Ready Recknor on Handcuffs

Securing the presence of the accused in the trial is inevitability for a fair trial. To ensure such presence, the police officer may use all means necessary to arrest such person. However, the police officer cannot resort to methods which result in deprivation of dignity of the accused. The act of deprivation of liberty cannot be cruel, inhuman or degrading and it must be in conformity with the fundamental rights enshrined in the Constitution of India.

2.   Almost four decades. ago, the Supreme Court of India in the case of Prem Shankar Shukla v. Delhi Administration, on 29 th April, 1980 (3) SCC 526, Equivalent citations: 1980 AIR 1535, 1980 SCR (3) 855, AIR 1980 SUPREME COURT 1535, 1980 SCC(CRI) 815 **had declared the use of handcuffs unconstitutional under article 21.** However, the court has carved out certain exceptions to the general practice of use of handcuffs,

3.   It is clear that a general restriction cannot be imposed on the use of handcuffs due to various unforeseeable, compelling circumstances. There may be situations which leave the police officer with no other option but to use handcuffs to prevent the accused from escaping. Various instances have come to light where the accused has either escaped or got injured (died) while escaping.

4. These situations may be averted, if use of handcuffs is permitted in limited circumstances. In light of these facts and court rulings, the BNSS has incorporated the use of handcuffs under Sec 43(3) , which introduces powers for the police to use handcuffs, keeping in mind the **'nature and gravity of offence upon arrest,'** if the offender falls under following crimes :

Section under BNS	Nature of Offence	Defined in BNS
Section 71	repeat offender	Punishment for repeat offenders.
Section 145	habitual offender	Habitual dealing in slaves.
Section 253,	escaped from custody	Harbouring offender who has escaped from custody or whose apprehension has been
Section 111 (1) to (7)	offender of organised crime	Organised crime.
Section 113 (1), to (7)	offender of terrorist acts	Terrorist act.
Section 111, 123, 276, 277 & 278	offender of drug related crime	Organised crime. Causing hurt by means of poison, etc., with intent to commit an offence. Adulteration of drugs. Sale of adulterated drugs. Sale of drug as a different drug or preparation.
Section 63, 67, 68, 69, 70	offender of sexual offences,	offences against woman and child of sexual offences like: - Rape, Sexual intercourse by husband upon his wife during separation. Sexual intercourse by a person in authority. Sexual intercourse by employing deceitful means, etc. Gang rape.
Section 101, 109 & 110	offender of murder,	Murder. Attempt to murder Attempt to commit culpable homicide.
Section 36(g),124(1) & (2)	offender of acid attack,	When right of private defence of body extends to causing death. Voluntarily causing grievous hurt by use of acid, etc
Section 111 (1)	offender of human trafficking	Organised crime.
Section 147 - 157	offender of offences against the State	Waging, or attempting to wage war, or abetting waging of war, against Government of India. Conspiracy to commit offences punishable by section 147.

		Collecting arms, etc., with intention of waging war against Government of India. Assaulting President, Governor, etc., with intent to compel or restrain exercise of any lawful power. Act endangering sovereignty, unity and integrity of India. Waging war against Government of any foreign State at peace with Government of India. Committing depredation on territories of foreign State at peace with Government of India. Receiving property taken by war or depredation mentioned in sections 153 and 154. Public servant voluntarily allowing prisoner of State or war to escape. Public servant negligently suffering such prisoner to escape. Aiding escape of, rescuing or harbouring such prisoner.
Section 149	offender of illegal possession of arms and ammunition	Collecting arms, etc., with intention of waging war against Government of India.
Section 111 (1)	offender of economic offences amongst others	