

CLAT PG 2026 Set B Question Paper with Solution (Memory Based)

1.

Which Section requires police to record reasons for arrest?

Solution:

Two provisions of the CrPC/BNSS framework require the police to record reasons for arrest:

(1) Section 41(1)(b) CrPC (now Section 35(1)(b) BNSS): This provision governs arrests without a warrant for offences punishable up to seven years. The police officer must be **satisfied that the arrest is necessary** for specific purposes (such as preventing further offences, proper investigation, preventing tampering with evidence, ensuring presence in court, etc.).

Crucially:

The officer must record reasons in writing for making the arrest.

This is a constitutional safeguard flowing from the Supreme Court's decision in **Arnesh Kumar v. State of Bihar (2014)**, which held that arrest must not be mechanical or routine.

(2) Section 41A(3) CrPC (now Section 35A BNSS): When a notice of appearance is issued, the police may arrest only if:

The person does not comply with the notice and the officer records reasons for arrest.

Thus, both Section 41(1)(b) and Section 41A(3) impose a mandatory duty to **record reasons**—one for making the arrest and the other when converting a notice into custody.

Quick Tip

Arrest without warrant (7 years) → Section 41(1)(b): reasons must be recorded. Non-compliance with notice → Section 41A(3): reasons must be recorded. Always link this to Arnesh Kumar.

2.

Under which Article must “grounds of arrest be communicated to the arrested person”?

Solution:

This requirement flows from **Article 22(1)** of the Constitution of India.

Article 22(1) states:

“No person who is arrested shall be detained in custody without being informed, **as soon as may be**, of the grounds for such arrest.”

This provision protects personal liberty by ensuring:

- the arrested person understands why he is being deprived of liberty,
- he can immediately consult a lawyer,
- he can challenge unlawful custody through habeas corpus.

The Supreme Court has repeatedly held that “communication” under Article 22(1) means:

- **effective**,
- **real**,
- **meaningful**,
- and in many cases, **written communication**.

The Court clarified this most strongly in **Prabir Purkayastha v. State (2024)**, holding that *oral grounds are insufficient* in preventive detention-like situations or special statutes such as UAPA.

Quick Tip

Whenever the question is about transparency of arrest → Article 22(1). Whenever the question is about production before magistrate → Article 22(2).

3.

If a person is arrested under UAPA and not given written grounds of arrest, can he be remanded or must he be released?

Solution:

After the Supreme Court's judgment in **Prabir Purkayastha v. State (2024)**, **failure to supply written grounds of arrest makes the arrest illegal**, and therefore:

The person cannot be validly remanded and must be released.

Why?

1. Under Article 22(1), the arrested person must be informed of the **grounds of arrest**.
2. The Court held that in UAPA — a statute with severe consequences — the communication must be **in writing**.
3. Without written grounds, the Magistrate cannot apply judicial mind to the legality of the arrest (a precondition for valid remand).
4. Any remand order based on an illegal arrest is itself unconstitutional.

Therefore:

No written grounds → No valid arrest → No jurisdiction for remand.

This rule now applies to all special laws where liberty is severely restricted (UAPA, PMLA, NDPS, etc.).

Quick Tip

Post-Prabir Purkayastha: Written grounds of arrest = prerequisite for valid custody. No written grounds = Custody becomes unconstitutional.

4.

Analyse Prabir Purkayastha (2024) and how it changes the law of remand/grounds of arrest.

Solution:

The Supreme Court's decision in **Prabir Purkayastha v. State (2024)** is a watershed judgment in the criminal procedure landscape. It fundamentally reshapes the requirements for a valid arrest and remand, especially under stringent statutes like UAPA.

1. Core Holding: Written Grounds of Arrest Are Mandatory

The Court held that:

Grounds of arrest must be supplied in writing, not merely orally communicated.

Why written?

- Ensures the arrested person understands the exact allegations.

- Prevents misuse of vague or shifting oral reasons.
- Enables the arrested person to meaningfully exercise legal rights.

This is a major expansion of Article 22(1) and reinforces procedural due process.

2. Remand Depends on a Valid Arrest

The Court declared:

If the arrest is illegal, the Magistrate cannot order remand.

Previously, courts sometimes held that remand “cures” defects in arrest procedure. Prabir Purkayastha overrules this approach.

The magistrate must:

- verify the legality of arrest,
- check if grounds were written and given,
- independently apply judicial mind.

Without this, remand violates Article 21.

3. Strengthening Judicial Scrutiny in Special Statutes (UAPA)

Given UAPA’s stringent bail provisions (“terrorism” threshold, s.43D), the Court held that:

“Higher the power to curtail liberty, greater the responsibility to ensure procedural safeguards.”

Thus, UAPA arrests now require:

- written grounds,
- clear nexus to the offence,
- strict judicial oversight at the remand stage.

4. Expanded Meaning of “Communication” under Article 22(1)

Earlier decisions allowed oral communication. Now, the Court holds:

Communication = supply of written grounds in a language understood by the accused.

This strengthens the constitutional protection against arbitrary arrest.

5. Impact on Police Powers

Police must now:

- draft clear written grounds,
- supply them at the time of arrest,
- produce them before the magistrate.

This prevents routine or mechanical arrests, particularly under political or sensitive statutes.

6. Impact on Future Litigation

The ruling will have major consequences:

- UAPA, PMLA, NDPS cases can be challenged on procedural grounds.
- Habeas corpus petitions become stronger where grounds were not supplied.
- Magistrates face increased duty to supervise arrests.

Conclusion:

Prabir Purkayastha revolutionises arrest jurisprudence, making written grounds mandatory and invalidating

Quick Tip

After 2024: No written grounds → Arrest illegal → No remand → Release mandatory. This rule applies most strongly to UAPA and special offences.

5.

Compare Arnesh Kumar with newer BNSS provisions — what stayed the same, what changed?

Solution:

Arnesh Kumar v. State of Bihar (2014) fundamentally altered arrest jurisprudence by limiting unnecessary arrests under Section 41 CrPC. The Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 replaces and updates these provisions.

Here is a detailed comparison:

1. Core Principle That Stayed the Same: “Arrest is an exception, not a rule”

Both Arnesh Kumar and BNSS continue the doctrine that:

Police cannot mechanically arrest persons for offences punishable up to 7 years.

BNSS Sections 35 and 35A replicate the CrPC’s Section 41 and 41A safeguards.

2. Recording of Reasons — Same but Stronger

Arnesh Kumar required:

“Police must record reasons for arrest and for not arresting.”

BNSS Section 35(1)(b) formally incorporates this:

- Record reasons for arrest → mandatory
- Record reasons for non-arrest → mandatory

Thus, BNSS codifies the Arnesh doctrine.

3. Notice of Appearance — Expanded

CrPC Section 41A BNSS Section 35A

Changes:

- BNSS makes service of notice more structured.
- Arrest upon non-compliance still requires written reasons.
- Digital service is facilitated.

4. Judicial Oversight — Strengthened

Arnesh Kumar required magistrates to:

“Demand written reasons, examine them, refuse mechanical remand.”

BNSS enhances this by:

- imposing a clearer duty to examine grounds,
- aligning with **Prabir Purkayastha** requiring written grounds of arrest.

5. What Changed?

1. BNSS expands categories of offences but retains the 7-year threshold.
2. Electronic documentation and digital arrest records are now encouraged.
3. BNSS formalises and codifies what Arnesh introduced judicially.
4. Stronger emphasis on accountability (internal departmental review).

6. What Did Not Change?

- The philosophy: **arrest only when necessary**.
- Requirement of written justification.
- Preference for notice over custodial arrest.
- Judicial scrutiny of arrest and remand.

Conclusion:

BNSS does not override Arnesh Kumar — it codifies and strengthens it.

The Supreme Court's doctrine survives intact, but now has clearer statutory backing.

Quick Tip

Arnesh Kumar = Judicial doctrine. BNSS = Codified version + modernisation (digital notices, record-keeping). Core rule unchanged → No routine arrests for 7-year offences.

6.

Which Article protects against involuntary narco-analysis?

Solution:

The constitutional protection against **involuntary narco-analysis** arises from **Article 20(3)** of the Constitution of India, which states:

“No person accused of any offence shall be compelled to be a witness against himself.”

In the landmark judgment **Selvi v. State of Karnataka (2010)**, the Supreme Court held that:

- Narco-analysis, polygraph tests, and brain-mapping tests **cannot be administered without consent**.
- These techniques amount to testimonial compulsion when forced, because they extract personal knowledge directly from the mind of the accused.
- Article 20(3) protects not only verbal statements but also mental and cognitive processes.

Thus, involuntary narco-analysis violates:

Article 20(3) – Right against self-incrimination

It also implicates Article 21 (right to personal liberty and privacy), but the **primary protection** is Article 20(3).

Quick Tip

For any “compulsory extraction of information from the mind,” always cite **Article 20(3)** + *Selvi (2010)*.

7.

Under what section of the Evidence Act can information discovered via narco-analysis (if voluntary) be admitted?

Solution:

Even when narco-analysis is conducted **voluntarily**, the **statements made** during the test themselves are **not admissible** because they are not made consciously and violate the rule against self-incrimination.

However, the Supreme Court in **Selvi v. State (2010)** held that:

Only material facts discovered as a consequence of such a voluntary statement may be admitted under Section 27.

Why Section 27?

Because Section 27 allows:

“Discovery of a fact in consequence of information received from a person accused of any offence. . .”

Even if the statement itself is inadmissible, the **“discovery”** that follows is admissible, provided:

- the test was conducted **with informed consent**,
- the discovery is independently verifiable,
- the information was not extracted involuntarily.

Thus:

Narco statement = **inadmissible**

Discovery under Section 27 = **admissible (if voluntary)**

Quick Tip

Remember: Narco → Statement inadmissible; Discovery admissible under **Section 27** only if test was voluntary.

8.

True or False: “An accused has an absolute right to demand a narco-analysis test.”

Solution:

False

An accused does **not** have an absolute right to demand a narco-analysis test.

The Supreme Court in **Selvi v. State (2010)** made two crucial clarifications:

1. The State **cannot compel** an accused to undergo narco-analysis (Article 20(3)).
2. An accused also does **not have a right to insist** on being subjected to the test.

Why can't the accused demand it?

- Narco-analysis can distort memory and cognition.

- It is not a scientifically reliable method of truth determination.
- Criminal procedure does not permit “self-administered scientific interrogation.”
- Courts allow it only in rare situations and only when all parties (including the investigating agency) agree.

Thus, the test is neither:

- a right of the accused, nor
- a power of the State to impose involuntarily.

It is permitted only:

“On voluntary consent + judicial oversight + strict safeguards.”

Quick Tip

Narco-analysis is neither a right nor a punishment. It is a regulated scientific procedure permitted only with consent + court order.