address.....

ANNEXURE-E

FORM-F

**(SEIZURE REPORT OF NARCOTIC DRUGS, PSYCHOTROPIC
SUBSTANCES, CONTROLLED SUBSTANCES)**

(To be forwarded within 48 hours of the seizure to DG, NCB)

1. NAME OF SEIZING AGENCY:
2. DATE OF SEIZURE:
3. PLACE OF SEIZURE:
4. QUANTITY SEIZED:

KGs.

GRAMS

MILIGRAMS

- | | | | |
|------|----------|-------|-------|
| (i) | OPIUM | | |
| | | | |
| (ii) | MORPHINE | | |
| | | | |

- OB
- (iii) HEROIN
.....
- (iv) GANJA
.....
- (v) CHARAS
(HASHISH).....
- (vi) COCAINE
.....
- (vii) ECSTASY
.....
- (viii) METHAQUALONE/MANDRAX.....
...
- (ix) CONTROLLED SUBSTANCES
(*) (PRECURSORS).....
(*) ACETIC ANHYDRIDE/N-ACETYL ANTHRANILIC
ACID/EPHEDRINE/PSEUDO EPHEDRINE & ANTHRANILIC
ACID
- (x) PSYCHOTROPIC
SUBSTANCES.....
- (xi) KETAMINE
.....
- (xii) PHARACEUTICAL PREPARATIONS CONTAINING
NARCOTIC DRUGS & PSYCHOTROPIC SUBSTANCES
.....
- (xiii) AMPHETAMINE TYPE STIMULANTS (ATS)
.....
- (xiv) LSD
.....
- (xv) ANY OTHER
DRUG/CHEMICAL.....
5. PACKING/MARKING, IF ANY:
6. SECTION OF THE NDPS/OTHER ACTS (DRUGS & COSMETIC
ACT, CUSTOMS ACT, PMLA, STATE EXCISE ACT, ETC.) UNDER
WHICH OFFENCE IS COMMITTED:
7. ADDRESS OF THE PREMISES WHERE SEIZURE EFFECTED:
8. WHETHER SEIZED FROM A FACTORY/ILLICIT LABORATORY:
(IF SO, DETAILS THEREOF)
9. PRICE OF SEIZED DRUGS:
(a) AT THE PLACE OF ORIGIN/SOURCE:
(b) WHOLE SALE:
(c) RETAIL (STREET LEVEL)
10. IF SEIZED AT AIRPORT/RAILWAY STATION/BUS STAND ETC:
(i) FLIGHT/TRAIN/BUS ROUTE
(ii) ARRIVAL/DEPARTURE
(iii) ORIGIN/DESTINATION.
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11. MODE OF TRANSPORT-AIR/ROAD/COURIER:
(i) REGISTRATION NO. OF THE VEHICLE:
(ii) MAKE: MODEL:
(iii) NAME & ADDRESS OF THE OWNER:
12. SUSPECTED SOURCE OF THE SEIZED DRUG/CONTROLLED SUBSTANCES:
(COUNTRY/PLACE AND NAME/PERSON NAME):
13. SUSPECTED DESTINATION OF THE SEIZED DRUG/CONTROLLED SUBSTANCES (COUNTRY/PLACE NAME/PERSON NAME):
14. MODUS OPERANDI/CONCEALMENT (SPECIFY THE DETAILS OF MODUS OPERANDI NOTICED)
15. NEW METHOD OF DIVERSION OF PRECURSORS AND ILLICIT MANUFACTURE:
16. PARTICULARS OF THE OFFENDERS/PERSON ARRESTED (FILL UP SEPARATE SHEET IF PERSONS ARRESTED ARE MORE THAN ONE):
- (i) NAME:
 - (ii) ALIAS (IF ANY):
 - (iii) SEX (MALE/FEMALE):
 - (iv) PROFESSION-BUSINESS/STUDENT/LABOUR ETC.
 - (v) FATHER'S NAME:
 - (vi) AGE/DATE OF BIRTH:
 - (vii) ADULT OR MINOR (BELOW 18 YEARS)
 - (viii) NATIONALITY:
 - (ix) PASSPORT/IDENTITY CARD/PAN NO, ETC.:
 - (x) DATE & PLACE OF ISSUE:
 - (xi) ADDRESS (INDICATE THE POLICE STATION AND POST OFFICE WITHIN WHICH THE PERSON HAS RESIDENCE: PO, PS:
17. WHETHER TRAFFICKER/CARRIER/DRUG PEDDLER/DRUG ADDICT:
18. PREVIOUS INVOLVEMENT IN DRUG TRAFFICKING OR OTHER CRIMINAL CASES:
19. WHETHER MEMBER OR PART OF DRUG SYNDICATE/CARTEL/GANG (IF SO, PROVIDE DETAILS):
20. WHETHER DETAINED UNDER THE PITNDPS ACT EARLIER. (IF SO, FURNISH DETAILS)
21. PARTICULARS OF ACCOMPLICES NAMED BY THE OFFENDER/ARRESTED PERSONS (FILL SEPARATE SHEET FOR EACH ACCOMPLICE)
- (i) NAME:
 - (ii) ALIAS (IF ANY):
 - (iii) SEX (MALE/FEMALE):
 - (iv) PROFESSION-BUSINESS/STUDENT/LABOUR ETC.
 - (v) FATHER'S NAME:
 - (vi) AGE/DATE OF BIRTH:
 - (vii) ADULT OR MINOR (BELOW 18 YEARS)

- (viii) NATIONALITY:
(ix) PASSPORT/IDENTITY CARD/PAN NO, ETC.:
(x) DATE & PLACE OF ISSUE:
(xi) ADDRESS (INDICATE THE POLICE STATION AND POST OFFICE WITHIN WHICH THE PERSON HAS RESIDENCE: PO, PS:

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22. BRIEF FACTS OF THE CASE (NARRATE THE EVENTS STARTING FROM RECEIPT ON INTELLIGENCE (IF ANY) AND ANY FACTS OF INTEREST FROM VERIFICATION ANGLE):
23. DETAILS OF PROPERTY SEIZED/FORFEITED:
24. NAME, DESIGNATION AND PART PLAYED BY THE OFFICERS IN THE SEIZURE CASE:
25. ANY EMERGENCE/FORMATION OF NETWORK/GANGS & INTERLINKAGE. (IF SO, PROVIDE DETAILS)
26. WHETHER JOPINT INTERROGATION DONE AND INPUT SHARED WITH CONCERNED ENFORCEMENT AGENCIES (IF SO, PROVIDE DETAILS)
27. SEND FOLLOW UP ACTION/INVESTIGATION REPORT IN RESPECT OF THE FOLLOWING WITHIN 30 DAYS:
(i) PURITY PERCENTAGE OF SEIZED DRUGS:
(ii) ADULTERANTS/DILUTANTS:
(iii) RESULT OF FINANCIAL INVESTIGATIONS:
(iv) LINKAGE OF NARCO-TERRORISM AND MONEY LAUNDERING:
(v) ACTION AGAINST MEMBERS OF GANG/SYNDICATES:
(vi) DETAILS OF ACTION INITIATED BY INCOME TAX/ENFORCEMENT DIRECTORATES OF REVENUE INTELLIGENCE AND CUSTOMS:
(vii) INTERFACE WITH OTHER AGENCIES IN INDIA/ABROAD:

Dated:.....

(Signatures)

(Name and designation of the Officer)

(This report should be forwarded to the DG, NCB, West Block-I, Wing No. V, R.K. Puram, New-Delhi-110066 within 48 hours of the seizure. FAX No. 011-26185240).