

RMM LAW COLLEGE SAHARSA

CODE OF CRIMINAL PROCEDURE

IIIrd Part

Paper -3

**TOPIC- PROVISIONS AS TO
ACCUSED PERSONS OF**

Topic- REVISION

Lecture Notes by- BINOD KUMAR JHA

Date- 19/10/2020

and the name of the accused

What is Investigation?

According to Section 2(h) of the Code, an investigation is the process of collecting evidence by either a police officer or any other person that is authorised by a Magistrate to do so.

- For the purposes of investigation, cases under CrPC have been divided into cognizable and non-cognizable cases.
 - Cognizable cases are serious criminal matters where the police can arrest without any warrant and can start investigating without permission by a magistrate. These cases include among others Murder, Rape, etc.
 - Non-cognizable cases on the other hand are less serious matters where the police cannot arrest without a valid warrant and also can start the investigation only when they obtain permission from a magistrate, for instance, cases like Assault and Defamation.
- The process of investigation starts by taking cognizance of a case and is completed when the police report is submitted under Section 173.

- The process of investigation is thorough and full of intricate procedures, any irregularities in the procedure may result in the acquittal of the accused.

Arrest in CrPC

Arrest means the apprehension of a person by the authorities, thus depriving him of his liberty. In criminal law, it is an essential aspect so that the accused is made to face the process of law and also prevents him from absconding. Some important rights that a person who is being arrested has are:

- There can be no legal arrest if there is no information or reasonable suspicion that the person has been involved in a cognizable offence or commits offence(s), specified in Section 41.
- Section 46 of CrPC envisages modes of arrest i.e. submission to custody, touching the body physically or confining the body. In case force is required to make an arrest, it should not be any more than is actually required.
- In the case of women, the body of the person is not to be touched unless the arresting person is also a female. A female can also not be arrested after sunset and before sunrise, except in exceptional circumstances with the prior permission of a Magistrate.
- The arrested person must be informed of the grounds of arrest as soon as he is arrested. By virtue of the judgement in D.K. Basu case and subsequent amendments in the CrPC, the arresting officer is to inform a friend, relative or nominated person of the arrestee.
- Section 54 of the CrPC provides for a compulsory medical examination of the accused by a medical practitioner, in case of females, the examiner has to be female too.

- The arrestee is also entitled to be counselled and defended by a lawyer of his choice, in addition to being entitled to free legal aid.

What is Bail?

Bail means the temporary release of an accused; it is not only the essence of criminal procedure but also a bulwark of individual liberty. Under CrPC the cases in which the accused is entitled to bail are referred to as bailable offences. On the other hand, non-bailable are those cases where the release on bail is to be decided by a competent court. The accused can be released on bail in these cases by the court after imposing some conditions. The Code also provides for anticipatory bail in case any person is apprehending arrest, i.e. bail even before the person is arrested.