

BLOGS

Practice Questions from Important Judgments for CLAT (Constitutional Laws) - PART II

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Passage

“Section 41A(1) of the Code of Criminal Procedure, 1973, requires the police to issue a notice to a person before their arrest when such arrest is not warranted. In the present case, Mr. Arvind Kejriwal was already in judicial custody as a consequence of his arrest by the Enforcement Directorate. Therefore, the question of providing notice under Section 41A(1) does not arise. The necessity for immediate action by the Central Bureau of Investigation (CBI) justified its approach to the Trial Court for permission to arrest him.

The reasons recorded by the CBI in its arrest memo, which indicated that Mr. Kejriwal had allegedly provided evasive responses during the questioning, were sufficient to comply with the requirements of Section 41A(3). The continued detention of Mr. Kejriwal, therefore, raised serious concerns regarding his personal liberty under Article 21 of the Constitution of India. We find it essential to ensure that the legal processes are not employed to merely frustrate an individual's right to liberty based on the timing and nature of the arrest, which in this case appeared to coincide suspiciously with his bail being granted in the related ED case.”

[Extract from ARVIND KEJRIWAL vs CENTRAL BUREAU OF INVESTIGATION, Judgment date- 13/09/2024]

1. What was the primary legal issue regarding Mr. Kejriwal's arrest by the CBI while he was in judicial custody for a separate ED case?

- A) Whether the CBI had jurisdiction to arrest him.
- B) Whether the arrest violated Section 41A of the CrPC.
- C) Whether he was entitled to bail under Section 439 of the CrPC.
- D) Whether the CBI followed due process in his arrest

2. Justice Surya Kant held that the CBI's arrest of Mr. Kejriwal was legal because:

- A) He was not granted bail in the ED case.
- B) He was already in judicial custody, and notice under Section 41A was not necessary.
- C) The CBI had documented reasons for the arrest in their application.
- D) The arrest was justified due to the serious nature of the allegations.

3. Justice Ujjal Bhuyan raised concerns about the timing of Mr. Kejriwal's arrest. What was his key observation?

- A) The arrest was made to disrupt the ongoing investigation.
- B) The CBI had not pursued the arrest for twenty-two months before.
- C) The arrest was politically motivated to undermine the Delhi government.
- D) The CBI failed to provide sufficient evidence for the arrest.

4. Which constitutional right did Justice Bhuyan reference to support Mr. Kejriwal's argument against his arrest?

- A) Right to freedom of speech.
- B) Right against self-incrimination.
- C) Right to a fair trial.
- D) Right to personal liberty.

5. The Supreme Court ultimately granted bail to Mr. Kejriwal in the CBI case under which of the following considerations?

- A) The ongoing trial was prejudiced by his continued detention.
- B) He had already been granted bail in a related ED case.
- C) The evidence against him was insufficient to justify his detention.
- D) He was not a flight risk and had cooperated with the authorities.

6. In the Supreme Court's decision regarding Mr. Kejriwal's bail, what condition was imposed on him concerning his official duties?

- A) He could not leave Delhi during the trial.
- B) He was not allowed to sign official files unless required by the Lieutenant Governor.
- C) He had to report to the CBI every week.
- D) He was prohibited from communicating with any government officials.

7. What was the consensus between Justice Surya Kant and Justice Ujjal Bhuyan regarding the legality of Mr. Kejriwal's arrest?

- A) Both judges found the arrest illegal and unconstitutional.
- B) Justice Kant found the arrest legal, while Justice Bhuyan found it unjustified.
- C) Both judges agreed that the arrest was politically motivated.
- D) Justice Bhuyan ruled that the arrest was legal under all circumstances.

8. Under Section 41A of the CrPC, what is required of the police when they wish to interrogate a person whose arrest is not needed?

- A) They must arrest the person first.
- B) They must issue a notice to the person.
- C) They must inform the person's lawyer.
- D) They can interrogate without any prior notice.

9. If a person is arrested without following the procedures under Section 41A of the CrPC, what legal recourse do they have?

- A) They can file a complaint against the police officer.
- B) They can immediately apply for bail.
- C) They can file a writ petition for wrongful arrest.
- D) They can demand a trial by jury.

10. Which of the following best describes the purpose of Section 41(1) of the CrPC?

- A) To mandate the police to inform arrested individuals of their rights.
- B) To allow for preventive detention without trial.
- C) To regulate the arrest of individuals without warrants under specific circumstances.
- D) To establish the procedure for conducting bail hearings.

Answer Key with Explanations:

1. D) Whether the CBI followed due process in his arrest

Explanation: The passage focuses on whether the CBI complied with Section 41A requirements and proper procedure, given that Kejriwal was already in custody.

2. B) He was already in judicial custody, and notice under Section 41A was not necessary.

Explanation: Justice Surya Kant held that Section 41A notice wasn't required because Kejriwal was already in custody in the ED case.

3. B) The CBI had not pursued the arrest for twenty-two months before

Explanation: Justice Bhuyan questioned the suspicious delay and timing of arrest, noting the CBI didn't act for 22 months.

4. D) Right to personal liberty.

Explanation: The passage expressly mentions Article 21 and concerns regarding personal liberty.

5. C) The evidence against him was insufficient to justify his detention.

Explanation: The Court granted bail because continued detention wasn't justified by the available material.

6. B) He was not allowed to sign official files unless required by the Lieutenant Governor.

Explanation: This specific restriction was imposed as a bail condition.

7. B) Justice Kant found the arrest legal, while Justice Bhuyan found it unjustified.

Explanation: They differed: Kant upheld legality, Bhuyan questioned justification and timing.

8. B) They must issue a notice to the person.

Explanation: Section 41A requires notice of appearance when arrest is unnecessary.

9. C) They can file a writ petition for wrongful arrest.

Explanation: Violation of Section 41A safeguards can be challenged through a writ petition under Articles 32/226.

10. C) To regulate the arrest of individuals without warrants under specific circumstances.

Explanation: Section 41(1) governs when police may arrest without a warrant, emphasizing necessity and reasons.