

Explanation.—The word “arms” shall have the meaning assigned to it in section 153AA of the Indian Penal Code (45 of 1860).’.

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28. Amendment of section 320.—In section 320 of the principal Act, in the Table under sub-section (2),—

(a) the words “Voluntarily causing hurt by dangerous weapons or means” in column 1 and the entries relating thereto in columns 2 and 3 shall be omitted;

(b) in column 3, for the word “Ditto”, against the entry relating to section 325, the words “The person to whom the hurt is caused” shall be substituted.

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38. Amendment of section 438.—In section 438 of the principal Act, for sub-section (I), the following sub-sections shall be substituted, namely:—

“(I) Where any person has reason to believe that he may be arrested on accusation of having committed a non-bailable offence, he may apply to the High Court or the Court of Session for a direction under this section that in the event of such arrest he shall be released on bail; and that Court may, after taking into consideration, *inter alia*, the following factors, namely:—

(i) the nature and gravity of the accusation;

(ii) the antecedents of the applicant including the fact as to whether he has previously undergone imprisonment on conviction by a Court in respect of any cognizable offence;

(iii) the possibility of the applicant to flee from justice; and

(iv) where the accusation has been made with the object of injuring or humiliating the applicant by having him so arrested,

either reject the application forthwith or issue an interim order for the grant of anticipatory bail:

Provided that, where the High Court or, as the case may be, the Court of Session, has not passed any interim order under this sub-section or has rejected the application for grant of anticipatory bail, it shall be open to an officer in-charge of a police station to arrest, without warrant the applicant on the basis of the accusation apprehended in such application.

(IA) Where the Court grants an interim order under sub-section (I), it shall forthwith cause a notice being not less than seven days notice, together with a copy of such order to be served on the Public Prosecutor and the Superintendent of Police, with a view to give the Public Prosecutor a reasonable opportunity of being heard when the application shall be finally heard by the Court.

1. S. 25 omitted by Act 2 of 2006, s. 8 (w.e.f. 16-4-2006).