

**GOVERNMENT OF INDIA
HOME AFFAIRS
LOK SABHA**

UNSTARRED QUESTION NO:1858
ANSWERED ON:20.07.2004
ARREST OF ACCUSE
Vijay Krishna Shri

Will the Minister of HOME AFFAIRS be pleased to state:

- (a) whether Delhi High Court has ruled that no accused should be arrested till it is absolutely necessary from the point of investigation;
- (b) if so, the details of the Delhi High Court order in this regard; and
- (c) the follow up action taken thereon?

Answer

MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRIS. REGHUPATHY)

(a) to (c): The Delhi High Court in its Judgment dated 28th January, 2004 in CrI.M (M)3875/2003-the Court on its own motion, after examining the arresting powers of the investigating agencies like CBI etc., gave the following directions to the police/investigating agencies like CBI etc:-

(i) Investigating Officer, be of police station or special agency like CBI, shall not arrest any person accused of having committed a cognizable and non-bailable offence until it is very necessary for the purpose of investigation or custodial interrogation say for recovering incriminating articles or weapons of offence or eliciting information as to his accomplices etc. or for any other purpose that may help in gathering evidence to prove his guilt.

(ii) Arrest should always be avoided if the investigation can be completed even otherwise and the accused gives full cooperation in completing the investigation.

(iii) Arrest may be necessary, if the offence alleged is of grave nature and prescribes severe punishment and there is a likelihood of an offender either absconding or not appearing on being summoned or his fleeing away from justice or judgment.

The court has directed Commissioner of Police (Delhi) for guidance and compliance of the aforesaid directions by SHOs/Investigating Officers and also Judicial Officers of Delhi as well as Director of Central Bureau of Investigation.