

Code of Criminal Procedure, 1973

Section 81 - Procedure by Magistrate Before Whom Such Person Arrested is Brought

(1) The Executive Magistrate or District Superintendent of Police or Commissioner of Police shall, if the person arrested appears to be the person intended by the Court which issued the warrant, direct his removal in custody to such Court:

Provided that, if the offence is bailable, and such person is ready and willing to give bail to the satisfaction of such Magistrate, District Superintendent or Commissioner, or a direction has been endorsed under section 71 on the warrant and such person is ready and willing to give the security required by such direction, the Magistrate, District Superintendent or Commissioner shall take such bail or security, as the case may be, and forward the bond, to the Court which issued the warrant:

Provided further that if the offence is a non-bailable one, it shall be lawful for the Chief Judicial Magistrate (subject to the provisions of section 437), or the Sessions Judge, of the district in which the arrest is made on consideration of the information and the documents referred to in sub-section (2) of section 78 to release such person on bail.

(2) Nothing in this section shall be deemed to prevent a police officer from taking security under section 71.

STATE AMENDMENT

1 Uttar Pradesh:

In sub-section (1) of section 81, the following third proviso shall be inserted, namely:--

"Provided also that where such person is not released on bail or where he fails to give such security as aforesaid, the Chief Judicial Magistrate in the case of a non-bailable offence or any Judicial Magistrate in the case of a bailable offence may pass such orders as he thinks fit for his custody till such time as may be necessary for his removal to the Court which issued that warrant."

1. Vide U.P. Act 1 of 1984, sec. 9 (w.e.f. 1-5-1984).