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The Principal Secretary (Law)  
Chandigarh Administration.

To

Estt. Branch (Diary)
Diary No. 13147
Date 29-10-20
Signature

1. The Director General of Police, U.T., Chandigarh.
2. The District Attorney, U.T., Chandigarh.

DS/HQ  
 SSF  
 28/10/2020 3.11.20

Memo No. LDE-(2/2017/87)-2020/12400  
 dated, Chandigarh the

**Subject:- Suggestions to improve the quality of investigation in NDPS Cases.**

This department vide Memo No. LDE-(2/2017/87)-2020/1483-84 dated 29.01.2020 conveyed certain suggestions to improve the quality of investigation.

The Hon'ble Punjab & Haryana High Court while deciding CRM-M-5074-2019 titled Joginder Singh Vs. State of Punjab & Other cases gave a detailed judgment on 28.05.2019 with regard to guidelines/directions to be followed by the Investigating Officers in the cases of NDPS Act. These guidelines/directions would definitely help in improving the investigation process in NDPS cases.

The mandatory guidelines which should be followed by the Investigating Officers in terms of orders of Hon'ble Court referred to above are as under:-

- (i) Search of the person/accused should be conducted by the officer authorized under Section 42 of the NDPS Act. An Officer duly authorized should not below the rank of Assistant Sub Inspector (Regular). Investigation officer who is an adhoc ASI is not competent to exercise the power and performs the duties specified in Section 42 and 67 of the Act.
- (ii) If empowered officer or an authorized officer has any prior information/secret information given by any person, that should necessarily be taken down in writing and should forthwith send a copy thereof to his immediate superior official.
- (iii) If there is a secret information, it is mandatory that the empowered officer will immediately sent a "ruqa" to the police Station for registering of FIR.

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- (iv) If the officer takes down any information in writing or records his belief, he will within 72 hours, send copy of the same to his superior officials.
- (v) In case of a chance recovery of any Narcotic Drugs or Psychotropic Substance, the police official who is not empowered, should inform the empowered officer, who should thereafter proceeds in accordance with the provisions of NDPS Act. Even an empowered officer will inform the other empowered officers from stage of recovery onwards and will call the other empowered officer to carry out the further investigation in accordance with the other provisions of the NDPS Act. For the fair and impartial investigation, it is necessary that informant/complainant and investigator must not be the same person.
- (vi) Section 50 of the NDPS Act, casts duty on empowered officer to inform the suspect of his right to be searched in the presence of the Gazetted Officer or Magistrate. It is mandatory for empowered officer to inform the person concerned/ accused of his right to be taken to the nearest Gazetted Officer or nearest Magistrate for conducting the search under the NDPS Act.
- (vii) The empowered officer can not put any additional condition while informing the right to accused like apart from (empowered officer) e.g. the accused can be searched by Gazetted Officer or Magistrate. No third option can be given by the empowered officer.
- (viii) Each empowered officer will keep a list of all Gazetted Officers of District with their mobile number, who can be associated. The list of empanelled Gazetted Officers will be updated quarterly in every year by Sr. Superintendent of Police of District.
- (ix) Where the personal search of the accused is conducted by the empowered officer/ investigating officer acting on the prior information, then the compliance of Section 50 of NDPS Act is mandatory. Section 50 only applies in case of the personal search of the person.
- (x) If there are more than one accused, each accused must be individually informed that he has a right to be searched in the presence of a Gazetted Officer or a Magistrate. A joint communication of the right available under Section 50 (1) of the NDPS Act to the accused person is not permissible under Section 50. The communication has to be clear, unambiguous and individual.
- (xi) Empowered officer or an authorized officer, who is about to search any person under provision of Sections 41, 42 and Section 43, shall, if such person so require, take such person, without unnecessarily delay to nearest Gazetted Officer or to the nearest Magistrate.