

Act No. 22/1976
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~~BILL NO. 18 OF 1976~~

~~THE OPIUM (MANIPUR AMENDMENT) BILL, 1976~~
(As passed by the Legislative Assembly, Manipur on 8-9-76)

Act
~~BILL Act~~

to amend the Opium Act, 1878 (I of 1878)

BE it enacted by the Legislature of Manipur in the Twenty-Seventh Years of the Republic of India as follows :—

1. (1) This Act may be called the Opium (Manipur Amendment) Act, 1976.

Short title & commencement.

(2) It shall come into force at once.

2. Section 20 of the Opium Act, 1878 (1 of 1878), shall be substituted in its application in the State of Manipur by the following sections :—

Amendment of section 20.

20. (1) The State Government may, by notification in the Official Gazette, authorise any officer of the Excise and Police Department to investigate offences and to grant bail to persons arrested under this Act.

"Power of State Government to authorise officers to investigate offences and grant bail.

(2) The State Government may, from time to time determine the form of bail bond to be used.

20A. (1) When any person is arrested or any opium or thing is seized under the provisions of this Act, the person making the arrest or seizure shall if he is an officer of the Excise or Police Department, forthwith forward the person arrested or the thing seized to the nearest officer of his department empowered under Section 20 unless he is himself so empowered.

Persons arrested or articles seized, how to be dealt with.

(2) When such arrest or seizure is made by any officer referred to in Section 14 or Section 15 other than an officer of the Excise or Police Department, he shall forthwith forward the person arrested or the thing seized to the nearest officer of the Excise or Police Department empowered under Section 20 and having jurisdiction in the case.

(3) When any person is brought in custody before the officer empowered under Section 20, or when such officer has himself arrested or procured the appearance by summons under Section 20-D of any person, he shall make such investigation as seems to him necessary, and shall either release such person or admit him to bail to appear, or if bail is not given, produce him or cause the officer-in-charge of the nearest police station to produce him before a Magistrate having jurisdiction in the case :

Provided that if the investigation is not completed within twentyfour hours of the arrest, the said officer shall take bail with or without security from the person arrested to appear on any subsequent date before himself, and shall, if such bail is not given, forthwith forward the arrested person to the nearest Magistrate with a report of the case, and a request to detain him in custody for such period not exceeding fourteen days as may be necessary to complete the investigation and to order his production before the said officer when necessary for such investigation.

(4) The Magistrate to whom an arrested person is so forwarded, whether he has or has not jurisdiction to try the case, may, by order in writing stating the reason therefore, authorise the detention of the arrested person in default of bail to such custody as he thinks fit for a term not exceeding fourteen days on the whole.

Power of investigating officer to summon witnesses or examine them otherwise.

20.B. (1) An officer empowered under Section 20 may summon any person to appear before himself to give evidence or to produce any document necessary for the purpose of investigation.

(2) Such summons shall state whether the person summoned is required to give evidence or produce a document or both, and shall specify a time and place for appearance.

(3) It shall be lawful for such officer, instead of issuing a summons, to proceed to the residence of any person whom by reason of sickness or other infirmity or by reason of rank or sex, it may not seem proper to summon, and then require him to answer such questions as may be

necessary for the purposes of the investigation. It shall also be lawful for such officer to examine any person who may appear before him to give evidence or produce any document necessary for the purposes of investigation, although the said person appears voluntarily and no summons has been issued to him.

(4) Any person examined in accordance with the provisions of sub-section (1) or sub-section (3) shall be bound to answer all questions relating to the investigation put to him by such officer other than the questions the answers to which would have a tendency to expose him to a criminal charge or to a penalty or for forfeiture.

2 of 1974. (5) The provisions of Section 162 of the Code of Criminal Procedure, 1973, shall apply to the statements made by any person under this section. No oath shall be administered to any such person.

20C. If upon an investigation under the Act, it appears to the officer in charge of such investigation that there is no sufficient evidence or reasonable grounds of suspicion to justify the forwarding of the accused to a Magistrate, such officer shall release him on his executing a bond with or without sureties as such officer may direct, to appear if and when so required before a Magistrate for trial.

Power of investigating officer to release accused when evidence deficient.

20D. When any officer of the Excise Department empowered under Section 20 to investigate offences has reasonable grounds for believing that any person has committed an offence under this Act, he may, after recording his reasons in writing and either with or without previous investigation summon such person to appear before him.

Power of certain officers to summon suspected persons.

2 of 1974. 20E. The provisions of the Code of Criminal Procedure, 1973, relating to summons and compelling the appearance of persons summoned and the production of documents shall apply, as far as may be, in the case any summons issued by an officer empowered to issue a summons under this Act.

Summoning witnesses, etc. how to be made.

2 of 1974. 20F. When it appears to an officer empowered under Section 20 that a bond for appearance before himself has been forfeited, he shall forward the bond to the Magistrate having jurisdiction to try the offence of which the person bailed was

Procedure in forfeiture of bond.

accused together with a report in writing giving the reasons for his belief and the relevant documents and the Magistrate shall deal with the matter in the manner provided by the Code of Criminal Procedure, 1973, for the forfeiture of bonds for appearance before his own court.

Jurisdiction of Magistrate on receipt of report from Excise Officer.

20 G. When an officer of the Excise or Police Department forwards in custody any person accused of an offence under this Act to the Magistrate having jurisdiction to try the case, or admits any person to bail to appear before such Magistrate he shall submit a report setting forth the name of the accused person and the nature of the offence with which he was charged and the names of persons who appear to be acquainted with the circumstances of the case, and shall send to such Magistrate any article which it may be necessary to produce before him. Upon receipt of such report the Magistrate shall inquire into such offence and try the person accused thereof in the like manner as if such report in writing made by a police officer under clause (b) of sub-section (1) of Section 190 of the Code of Criminal Procedure, 1973.

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Attendance of witnesses before Magistrate.

20 H. An Officer acting under the provisions of Section 20G shall have all the powers conferred by the Code of Criminal Procedure, 1973, on the officer-in-charge of a police station for the purpose of causing the appearance before the Magistrate of person acquainted with the circumstances of the case.

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Police to take charge of article seized.

20I. All officers-in-charge of police station shall take charge of, and keep in safe custody, pending the orders of a Magistrate or an investigating officer, all articles seized under this Act which may be delivered to them, shall allow any investigation officer who may accompany such articles to the police station, or who may be deputed for the purpose by his superior officer to affix his seal to such articles and to take samples of and from them. All samples so taken shall also be sealed with the seal of the officer-in-charge of the police station and with the seal of the accused or his agent, if he is available. All such packets or samples shall be signed by the accused or his agent, if he is available.

20J. Every Excise or Police Officer making an investigation under this Act shall, day by day, enter his proceedings in the investigation in a diary, setting forth the time at which he began and closed the investigation, the place or places visited by him and a statement of the circumstances ascertained from day to day until the investigation is closed.

Diary of
Proceeding
in investi-
gation.