24-HOUR PERIOD FOR PRODUCTION BEFORE MAGISTRATE RUNS FROM TIME OF DETENTION AND NOT FROM FORMAL ARREST: SUPREME COURT OF INDIA REAFFIRMS CONSTITUTIONAL SAFEGUARDS AGAINST UNLAWFUL DETENTION

The judgment of the Supreme Court in Sri Sujit Das & Ors. v. Union of India, 2026 INSC 1195, decided on 5 November 2026, is a significant pronouncement on the constitutional protection against unlawful detention and the safeguards available to persons arrested during investigation.

In a significant judgment reinforcing the constitutional protection of personal liberty, the Supreme Court of India, in *Sri Sujit Das & Ors. v. Union of India*, 2026 INSC 1195, decided on 5 November 2026, has held that the mandatory period of 24 hours prescribed under Article 22(2) of the Constitution of India for producing an arrested person before the nearest Magistrate commences from the time when the person's liberty is actually curtailed and he is placed under the control of the investigating agency, and not from the time when the investigating officer formally records the arrest.

The judgment, delivered by a Bench comprising Justice Ujjal Bhuyan and Justice Atul S. Chandurkar, addresses an important question concerning the constitutional rights of an individual during investigation: can an investigating agency intercept a person, deprive him of his liberty, keep him under its control for several hours while carrying out investigation and search and seizure proceedings, and thereafter record a formal arrest so as to calculate the 24-hour period from the subsequently recorded time of arrest?

The Supreme Court has answered this question in the negative.

The Court has categorically held that the Constitution does not recognize an artificial distinction between arrest and detention in custody for the purpose of Article 22(2). The constitutional protection cannot be defeated by describing the deprivation of liberty as temporary detention, interrogation, enquiry or a period necessary for completing statutory formalities.

Constitutional Framework: Article 22(2) of the Constitution

Article 22 of the Constitution provides safeguards against arrest and detention in certain cases.

Article 22(2) specifically provides:

"Every person who is arrested and detained in custody shall be produced before the nearest magistrate within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place of arrest to the court of the magistrate and no such person shall be detained in custody beyond the said period without the authority of a magistrate."

The constitutional provision imposes two important obligations:

1. Every person arrested and detained in custody must be produced before the nearest Magistrate within 24 hours of arrest, excluding only the time necessary for the journey from the place of arrest to the Magistrate's court.

2. No person can be detained in custody beyond the prescribed period without the authority of a Magistrate.

The Supreme Court emphasised that Article 22(2) is a mandatory constitutional safeguard. The only permissible exclusion from the 24-hour period is the time necessary for travelling from the place of arrest to the court of the Magistrate.

No other period, whether required for investigation, interrogation, administrative work, search, seizure or completion of statutory formalities, can be excluded from the constitutional calculation once the person's liberty has been curtailed in a manner amounting to arrest.

The Court further observed that Section 57 of the Code of Criminal Procedure, 1973, which has its corresponding provision in Section 58 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), carries forward this constitutional mandate.

Importantly, Section 58 BNSS imposes an additional requirement that detention without warrant must not exceed a reasonable period in the circumstances of the case, even within the overall limit of 24 hours.

Thus, the constitutional and statutory safeguards operate together to ensure that an individual is not subjected to prolonged detention without judicial oversight.

The Distinction Between Arrest and Detention: An Artificial Distinction

One of the most significant aspects of the judgment is the Supreme Court's rejection of the attempt by investigating agencies to distinguish between detention and formal arrest for the purpose of calculating the 24-hour period.

The investigating agency argued that interception and temporary restraint during search and seizure proceedings could not be treated as arrest. It contended that the person was merely being detained for completing statutory formalities under the NDPS Act and that the formal arrest would take place only after the completion of such procedures and the formation of a reasonable belief regarding the person's involvement in the offence.

The Supreme Court rejected this interpretation.

The Court held that the expression "arrested and detained in custody" appearing in Article 22(2) is conjunctive. The Constitution does not recognise a separate period of detention outside the protection afforded by Article 22(2), merely because the investigating agency has not formally recorded the arrest.

The Court observed that the words 'arrested' and 'detained' in Article 22(2) are synonymous for the purpose of determining when the constitutional period of 24 hours commences.

The relevant consideration is not the terminology adopted by the investigating officer or the time entered in the arrest memo. What matters is the actual deprivation of personal liberty.

The Court held that the 24-hour period commences the moment a person is detained by the arresting authority on suspicion of having committed an offence and his liberty is effectively curtailed.

Any attempt to draw an artificial distinction between arrest and detention would dilute or negate the fundamental protection guaranteed by Article 22(2).

The Supreme Court placed considerable reliance on its earlier decision in *Niranjan Singh v. Prabhakar Rajaram Kharote*, (1980) 2 SCC 559.

In that case, the Court examined the meaning of custody and held that a person would be in custody when he is under the control of the investigating agency or an authority having coercive powers.

The Court, speaking through Justice V.R. Krishna Iyer, observed that a person who is under the physical control of an officer having coercive power is in custody.

The substance of the action of the investigating agency, rather than the description assigned to it, must determine whether the person's liberty has been curtailed.

The Court also referred to its landmark judgment in *D.K. Basu v. State of West Bengal*, (1997) 1 SCC 416.

In *D.K. Basu*, the Supreme Court had expressed serious concern over custodial violence and abuse of police powers during investigation.

The Court recognised that serious violations of human rights frequently occur during the period when an individual is under the control of investigating authorities but his arrest has not been formally recorded.

Investigating officers may resort to prolonged interrogation without formally recording the arrest, thereby keeping the individual outside the immediate scrutiny of the Magistrate.

The requirement of production within 24 hours is intended to ensure judicial supervision over the investigation and prevent such abuse of authority.

Another important aspect of the judgment is the Supreme Court's express disapproval of three decisions of different High Courts which had adopted a distinction between detention and arrest in the context of NDPS investigations.

These decisions were:

1. *Aryaman Pattnayak v. Union of India* — Orissa High Court.
2. *Kannan v. State of Tamil Nadu* — Madras High Court, 2026 SCC OnLine Mad 6652.
3. *Arun K. Thomas v. Narcotics Control Bureau* — Kerala High Court, 2026 SCC OnLine Ker 13043.

The reasoning adopted in these decisions was that temporary restraint during search and seizure proceedings should not necessarily be treated as arrest.

It was suggested that the period of 24 hours would commence only after the search and seizure proceedings were completed and the investigating agency had formed a reasonable belief regarding the person's involvement in the offence.

The Supreme Court held that this approach was constitutionally unsustainable.

The Court accordingly declared that the aforesaid decisions did not lay down the correct law regarding the interpretation of Article 22(2).

Interpretation of Article 22(2): Fundamental Rights Must Receive a Liberal and Purposive Interpretation

The Supreme Court emphasised that Article 22(2) is a fundamental right and must be interpreted in a manner which advances its constitutional objective.

The Court observed that a statute, whether general or special, cannot become the guide for interpreting the Constitution. Rather, statutory provisions must be understood consistently with the constitutional guarantee.

Section 58 BNSS: Detention Must Also Be Reasonable

Apart from the mandatory 24-hour requirement under Article 22(2), the Supreme Court highlighted the independent significance of Section 58 of the BNSS, corresponding to Section 57 of the erstwhile CrPC.

Section 58 provides that a person arrested without warrant cannot be detained for a period longer than what is reasonable in the circumstances of the case and, in any event, not beyond 24 hours without a special order of the Magistrate.

The Court emphasised that there are, therefore, two distinct limitations:

1. The constitutional limitation that the person must be produced before the Magistrate within 24 hours, subject only to the permitted exclusion for journey time.

2. The statutory limitation that detention within those 24 hours must not exceed what is reasonable in the circumstances of the case.

Directions Issued by the Supreme Court

The Supreme Court summarised its conclusions and laid down important principles governing arrest and detention.

The principal conclusions are as follows:

1. Commencement of the 24-hour period

The 24-hour period under Article 22(2) commences from the date and time when the liberty of the detained person is curtailed and not from the time of formal arrest recorded by the investigating agency.

2. Mandatory release in case of breach

If detention continues beyond 24 hours without production before a Magistrate, the detained person shall be released forthwith.

3. No exclusion other than journey time

While calculating the 24-hour period, no period can be excluded except the time necessary for the journey from the place of arrest to the Magistrate's court.

4. Detention must be reasonable

The investigating agency must ensure not only that the 24-hour limit is observed but also that detention does not exceed what is reasonable in the circumstances of the case under Section 58 BNSS.

5. Duty of the Magistrate to ascertain the actual time of detention

At the time of production, the Magistrate is duty-bound to record the actual date and time when the person's liberty was curtailed and examine whether the 24-hour constitutional requirement has been complied with.

If there is a breach, the person must be released forthwith.

6. Independent examination of reasonableness

Even if the person is produced within 24 hours, the Magistrate must examine whether the period of detention was reasonable. If the detention is found to have exceeded what was reasonable in the circumstances, the Magistrate may decline remand.

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