

21
No. 1060/D9/ME/KAD
26/9/19

C-1145
28.9.19

HIGH COURT OF DELHI : NEW DELHI

No. 67/Rules/DHC

Dated : 24.9.2019

PRACTICE DIRECTION

Section 439 of the Code of Criminal Procedure, 1973 stood amended by the Criminal Law (Amendment) Act, 2018 (No. 22 of 2018) w.e.f. 21.04.2018 vide which, amongst others, it has been mandated that the presence of the informant or any person authorized by him shall be obligatory at the time of hearing of the application for bail to the person under sub-section (3) of section 376 or section 376AB or section 376DA or section 376DB of the Indian Penal Code and that the High Court or the Court of Session shall, before granting bail, give notice of such application to the Public Prosecutor within a period of fifteen days from the date of receipt of the notice of such application.

The relevant provisions of "The Criminal Law (Amendment) Act, 2018" in this respect are reproduced herein below:-

"23. In Section 439 of the Code of Criminal Procedure-

(a) In sub-section(1), after the first proviso, the following proviso shall be inserted, namely:-

"Provided further that the High Court or the Court of Session shall, before granting bail to a person who is accused of an offence triable under sub-Section (3) of section 376 or section 376-AB or section 376-DA or section 376-DB of the Indian Penal Code (45 of 1860), give notice of the application for bail to the Public Prosecutor within a period of fifteen days from the date of receipt of the notice of such application."

(b) After sub-section(1), the following sub-section shall be inserted, namely:-

"(1-A) The presence of the informant or any person authorized by him shall be obligatory at the time of hearing of the application for bail to the person under sub-section (3) of section 376 or section 376-AB or section 376-DA or section 376-DB of the Indian Penal Code (45 of 1860)."

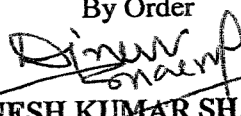
In order to ensure better and effective compliance of the above provisions, Hon'ble the Chief Justice has been pleased to direct as under:-

(a) Before granting bail to a person who is accused of an offence triable under sub-Section (3) of section 376 or section 376-AB or section 376-DA or section 376-DB of the Indian Penal Code, the High Court or the Court of Session shall give notice of the application for bail to the Public Prosecutor within a period of fifteen days from the date of receipt of the notice of such application; and

(b) The Courts shall ensure that the Investigating Officer has, in writing as per Annexure A, communicated to the informant or any person authorized by her that her presence is obligatory at the time of hearing of the application for bail to the person under sub-section (3) of section 376 or section 376-AB or section 376-DA or section 376-DB of the Indian Penal Code. Annexure A shall be filed by the I.O. along with the Reply / Status Report to such bail application and the Courts shall make all endeavour to ensure presence of the informant or any person authorized by her.

These directions shall come into force with immediate effect.

By Order


(DINESH KUMAR SHARMA)
REGISTRAR GENERAL

Copy forwarded for information and necessary action to:-

1. The District & Sessions Judge (HQ), Tis Hazari Courts, Delhi.
2. The District & Sessions Judge, North-West District, Rohini Courts, Delhi.
3. The District & Sessions Judge, South District, Saket Courts, New Delhi.
4. The District & Sessions Judge, South-West District, Dwarka Courts, New Delhi.
5. The District & Sessions Judge, North District, Rohini Courts, Delhi.
6. The District & Sessions Judge, South-East District, Saket Courts, New Delhi.
7. The District & Sessions Judge, East District, Karkardooma Courts, Delhi.
8. The District & Sessions Judge, New Delhi District, Patiala House Courts, New Delhi.
9. The District & Sessions Judge, Shahdara District, Karkardooma Courts, Delhi.
10. The District & Sessions Judge, North-East District, Karkardooma Courts, Delhi.
11. The District & Sessions Judge, West District, Tis Hazari Courts, Delhi.
12. The District & Sessions Judge-cum-Special Judge, CBI (PC Act), Rouse Avenue District Court Complex, New Delhi.
13. The Principal Judge, Family Courts (HQ), Dwarka Courts Complex, Dwarka, New Delhi.
14. The Principal Secretary (Law, Justice & LA), Govt. of N.C.T. of Delhi, Delhi Secretariat, I.P. Estate, New Delhi.
15. The Secretary, Bar Council of India, 21, Rouse Avenue, Institutional Area, New Delhi- 110002.
16. The Secretary, Bar Council of Delhi, 2/6, Siri Fort Institutional Area, Khel Gaon Marg, New Delhi-110049.
17. The President/Secretary, Supreme Court Bar Association, Supreme Court, New Delhi.
18. The President/Secretary, Delhi High Court Bar Association, Delhi High Court, New Delhi.
19. The President/Secretary, Bar Association, Tis Hazari Courts/Patiala House Courts/ Karkardooma Courts/ Rohini Courts/Dwarka Courts/Saket Court Complex.
20. The Secretary, Supreme Court Legal Services Committee.
21. The Member Secretary, Delhi State Legal Service Authority, Patiala House Courts, New Delhi with the request to forward a copy of the Notification/Practice Directions to the Secretaries of all the eleven District Legal Services Authorities.
22. The Secretary, Delhi High Court Legal Services Committee.
23. The Chairman, District Court Website Committee, Tis Hazari, Delhi for uploading the Notification/Practice Directions on the website of Delhi District Court.
24. Joint Registrar-cum-Secretary to Hon'ble the Chief Justice.
25. All Registrars/OSDs/Joint Registrars/Deputy Registrars/Assistant Registrars.
26. Deputy Registrar-cum-P.A. to Registrar General, Delhi High Court.
27. Joint Director (IT) with the request to upload the Notification on the Intranet of this Court.
28. Assistant Registrar (Library), Delhi High Court.
29. Private Secretaries to Hon'ble Judges for kind perusal of His Lordships.
30. Administrative Officers (Judicial)/Court Masters, Delhi High Court.
31. Librarian, Judges Library, Tis Hazari Courts/Patiala House Courts/Karkardooma Courts/Rohini Courts/ Dwarka Courts/Saket Court Complex.
32. Guard File.



(SIDHARTH MATHUR)
JOINT REGISTRAR (RULES)

**OFFICE OF THE DISTRICT & SESSIONS JUDGE,
NORTH-EAST DISTRICT, KARKARDOOMA COURTS, DELHI.**

No. 767 /Judl./N.E./KKD/Delhi/2019Dated : 28/09/19

Copy forwarded alongwith its enclosure for information and necessary compliance to:-

1. All the Judicial Officers of North-East District, Karkardooma Courts, Delhi.
2. The Chairman, Website Committee, North-East District, Karkardooma Courts, Delhi.
3. The Secretary, DLSA, North-East District, Karkardooma Courts, Delhi.
4. The Hony. Secretary, Shahdara Bar Association, Karkardooma Courts, Delhi.
5. The Chief Public Prosecutor, North-East District, Karkardooma Courts, Delhi.


(ANOOP KUMAR MENDIRATTA)
District & Sessions Judge,
North-East District,
Karkardooma Courts, Delhi.

ANNEXURE A

NOTICE TO INFORMANT OF OBLIGATION TO BE PRESENT AT THE TIME OF HEARING OF THE APPLICATION FOR BAIL TO THE PERSON ACCUSED OF THE OFFENCE UNDER SUB-SECTION (3) OF SECTION 376 OR SECTION 376-AB OR SECTION 376-DA OR SECTION 376-DB OF THE INDIAN PENAL CODE, 1860

You are hereby informed that the person accused in FIR No. _____ dated _____ PS _____ under Section _____ has filed an application for grant of bail which is listed for hearing in the Hon'ble High Court of Delhi / Hon'ble Court of Sh. / Smt. _____, Additional Sessions Judge, _____ District, Delhi.

Kindly take notice that as per Section 439 (1-A) of the Code of Criminal Procedure, 1973 your presence / presence of any person authorised by you is obligatory at the time of hearing of the above mentioned bail application.

(S/d)
Informant

(S/d)
Investigating Officer

I, _____, SHO of P.S. _____ do hereby certify that the I.O. of the above mentioned FIR has duly communicated the informant that her presence / presence of any person authorized by her is obligatory at the time of hearing of the bail application of the person accused in FIR No. _____ dated _____.

(S/d)
SHO, P.S. _____