

अरवि सिंह

आई.पी.एस.

महत्त्वपूर्ण

दीर्घा परिपत्र संख्या 27/2019

पुलिस महानिदेशक,

उत्तर प्रदेश

टावर-2 पुलिस मुख्यालय,

साम्बतीनगर विस्तार, लखनऊ-226011

दिनांक: जुलाई 04, 2019



**विषय:** भारतीय दण्ड संहिता की धारा 376(3), 376AB, 376DA तथा 376DB के सम्बन्ध में आपराधिक विधि संशोधन अधिनियम 2018 द्वारा अंतःस्थापित धारा 439(1)(क) के अनुपालन विषयक।

प्रिय महोदय,

आप अवगत होंगे कि आपराधिक विधि संशोधन अधिनियम 2018 द्वारा भारतीय दण्ड संहिता, भारतीय साक्ष्य अधिनियम तथा दण्ड प्रक्रिया संहिता में व्यापक संशोधन किये गये हैं, इसी क्रम में दण्ड प्रक्रिया संहिता 1973 की धारा 439 की उपधारा (1) में पहले परंतुक के पश्चात् निम्नलिखित परंतुक अंतःस्थापित किया गया है :-

"परंतु यह और कि उच्च न्यायालय या सेशन न्यायालय किसी ऐसे व्यक्ति को जो भारतीय दंड संहिता की धारा 376 की उपधारा (3) या धारा 376कख या धारा 376घक या धारा 376घख के अधीन विचारणीय किसी अपराध का अभियुक्त है, जमानत लेने के पूर्व जमानत के आवेदन की सूचना, ऐसे आवेदन की सूचना की प्राप्ति की तारीख से पन्द्रह दिन की अवधि के भीतर लोक अभियोजक को देगा।"

"Provided further that the High Court or the Court of Session shall, before granting bail to a person who is accused of an offence triable under sub-section (3) of section 376 or section 376AB or section 376DA or section 376DB of the Indian Penal Code, give notice of the application for bail to the Public Prosecutor within a period of fifteen days from the date of receipt of the notice of such application."

उपधारा (1) के पश्चात् निम्नलिखित उपधारा अंतःस्थापित की जाएगी अर्थात् :-

"(1क) भारतीय दंड संहिता की धारा 376 की उपधारा (3) या धारा 376कख या धारा 376घक या धारा 376घख के अधीन व्यक्ति को जमानत के लिए आवेदन की सुनवाई के समय इत्तिला देने वाले या उसकी ओर से प्राधिकृत किसी व्यक्ति की उपस्थिति बाध्यकारी होगी।"

"(1A) The presence of the informant or any person authorised by him shall be obligatory at the time of hearing of the application for bail to the person under sub-section (3) of section 376 or section 376AB or section 376DA or section 376DB of the Indian Penal Code."

2. उपरोक्त संशोधन के उपरान्त लोक अभियोजक को सत्र न्यायालय तथा मा0 उच्च न्यायालय में धारा 376(3) (सोलह वर्ष से कम आयु की महिला के साथ बलात्संग), 376AB (12 वर्ष से कम आयु की महिला के साथ बलात्संग), 376DA (16 वर्ष से कम आयु की महिला के साथ सामूहिक बलात्संग), 376DB (12 वर्ष से कम आयु की महिला के साथ सामूहिक बलात्संग)

(2)

में जमानत प्रार्थना पत्रों पर सुनवाई के पूर्व 15 दिवस का नोटिस दिया जाना अनिवार्य हो गया है। इसी प्रकार धारा 439(1A) जोड़े जाने के बाद धारा 376(3), 376AB, 376DA तथा 376DB में जमानत प्रार्थना पत्रों पर सुनवाई के समय वादी मुकदमा अथवा उसके द्वारा अधिकृत किसी व्यक्ति की उपस्थिति सुनिश्चित किया जाना अनिवार्य कर दिया गया है, जिससे पीड़ित पक्ष को जमानत स्तर पर सुनवाई में उपस्थित रहने का अधिकार प्राप्त हो गया है।

3. प्रथम सूचना दर्ज करते समय तथा विवेचना के दौरान तैयार किये जाने वाले प्रपत्रों/आरोप पत्र में उपर्युक्त अपराध की धाराओं एवं उपधाराओं का विशिष्ट रूप से उल्लेख न किये जाने के कारण मा0 सत्र न्यायालयों तथा मा0 उच्च न्यायालय द्वारा द0प्र0सं0 की धारा 439 के संशोधित प्राविधानों को लागू करने में कठिनाईयों आ रही हैं।

4. अतः आप सभी को निर्देशित किया जाता है कि प्रथम सूचना अंकित करने से लेकर विवेचना पूर्ण किये जाने तक तैयार किये जाने वाले समस्त प्रपत्रों/आरोप पत्र में बलात्कार की उपर्युक्त धाराओं का विशिष्ट उल्लेख उपधाराओं सहित किया जाये, जिससे द0प्र0सं0 के संशोधित प्राविधानों को लागू करने में कोई कठिनाई न हो।

5. उपरोक्त संशोधित प्राविधानों से अधीनस्थ सभी अधिकारी/विवेचकगण को भली भाँति दीक्षा करके इसका अक्षरशः अनुपालन कराया जाना सुनिश्चित करें।

संलग्नक यथोपरि।

भवदीय,  
(अ०पी० सिंह)  
5-7-19

समस्त परिष्कृत पुलिस अधीक्षक/पुलिस अधीक्षक,  
प्रभारी जनपद,  
उत्तर प्रदेश।

**प्रतिलिपि:** निम्नलिखित को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित:

1. समस्त पुलिस महानिदेशक, उ0प्र0।
2. समस्त अपर पुलिस महानिदेशक, उ0प्र0।
3. समस्त जोनल अपर पुलिस महानिदेशक, उ0प्र0।
4. समस्त परिक्षेत्रीय पुलिस महानिरीक्षक/पुलिस उपमहानिरीक्षक, उ0प्र0।



# भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

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नई दिल्ली, शनिवार, अगस्त 11, 2018/श्रावण 20, 1940 (शक)

No. 35] NEW DELHI, SATURDAY, AUGUST 11, 2018/SHRAVANA 20, 1940 (Saka)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग सकलन के रूप में रखा जा सके।

Separate pagination is given to this Part in order that it may be filed as a separate compilation.

## MINISTRY OF LAW AND JUSTICE

(Legislative Department)

*New Delhi, the 11th August, 2018/Sharavana 20, 1940 (Saka)*

The following Act of Parliament received the assent of the President on the 11th August, 2018, and is hereby published for general information—

### THE CRIMINAL LAW (AMENDMENT) ACT, 2018

No. 22 OF 2018

[11th August, 2018.]

An Act further to amend the Indian Penal Code, Indian Evidence Act, 1872, the Code of Criminal Procedure, 1973 and the Protection of Children from Sexual Offences Act, 2012.

Be it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

#### CHAPTER I

##### PRELIMINARY

1. (1) This Act may be called the Criminal Law (Amendment) Act, 2018.

(2) It shall be deemed to have come into force on the 21st day of April, 2018.

Short title and  
commencement

## CHAPTER II

## AMENDMENTS TO THE INDIAN PENAL CODE

Amendment of section 166A	2. In the Indian Penal Code (hereafter in this Chapter referred to as the Penal Code), in section 166A, in clause (c), for the words, figures and letters "section 376B, section 376C, section 376D", the words, figures and letters "section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB" shall be substituted.	45 of 1860
Amendment of section 228A	3. In section 228A of the Penal Code, in sub-section (1), for the words, figures and letters "section 376A, section 376B, section 376C, section 376D", the words, figures and letters "section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB" shall be substituted.	
Amendment of section 376	4. In section 376 of the Penal Code,—  (a) in sub-section (1), for the words "shall not be less than seven years, but which may extend to imprisonment for life, and shall also be liable to fine", the words "shall not be less than ten years, but which may extend to imprisonment for life, and shall also be liable to fine" shall be substituted;  (b) in sub-section (2), clause (i) shall be omitted;  (c) after sub-section (2), the following sub-section shall be inserted, namely:—  "(3) Whoever commits rape on a woman under sixteen years of age shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and shall also be liable to fine:  Provided that such fine shall be just and reasonable to meet the medical expenses and rehabilitation of the victim:  Provided further that any fine imposed under this sub-section shall be paid to the victim."	
Insertion of new section 376AB	5. After section 376A of the Penal Code, the following section shall be inserted, namely:—  "376AB. Whoever commits rape on a woman under twelve years of age shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and with fine or with death:  Provided that such fine shall be just and reasonable to meet the medical expenses and rehabilitation of the victim:  Provided further that any fine imposed under this section shall be paid to the victim."	
Punishment for rape on woman under twelve years of age		
Insertion of new sections 376DA and 376DB	6. After section 376D of the Penal Code, the following sections shall be inserted, namely:—  "376DA. Where a woman under sixteen years of age is raped by one or more persons constituting a group or acting in furtherance of a common intention, each of those persons shall be deemed to have committed the offence of rape and shall be punished with imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and with fine:  Provided that such fine shall be just and reasonable to meet the medical expenses and rehabilitation of the victim:  Provided further that any fine imposed under this section shall be paid to the victim."	
Punishment for gang rape on woman under sixteen years of age		

376DB Where a woman under twelve years of age is raped by one or more persons constituting a group or acting in furtherance of a common intention, each of those persons shall be deemed to have committed the offence of rape and shall be punished with imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and with fine, or with death:

Penal Code  
for gang rape  
on woman  
under twelve  
years of age

Provided that such fine shall be just and reasonable to meet the medical expenses and rehabilitation of the victim:

Provided further that any fine imposed under this section shall be paid to the victim."

7. In section 376E of the Penal Code, for the word, figures and letter "section 376D", the words, figures and letters "section 376AB or section 376D or section 376DA or section 376DB," shall be substituted

Amendment of  
section 376E

### CHAPTER III

#### AMENDMENTS TO THE INDIAN EVIDENCE ACT, 1872

1 of 1872

8. In section 53A of the Indian Evidence Act, 1872 (hereafter in this Chapter referred to as the Evidence Act), for the words, figures and letters "section 376A, section 376B, section 376C, section 376D", the words, figures and letters "section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB" shall be substituted

Amendment of  
section 53A

9. In section 146 of the Evidence Act, in the proviso, for the words, figures and letters "section 376A, section 376B, section 376C, section 376D", the words, figures and letters "section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB" shall be substituted

Amendment of  
section 146

### CHAPTER IV

#### AMENDMENTS TO THE CODE OF CRIMINAL PROCEDURE, 1973

2 of 1974

10. In the Code of Criminal Procedure, 1973 (hereafter in this Chapter referred to as the Code of Criminal Procedure), in section 26, in clause (a), in the proviso, for the words, figures and letters "section 376A, section 376B, section 376C, section 376D", the words, figures and letters "section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB" shall be substituted.

Amendment of  
section 26

11. In section 154 of the Code of Criminal Procedure, in sub-section (1),—

Amendment of  
section 154

(i) in the first proviso, for the words, figures and letters "section 376A, section 376B, section 376C, section 376D", the words, figures and letters "section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB," shall be substituted;

(ii) in the second proviso, in clause (a), for the words, figures and letters "section 376A, section 376B, section 376C, section 376D", the words, figures and letters "section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB," shall be substituted.

12. In section 161 of the Code of Criminal Procedure, in sub-section (3), in the second proviso, for the words, figures and letters "section 376A, section 376B, section 376C, section 376D", the words, figures and letters "section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB" shall be substituted.

Amendment of  
section 161

13. In section 164 of the Code of Criminal Procedure, in sub-section (5A), in clause (a), for the words, figures and letters "section 376A, section 376B, section 376C, section 376D", the words, figures and letters "section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB" shall be substituted.

Amendment of  
section 164

Amendment of section 173	<p>14. In section 173 of the Code of Criminal Procedure—</p> <p>(i) in sub-section (1A), for the words "rape of a child may be completed within three months", the words, figures and letters "an offence under sections 376, 376A, 376AB, 376B, 376C, 376D, 376DA, 376DB or 376E of the Indian Penal Code shall be completed within two months" shall be substituted;</p> <p>(ii) in sub-section (2), in clause (i), in sub-clause (b), for the word, figures and letters "section 376, 376A, 376B, 376C, 376D", the word, figures and letters "sections 376, 376A, 376AB, 376B, 376C, 376D, 376DA, 376DB" shall be substituted.</p>	45 of 1860
Amendment of section 197	<p>15. In section 197 of the Code of Criminal Procedure, in sub-section (1), in the <i>Explanation</i>, for the words, figures and letters "section 376A, section 376C, section 376D", the words, figures and letters "section 376A, section 376AB, section 376C, section 376D, section 376DA, section 376DB" shall be substituted.</p>	
Amendment of section 309	<p>16. In section 309 of the Code of Criminal Procedure, in sub-section (1), in the proviso, for the words, figures and letters "section 376A, section 376B, section 376C or section 376D of the Indian Penal Code, the inquiry or trial shall, as far as possible," the words, figures and letters "section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA or section 376DB of the Indian Penal Code, the inquiry or trial shall" shall be substituted.</p>	45 of 1860
Amendment of section 327	<p>17. In section 327 of the Code of Criminal Procedure, in sub-section (2), for the words, figures and letters "section 376A, section 376B, section 376C, section 376D", the words, figures and letters "section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB" shall be substituted.</p>	
Amendment of section 357B	<p>18. In section 357B of the Code of Criminal Procedure, for the words, figures and letters "under section 326A or section 376D of the Indian Penal Code", the words, figures and letters "under section 326A, section 376AB, section 376D, section 376DA and section 376DB of the Indian Penal Code" shall be substituted.</p>	45 of 1860
Amendment of section 357C	<p>19. In section 357C of the Code of Criminal Procedure, for the figures and letters "376A, 376B, 376C, 376D", the figures and letters "376A, 376AB, 376B, 376C, 376D, 376DA, 376DB" shall be substituted.</p>	
Amendment of section 374	<p>20. In section 374 of the Code of Criminal Procedure, after sub-section (3), the following sub-section shall be inserted, namely:—</p> <p>"(4) When an appeal has been filed against a sentence passed under section 376, section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB or section 376E of the Indian Penal Code, the appeal shall be disposed of within a period of six months from the date of filing of such appeal."</p>	45 of 1860
Amendment of section 377	<p>21. In section 377 of the Code of Criminal Procedure, after sub-section (3), the following sub-section shall be inserted, namely:—</p> <p>"(4) When an appeal has been filed against a sentence passed under section 376, section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB or section 376E of the Indian Penal Code, the appeal shall be disposed of within a period of six months from the date of filing of such appeal."</p>	45 of 1860
Amendment of section 438	<p>22. In section 438 of the Code of Criminal Procedure, after sub-section (3), the following sub-section shall be inserted, namely:—</p> <p>"(4) Nothing in this section shall apply to any case involving the arrest of any person on accusation of having committed an offence under sub-section (3) of section 376 or section 376AB or section 376DA or section 376DB of the Indian Penal Code."</p>	45 of 1860

## 23. In section 439 of the Code of Criminal Procedure—

Amendment of  
section 439

(a) in sub-section (1), after the first proviso, the following proviso shall be inserted, namely:—

45 of 1860.

"Provided further that the High Court or the Court of Session shall, before granting bail to a person who is accused of an offence triable under sub-section (3) of section 376 or section 376AB or section 376DA or section 376DB of the Indian Penal Code, give notice of the application for bail to the Public Prosecutor within a period of fifteen days from the date of receipt of the notice of such application.";

45 of 1860.

(b) after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) The presence of the informant or any person authorised by him shall be obligatory at the time of hearing of the application for bail to the person under sub-section (3) of section 376 or section 376AB or section 376DA or section 376DB of the Indian Penal Code."

## 24. In the First Schedule to the Code of Criminal Procedure, under the heading "1.— OFFENCES UNDER THE INDIAN PENAL CODE"—

Amendment of  
First Schedule

(a) for the entries relating to section 376, the following entries shall be substituted, namely:—

Section	Offence	Punishment	Cognizable or Non-cognizable	Bailable or Non-bailable	By what Court triable
1	2	3	4	5	6
376	Rape	Rigorous imprisonment of not less than 10 years but which may extend to imprisonment for life and with fine	Cognizable	Non-bailable	Court of Session
	Rape by a police officer or a public servant or member of armed forces or a person being on the management or on the staff of a jail, remand home or other place of custody or women's or children's institution or by a person on the management or on the staff of a hospital, and rape committed by a person in a position of trust or authority towards the person raped or by a near relative of the person raped	Rigorous imprisonment of not less than 10 years but which may extend to imprisonment for life which shall mean the remainder of that person's natural life and with fine.	Cognizable	Non-bailable	Court of Session.

2	3	4	5	6
Persons committing offence of rape on a woman under sixteen years of age	Rigorous imprisonment for a term which shall not be less than 20 years but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life and with fine.	Cognizable	Non-bailable	Court of Session

(b) after the entries relating to section 376A, the following entries shall be inserted, namely:—

1	2	3	4	5	6
376AB	Person committing an offence of rape on a woman under twelve years of age.	Rigorous imprisonment of not less than 20 years but which may extend to imprisonment for life which shall mean imprisonment for the remainder of that person's natural life and with fine or with death.	Cognizable	Non-bailable	Court of Session

(c) after the entries relating to section 376D, the following entries shall be inserted namely:—

1	2	3	4	5	6
376A	Gang rape on a woman under sixteen years of age.	Imprisonment for life which shall mean imprisonment for the remainder of that person's natural life and with fine.	Cognizable	Non-bailable	Court of Session
376DB	Gang rape on woman under twelve years of age.	Imprisonment for life which shall mean imprisonment for the remainder of that person's natural life and with fine or with death.	Cognizable	Non-bailable	Court of Session

## CHAPTER V

### AMENDMENT TO THE PROTECTION OF CHILDREN FROM SEXUAL OFFENCES ACT, 2012

Amendment of section 42 of Act No.32 of 2012

25. In section 42 of the Protection of Children from Sexual Offences Act, 2012, for the figures and letters "376A, 376C, 376D", the figures and letters "376A, 376AB, 376B, 376C, 376D, 376DA, 376DB" shall be substituted.

Repeal and savings.

26. (1) The Criminal Law (Amendment) Ordinance, 2018 is hereby repealed.

Ord. No.2  
of 2018



45 of 1860  
1 of 1872.  
2 of 1974.  
32 of 2012.

(2) Notwithstanding such repeal, anything done or any action taken under the Indian Penal Code, the Indian Evidence Act, 1872, the Code of Criminal Procedure, 1973 and the Protection of Children from Sexual Offences Act, 2012, as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of those Acts, as amended by this Act.

DR. G. NARAYANA RAJU,  
*Secretary to the Govt. of India.*