

High Court of Jammu and Kashmir at Srinagar

To

✓ The CPC e-Courts,
High Court of J&K,
(Main Wing), Srinagar.

No:- 20045/45 Dated :- 01/08/2018

Subject:- Comprehensive guidelines regarding service of summons /notices /Judicial process in criminal matters on the persons residing abroad-regarding.

Sir,

On the subject cited above, I am desired to forward herewith a copy of communication No. 25016/17/2007-LC (Part) dated 16.07.2018 received from Under Secretary to the Govt. of India, Ministry of Home Affairs, IS.II Division/Legal Cell, New Delhi along with its enclosures with the request to upload the same on the High Court website for information all concerned.

Matter be treated as most urgent.

Yours faithfully,

(Mohammad Yasin Beigh)
Joint Registrar (Adm.)

31-07-2018

Encl: 11

No. 25016/17/2007-LC (Part)
Government of India
Ministry of Home Affairs
IS.II Division/Legal Cell

Second Floor, Major Dhyan Chand National Stadium
Opposite India Gate, New Delhi-110 001

Dated the 16th July, 2018

To

The Registrar General/ Assistant Registrar
[As per list]

Subject:- Comprehensive guidelines regarding service of summons/notices/judicial process
in criminal matters on the persons residing abroad – regarding

Sir/Madam,

The undersigned is directed to state that CBI, New Delhi vide their letter No. IP-05/009/2003-168 dated 06.06.2018 have informed that a case was received in CBI under the guidelines regarding service of summons/notices/judicial process on the persons residing abroad allegedly issued by Shri L.C. Goyal, Under Secretary to the Govt. of India, Ministry of Home Affairs, (OIA-II C Section), IS.II Division vide File No. OI-19013/35/2018-OIA-II(c)Griev dated 26th April, 2018 containing draft request to serve a summons in Canada (copy enclosed). On examination, it is found that the letter is fake and fabricated.

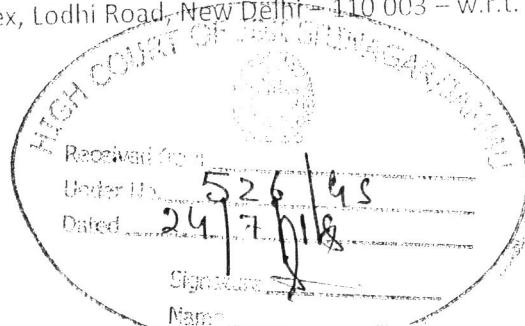
2. In this regard, it is stated that Ministry of Home Affairs has issued comprehensive guidelines vide letter No.25016/17/2007-Legal Cell dated 11th Feb, 2009 for service of summons/notices/judicial process in criminal matters, which is placed at MHA website i.e. http://mha.nic.in/sites/upload_files/mha/files/pdf/Guid_service_pro250309.pdf and CBI website i.e. http://cbi.gov.in/interpol/mha_circ_service_process.pdf. A copy of the guidelines is also enclosed herewith with the request to adhere with the same while issuing summons/notices/judicial processes in criminal matters upon persons residing abroad as the requests under aforesaid OIA guidelines may not be entertained being fake and fabricated.

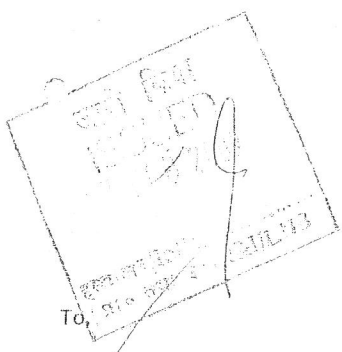
Encl: As above

V. Vishwanathan
(V. Vishwanathan)
Under Secretary to the Govt. of India
Tele. 2307 5334

Copy to:-

Shri Tanmaya Behara, Assistant Director, Central Bureau of Investigation, IPCC, Plot No. 5B, 6th Floor, CGO Complex, Lodhi Road, New Delhi - 110 003 – w.r.t. letter No. IP-05/009/2003-915(1) dated 28.06.2018





No.25016/17/2007-Legal Cell
Government of India
Ministry of Home Affairs
I S Division-II: Legal Cell

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New Delhi, Dated, the 11th Feb, 2009.

17 FEB 2009

To, The Home Secretaries of all States / UTs
The DGPs and IGP's of all States / UTs.

Subject: Comprehensive guidelines regarding service of summons/notices/judicial process on the persons residing abroad.

Sir,

Section 105 of Criminal Procedure Code (Cr.P.C.) provides for reciprocal arrangements to be made by Central Government with the foreign governments with regard to the service of summons/warrants/judicial processes. Ministry of Home Affairs has entered into Mutual Legal Assistance Treaties / Agreements with 25 countries. In respect of other countries, the Ministry attempts to serve the judicial papers by giving an assurance of reciprocity. However, despite this Ministry's best efforts the summons and other judicial process get delayed for various reasons.

2. With a view to streamlining the procedure, MHA has examined the matter and comprehensive guidelines are enclosed covering various aspects of service of the summons / Notices / judicial process on persons residing abroad.

3. You are requested to kindly have these comprehensive guidelines circulated amongst all Courts / all investigating officers under your jurisdiction for strict compliance.

Yours faithfully,

Amar Chand

(Amar Chand)

Under Secretary to the Govt. of India

Phoshae
17/2/09
a/s

Encl : As above.

Copy to :-

9/2/09
4/2/09
17/2
14/2/09
22/2/09
17/2
14/2/09
17/2

- (i) Ministry of Law and Justice, Department of Legal Affairs, Shastri Bhawan, New Delhi.
- (ii) Ministry of External Affairs, CPV Division, Patiala House Annexe, Tilak Marg, New Delhi.
- (iii) JS (PP), MHA, Lok Nayak Bhawan, Khan Market, New Delhi.
- (iv) JD (Policy), CBI, North Block, New Delhi.
- (v) Joint Director, IB, New Delhi.

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No.25016/17/2007-Legal Cell
Government of India
Ministry of Home Affairs

Subject: Comprehensive guidelines referred to in Letter No. 25016/17/2007-Legal Cell dated of Internal Security Division, Ministry of Home Affairs regarding service of summons/notices/judicial process on persons residing abroad.

Section 105 of Criminal Procedure Code (Cr.P.C.) speaks of reciprocal arrangements to be made by Central Government with the foreign governments with regard to the service of summons/warrants/judicial processes. The Ministry of Home Affairs has entered into Mutual Legal Assistance Treaty/Agreement with 22 countries which provides for serving of documents. These countries are Switzerland, Turkey, United Kingdom, Canada, Kazakhstan, United Arab Emirates, Russia, Uzbekistan, Tajikistan, Ukraine, Mongolia, Thailand, France, Bahrain, South Korea, United States of America, Singapore, South Africa, Mauritius, Belarus, Spain and Kuwait. In other cases the Ministry makes a request on the basis of the assurance of reciprocity to the concerned foreign Government through our Mission/Embassy. The difference between the two categories of the countries is that the country having MLAT has obligation to consider serving the documents whereas the non-MLAT countries does not have any obligation to consider such a request.

Summons/Notices/Judicial Processes issued by the Indian Courts

2. The summons/warrants/judicial processes received by MHA are forwarded to the concerned Indian Mission/Embassy, which in turn, takes up the matter with the designated authority in that country. In case of MLAT countries, the manner of communication is as laid down in the MLAT and can be either directly between MHA and the Central Authority or can be through the diplomatic channel. The designated authority after considering the request directs its agency to serve the document on the

concerned person and the report of the service, if any, is also received through the same chain. This is broadly the system in majority of countries. However, in some countries private companies/NGOs have also been entrusted with the service of judicial papers.

3 Based on the experience gained, some guidelines are given below which may be followed while making a request to MHA for service of judicial processes. It may, however, be noted that it is the discretion of the requested country to serve the documents and any time frame for a positive response cannot be predicted.

- (i) All requests for service of summons / notices / judicial processes on persons residing abroad shall be addressed to the Under Secretary (Legal), I S-II Division, Ministry of Home Affairs, 9th Floor, Lok Nayak Bhawan, New Delhi -- 110003. All requests shall be forwarded through post only with a covering letter from the Registrar / Court official giving the following information :-
 - (a) Material facts of the criminal matter including purpose of the request and the nature of assistance sought
 - (b) The offences alleged to have been committed, a copy of the applicable laws and maximum penalties for these offences
 - (c) Name, designation, telephone and fax No. of the person/officer who will be able to give any clarification, if required.
 - (d) The complete address of the issuing authority to which the judicial papers / service report may be returned.
 - (e) Approval of the competent authority to bear any expenditure, which may be charged by the foreign Government / Agency for service of the documents.
 - (f) Degree of confidentiality required and the reasons therefor (in case of confidentiality requirement).
 - (g) Any time limit within which the request should be executed. This will be subject to allowance of sufficient

margin of time by the requesting agency, as indicated in para 3 (iv) of the guidelines.

- (ii) MHA, on receipt of a request, will examine it in view of the provisions of Treaty, if exists, with the requested country and as per the provision of Cr.P.C. in case of a non-treaty country.
- (iii) India has a MLAT with Singapore and the Government of Singapore has prescribed a proforma which shall be completely filled and sent alongwith the request for service of judicial documents. The said proforma is at Annexure -I to these guidelines.
- (iv) MHA requires at least a period of twelve weeks time for service of such notices in the concerned country. It is, therefore, imperative that a date of hearing / appearance may be decided accordingly.
- (v) In the case of non-English speaking countries, the notices should be accompanied with certified / authenticated translation (in duplicate) in the official language of the country where the notice is proposed to be served.
- (vi) Name and Address of the individual / organisation should be complete in all respect and P.O. Box No. and Passport No. will not suffice as address of the individual.
- (vii) Ministry of Home Affairs responsibility to service the summons is only in criminal matters. Hence, summons in criminal matters only may be sent to the Ministry for service abroad.
- (viii) MHA does not undertake service of the non-bailable warrants of arrest. The service of the Non-bailable arrest warrants amounts to the extradition of an individual. The requests for extradition are based on certain legal procedures contained in applicable treaties negotiated on the basis of the International Principle of Extradition. Such requests are to be forwarded to the Ministry of External Affairs, CPV Division, Patiala House Annexe, Tilak Marg, New Delhi - 110001.

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**(A) SUMMONS ISSUED BY THE FOREIGN COURTS /
AUTHORITIES:-**

4. The summons issued by the Foreign Courts/Authorities and received in MHA will be served by the State Police through CBI – Interpol. However, Indian Mission / MEA while forwarding such requests to MHA will ensure that:-

- a) The summon is followed with a translated copy in the Indian language.
- b) A reasonable time say 10 weeks is allowed after the summons are received in the Ministry of Home Affairs.
- c) An Assurance of Reciprocity (AoR) is followed from the Countries which insist for the same in respect of service of Indian Summons.

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Annexure – I

[Form for requests from prescribed foreign countries to Singapore for assistance].

TO: The Central Authority in the Republic of Singapore

FROM: The Central Authority in India Ministry of Home Affairs

REQUEST FOR MUTUAL LEGAL ASSISTANCE
IN A CRIMINAL MATTER

Certificate of behalf of
The Central Authority in India – Ministry of Home Affairs

I, [name, appointment / position of person certifying] on behalf of the Central Authority in India- Ministry of Home Affairs, who is responsible for [state area of responsibility e.g. criminal prosecutions, investigations] in the [requesting party] and who is also authorized to make requests for mutual legal assistance in criminal matters (in the Ministry of Home Affairs- India), certify that the Ministry of Home Affairs- India respectfully requests the assistance of the Government of the Republic of Singapore in a [criminal matter]¹.

REQUEST

This request is made pursuant to the Agreement between the Government of the Republic of Singapore and the Government of India agreed on 29th June, 2005 (hereinafter "the Agreement") concerning Mutual Legal Assistance in Criminal matters.

NATURE OF REQUEST

This request relates to [describe subject of criminal matter e.g. service of summons /Notices/Judicial process issued by the Hon'ble Court _____ in Case No. _____ u/s _____]. The authority having the conduct of the criminal matter is [describe authority concerned with the criminal matter].

CRIMINAL OFFENCES / APPLICABLE LEGISLATION / PENALTIES

[Set out the offences alleged to have been contravened in relation to the criminal matter as well as maximum penalties for these offences and attach copies of applicable legislative provisions. State identity of suspect / accused person, if known] e.g.

Offence u/s _____ of the Indian Penal Code / Cr.P.C. { define the section}

Section _____ "Quote".

¹State whether it is an investigation, prosecution or an ancillary criminal matter. Criminal Matter is defined in section 2 of Singapore's Mutual Assistance in Criminal Matters Act (Cap 1904). An electronic version of this is available at <http://statutes.aga.gov.sg/>

STATEMENTS OF FACTS

[Describe the material facts of the criminal matter including in particular, those necessary to establish circumstances connected to evidence sought in the Requesting Party and the relevance of Singapore evidence to the criminal matter in the Requesting Party. Such other information as is required where the request relates to particular heads of assistance (e.g. location of persons, enforcement of confiscation order) should also be stated] e.g.

PURPOSE OF THE REQUEST

By this request it is intended to [state purpose which is intended to be achieved by the assistance sought e.g. to secure admissible evidence to be used in the trial of-----] e.g. serve a summon issued by the Hon'ble Court _____ in CaseNo. _____ u/s _____ of the Indian Penal Code / Cr.P.C. and to secure the presence of the accused before the said court on _____ (date and time).

MANDATORY ASSURANCE & UNDERTAKINGS

It is confirmed that this request.

(a) does not relate to the prosecution or punishment of a person for a criminal offence that is, or is by reason of the circumstances in which it alleged to have been committed or was committed, an offence of a political character.

(b) is not made for the purpose of prosecuting punishment or otherwise causing prejudice to a person on account of that person's race, religion, nationality or political opinions.

(c) does not relate to the prosecution of a person for an offence in a case where the person has been convicted, acquitted or pardoned by a competent court or other authority [Requesting party] i.e. of the Government of India in respect of that offence or of another offence constituted by the same act or omission as that offence.

The Central Authority in [Requesting Party] i.e. India- Ministry of Home Affairs further undertakes that :

(a) That any evidence / thing obtained pursuant to this request, will only be used for the purpose of the request in connection with [State particulars of criminal matter] ; and e.g. Case No. _____ u/s _____ of the Indian Penal Code / Cr.P.C.; and

(b) That should the Honorable Attorney General of the Republic of Singapore require the return of any evidence / thing obtained pursuant to this request, at the conclusion of [state particulars of criminal matter] e.g. case No. _____ and of all consequential appeals, the evidence / thing will be returned to the Honorable the Attorney -General of the Republic of Singapore.

ASSISTANCE REQUESTED

The Government of the Republic of Singapore is requested to take such steps as are necessary to give effect to the following:

[describe particular type of assistance requested] e.g.

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(112)

To serve the summons issued by the Hon'ble Court of _____ in Case No. _____ u/s _____ of the Indian Penal Code / Cr.P.C. on the accused -Mr. _____ r/o _____.

EXECUTION OF REQUEST

Confidentiality

[State confidentiality requirements of the Requesting Party, if any] e.g.

There is no requirement of confidentiality in this matter.

Procedure to be followed

It is requested that the following procedures be observed in the execution of the request

- [State details of manner and form² in which evidence is to be taken and transmitted to the Requesting party, if relevant]
- [State any special requirements as to certification / authentication of documents].
- [State if attendance by representative of the Requesting Party at examination of witnesses / execution of request is required and, if so, the title of the post held by the proposed representative].

e.g.

The summon alongwith the copy of the complaint filed in the court may be served upon _____ and his signature on the duplicate copy of the summon may be taken as token of acknowledgement and forwarded to the Ministry of Home Affairs in Government of India through diplomatic channel.

Period of Execution

It is requested that the request be executed within [state period giving reasons i.e. specify likely trial or hearing dates or any other dates / reasons relevant to execution of request]. E.g. at least 10 days before i.e. (date) _____, which is the next date of hearing in the Court of _____.

Signed by : (_____)
Name / Designation ;
Office :
Date :

²please provide proforma or form of words as appropriate.

Annex B

SAMPLE NOTICE TO PERSON SERVED UNDER ARTICLE 14

TO:

[State name and address of person to be served] e.g.
Mr. R.Ravindran
93, Loyang View
Singapore 507128

The Central Authority in India- Ministry of Home Affairs [Requesting State] has made a request pursuant to the Agreement between the Government of Republic of Singapore (Requested State) and the Government of India (Requesting State) concerning Mutual Legal Assistance in Criminal Matters for the service of the attached process:

[describe process and documents, if any to be served] e.g.

Viz: to serve summons issued by the Ld. Additional Chief Metropolitan Magistrate, 47th Court, Esplanade, Mumbai in CC No.4700982/SS/2007 u/s 500 of the Indian Penal Code

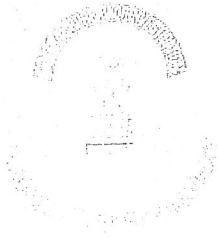
Please note that by serving this process on behalf of the Central Authority in India- Ministry of Home Affairs [Requesting State], the Government of Republic of Singapore [Requested State] takes no position with respect to the merits of any proceedings in the Additional Chief Metropolitan Magistrate, 47th Court, Esplanade, Mumbai in CC No.4700982/SS/2007 u/s 500 of the Indian Penal Code in the [Requesting State].

Please review the attached process carefully for instructions and deadlines. If you have any questions about them you may wish to consult a lawyer. You may also contact [the representative of the Requesting State] directly at [Phone number or other contact details] e.g. Mr. Jayant L. Phoujdar, Advocate, Mumbai High Court directly at 022-66377902, 79037904, 919819560485.

However, if the process is a process other than a summons to appear as a witness, under the law of the India [Requesting State], please note that [to be advised by the Requesting State of other possible consequences, if any under its law if the person refuses or fails to accept service or fails to comply with the terms of service of process]. E.g. warrant of arrest will be issued by the Additional Chief Metropolitan Magistrate, 47th Court, Esplanade, Mumbai, if the person refuses or fails to accept service or fails to comply with the terms of service of process.

(_____)
Central Authority in India- Ministry of Home Affairs
Date:

1033/2018
8/6/18 MOST URGENT



CENTRAL BUREAU OF INVESTIGATION
International Police Co-operation Cell
Plot No. 5B, 6th Floor, CGO Complex,
Lodhi Road, New Delhi
Ph No. 011-24392170, Fax: 24364070
E-Mail ID: adco@cbi.gov.in



No. IP- 05/009/2003-168

Dated: 06/06/2018

To

Sh. V. Vishwanthan
Under Secretary, Government of India
MHA, IS-II Division
Legal Cell-I, 2nd Floor
Major Dhyanchand National Stadium, Near India Gate
New Delhi- 110 001

Sub: Forwarding of comprehensive guidelines regarding service of summons/notices/judicial process on the persons residing abroad issued vide File No. OI-19013/35/2018-OIA-II(c) Griev dated 26th April, 2018-reg

Sir

This office is in receipt of comprehensive guidelines regarding service of summons/notices/judicial process on the persons residing abroad along with covering letter allegedly issued by Sh L C Goyal, US/MHA/(OIA-II Section), IS-II Division vide file number OI-19013/35/2018-OIA-II (C) Griev dated 26th April, 2018 containing draft request to serve a summon in Canada (copy enclosed).

Since the letter is not through proper channel and further from the perusal of the guidelines, it appears that perhaps the same has not genuinely been issued by MHA.

It is, therefore, requested to examine the aforementioned letter and confirm, if the same has genuinely been issued by MHA or otherwise, so that further necessary action at this end may be taken.

Encl: As above

Yours sincerely,

(Tanmaya Behera)
Assistant Director
CBI, IPCC, New Delhi

7/6/18
MHA

14/16
07/5/18

2955-60
4/5/18

Office of DIG (IFCL)
Pg. No. 1419
Dated. 07/5/2018

File No. OI-19013/35/2018-OIA-II (c) Griev

Government of India
Ministry of Home Affairs,
(OIA- II C Section)
IS Division-II: Legal Cell

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7/5/18

New Delhi, dated the 26th April' 2018

To

The Home Secretaries of all States/UTs,
The DGPs and IGP's of all States/UTs.

Sub:

Comprehensive guidelines regarding service of summons/notices/ Judicial process on the persons residing abroad.

Sir,

Section 105 of Criminal Procedure Code (Cr.P.C.) provides for reciprocal arrangements to be made by Central Government with the foreign governments with regard to the service of summons / warrants/ judicial processes. MHA has entered into Mutual Legal Assistance Treaty/ Arrangements with 25 countries. In respect of other countries, the Ministry attempts to serve the judicial papers by giving an assurance of reciprocity. However, despite this Ministry's best efforts the summons and other judicial process get delayed for various reasons.

With a view to streamlining the procedure, MHA has examined the matter and comprehensive guidelines are enclosed covering various aspects of service of the summons/ Notices/ Judicial process on persons residing abroad.

You are requested to kindly have these comprehensive guidelines circulated amongst all courts/ all investigating officers under your jurisdiction for strict compliance.

IPCU Dy. Ho..... S. 94..

Yours faithfully,

Sd/-

(I. C GOYAL)

Month: 07/05/2018

Under Secy. To the Govt. of India

Encl: As above.

Copy to:

- i) M/o Law and Justice, Deptt. Of Legal Affairs, Shastri Bhawan, New Delhi
- ii) M/o External Affairs, CPV Division, Patiala House Annexe, Tilak Marg, New Delhi.
- iii) JS(PP), MHA, Lok Nayak Bhawan, Khan Market, New Delhi
- iv) JD(Policy), CBI, North Block, New Delhi
- v) Joint Director, IB, New Delhi.

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7/5/18
Handwritten signature and initials

File No. OI-19013/35/2018-OIA-II(c) Griev.-Legal Cell
Government of India
Ministry of Home Affairs
(OIA- II C Section)

Subject: Comprehensive guidelines referred to in Letter No. OI-19013/35/2018-OIA-II (c) Griev- Legal Cell, dated 16th Jan'2018 of Internal security Division, Ministry of Home Affairs regarding service of summons/notices/judicial process on persons residing abroad.

Section 105 of Criminal Procedure Code (Cr.PC) speaks of reciprocal arrangements to be made by Central Government with the Foreign Governments with regard to the service of summons/warrants/judicial processes. The Ministry of Home Affairs has entered into Mutual Legal Assistance Treaty/Agreements with 22 countries which provide for serving of documents. These countries are Switzerland, Turkey, United Kingdom, Canada, Kazakhstan, United Arab Emirates, Russia, Uzbekistan, Tajikistan, Ukraine, Mongolia, Thailand, France, Bahrain, South Korea, United States of America, Singapore, South Africa, Mauritius, Belarus, Spain and Kuwait. In other cases the ministry makes a request on the basis of assurance of reciprocity to the concerned foreign government through the mission / Embassy. The difference between the two categories of the countries is that the country having MLAT has obligation to consider serving the documents whereas the non-MLAT countries does not have any obligation to consider such a request.

Summons/notices/judicial processes issued by the Indian Courts.

2. The summons/warrants/judicial processes received by MHA are forwarded to the concerned Indian Missions/Embassies which in turn, takes up the matter with the designated authority in that country. In case of MLAT countries, the manner of communication is as laid down in MLAT and can be either directly between MHA and the Central Authority or can be through the diplomatic channel. The designated authority after considering the request directs its agency to serve the document on the concerned person and the report of the service, if any is also received through the same chain. This is broadly the system in majority of the countries. However, in some countries private companies/ NGOs have also been entrusted with the service of judicial papers.

3. Based on the experience gained, some guidelines are given below which may be followed while making a request to MHA for service of judicial processes. It may, however, be noted that it is the discretion of the requested country to serve the documents and any time frame for a positive response cannot be predicted.

a) All requests for service of summons/notices/judicial processes on persons residing abroad shall be addressed to the Under Secretary(Legal), IS-II Division,

Ministry of Home Affairs, 9th Floor, Lok Nayak Bhawan, New Delhi- 110003. All requests shall be forwarded through post only with a covering letter from the Registrar/Court official giving the following information:

- a) Material facts of the criminal matter including purpose of the request and the nature of the assistance sought.
 - b) The offences alleged to have been committed, a copy of the applicable laws and maximum penalties for these offence.
 - c) Name, designation, telephone and fax number of the person/officer who will be able to give any clarification, if required.
 - d) The complete address of the issuing authority to which the judicial papers/service reports may be returned.
 - e) Approval of the competent authority to bear any expenditure, which they be charged by the foreign government/agency for the service of the documents.
 - f) Degree of confidentiality required and the reasons therefore (in case of confidentiality requirement).
 - g) Any time limit within which the request should be executed. This will be subject to allowance of sufficient margin of time by the requesting agency, as indicated in para 3(iv) of the guidelines.
- b) MHA, on receipt of request, will examine it in view of the provisions of treaty, if exists, with the requested country and as per the provision of Cr.PC in case of non-treaty country.
- c) India has a MLAT with Canada and the Govt. of Canada has prescribed a proforma which shall be completely filled and sent alongwith the request for service of judicial documents. The said proforma is at Annexure - 1 to these guidelines.
- d) MHA requires at least a period of 12 weeks times for service of such notices in the concerned countries. It is, therefore imperative that a date of hearing/appearance may be decided accordingly.
- e) In the case of non English speaking countries, the notices should be accompanied with the certified/authenticated translation (in duplicate) in the official language of the country where the notice is proposed to be served.

Annexure-1

[Form for requests from prescribed foreign countries to Canada for Assistance]
TO: The Central Authority in the Republic of Canada
FROM: The Central Authority in India -Ministry of Home Affairs

REQUESTS FOR MUTUAL LEGAL ASSISTANCE
IN A CRIMINAL MATTER

Certificate on behalf of
The Central Authority in India- Ministry of Home Affairs
I, [Shri Ravi Inder Kaur, Addl. Chief Judicial Magistrate, Amritsar] on behalf of
the Central Authority in India, Ministry of Home Affairs, who is responsible for [SHO
Sukhbir Singh P.S Sadar, (Amritsar). Mobile No. 97811-30209] in the [Accused
Mandeep Kaur has been charged with offences under section 406/420/120-B
IPC for committing fraud to Asha Rani W/o Rajinder Kumar. Accused is
required for investigation so that challan report under section 173 Cr.P.C can
be sorted] and who is also authorized to make requests for mutual legal assistance in
criminal matters (The Under Secretary (Legal), IS-2 Division, Ministry of Home
Affair, 9th floor, Lok Nayak Bhawan, New Delhi-110003.) certify that the Ministry
of Home Affairs- India respectfully requests the assistance of the Government of the
Republic of Canada in a [Criminal matters].

REQUEST

This request is made pursuant to the Agreement between the Govt. of
Republic of Canada and the Govt. of India agreed on 29th June 2005 (hereinafter " The
Agreement") concerning Mutual Legal Assistance in Criminal matters.

NATURE OF REQUEST

This request relates to the [Regarding execution of the Mandeep Kaur 1135, 61,
Street North West, Edmonton AB (T6L 3W2) Canada Mb : +001 (639) 371-7586, E.
deepkaur0831@gmail.com. Passport No - J0755816, In Case number 238 u/s
420/406/120-B IPC, P. S. Sadar, Amritsar). The authority having the conduct of the
criminal matter is [SHO Sukhbir Singh P.S Sadar, (Amritsar). Mobile No. 97811-
30209]

f) Name and address of the individual/organization should be complete in all respect and PO BOX no. and Passport no. will not suffice as address of the individual.

g) Ministry of Home Affairs responsibility to service the summons is only in Criminal Matters. Hence, summons in Criminal matters only may be sent to the Ministry for service abroad.

h) MHA does not undertake service of the non-bailable warrants of arrest. The service of non-bailable arrest warrants amounts to the extradition of the individual. The request for extradition are based on certain legal procedures contained in applicable treaties negotiated on the basis of the International Principle of Extradition. Such requests are to be forwarded to the Ministry of External Affairs, CPV Division, Patiala House Annexe, Tilak Marg, New Delhi - 110001.

(A) SUMMONS ISSUED BY THE FOREIGN COURTS/AUTHORITIES:-

4. The summons issued by the Foreign Courts/Authorities and received in MHA will be served by the State Police through CBI-Interpol. However, Indian Mission/MEA while forwarded such requests to MHA will ensure that:-

a) The summon is followed with a translated copy in the Indian language.

b) A reasonable time say 10 weeks is allowed after the summons are received in the Ministry of Home Affairs.

c) An Assurance of Reciprocity(AOR) is followed from the countries which insist for the same in respect of Indian Summons.

10

CRIMINAL OFFENCES / APPLICABLE LEGISLATION/PENALTIES

[Set out the offences alleged to have been contravened in relation to the criminal matter as well as maximum penalties for these offences and attached copies of applicable legislative provisions. State identity of suspect/ accused person if known) e.g.

Offence u/s :- **420/406/120-B IPC** of the Indian Penal Code/ Cr.PC (define the section)

Section IPC "U/s:- **420/406/120-B**"

"Quote"

1. State whether it is an investigation, prosecution or an ancillary criminal matter. Criminal matter is defined in section 2 of Canada Mutual Assistance in Criminal Matters Act (R.S.C., 1985, c. 30 (4th Supp.)). An electronic version of this is available at <http://laws-lois.justice.gc.ca/eng/>

STATEMENT OF FACTS

([Regarding execution of the Mandeep Kaur 1135, 61, Street North West, Edmonton AB (T6L 3W2) Canada Mb : +001 (639) 371-7586, E. deepkaur0831@gmail.com. Passport No - J0755816, In Case number 238 u/s 420/406/120-B IPC, P. S. Sadar, Amritsar). The authority having the conduct of the criminal matter is [SHO Sukhbir Singh P.S Sadar, (Amritsar). Mobile No. 97811-30209] **IPC for committing fraud to Asha Rani W/o Rajinder Kumar. Accused is required for investigation so that challan report under section 173 Cr.P.C can be)**

PURPOSE OF REQUEST

By this request it is intended to [state purpose which is intended to be achieved by the assistance sought to secure admissible evidence to be used in the trial of ___] e.g. serve a summon issued by the Hon'ble Court Shri Ravi Inder Kaur, Addl. Chief Judicial Magistrate, Amritsar in case no. 238 u/s 420/406/120-B IPC, P.S. Sadar, Amritsar of the Indian Penal Code/ Cr.PC and to secure the presence of the accused before the said court on **12.06.2018** (date and time),

MANDATORY ASSURANCE & UNDER TAKINGS

It is confirmed that this request:

- (a) does to the prosecution or punishments of a person for a criminal offence that is , or is by reason of the circumstances in which it alleged to have been committed or was committed, an offence of a political character.
- (b) is not made for the purpose of the prosecuting punishment or

otherwise causing prejudice to the person on account of that persons race, religion, nationality or political opinions.
(c) does not relates to the prosecution of a person for an offence in a case where the person has been convicted, acquitted or pardoned by a competent court or by other authority [Mrs. Asha Rani W/O Sh. Rajinder Kumar] i.e. of the Government of India in respect of that offence or of another offence constituted by the same act or omission as that offence.

The Central Authority in [Mrs. Asha Rani W/O Sh. Rajinder Kumar] i.e. India - Ministry of Home Affairs further undertakes that:

- (a) that any of the evidence / thing obtained pursuant to this request will only be used for the purpose of the request in connection with [P.S. Sadar, Amritsar]; and e.g. Case No. 238 u/s : 420/406/120-B IPC of the Indian Penal Code /CrPC; and
- (b) that should the Hon'ble Attorney General of the Republic of Canada required the return of any evidence / thing obtained pursuant to this request, at the conclusion of [state particulars of criminal matters] for e.g. case no. 238 u/s : 420/406/120-B IPC and of all consequential appeals, the evidence/ thing will be returned to the Honorable Attorney General of the Republic of Canada.

ASSISTANCE REQUESTED

The Government of Republic of Canada is requested to take such steps as are necessary to give effect to the following:
[describe particular type of assistance required] e.g.

To serve the summons issued by the Hon'ble Court of Shri Ravi Inder Kaur, Addl. Chief Judicial Magistrate, Amritsar in Case No. 238 u/s : 420/406/120-B IPC of the Indian Penal Code/ Cr.PC on the accused Mandeep Kaur, R/O 1135, 61 Street North West. Edmonton AB (T6L 3W2) Canada MB:-+001 (639) 317-7586 E. deepkaur0831@gmail.com PASSPORT NO. J0755816.

EXECUTION OF REQUEST

Confidentiality

[State confidentiality requirements of the Requesting Party, if any] e.g.

There is no requirement of confidentiality in this matter.

Procedure to be followed

It is requested that the following procedures be observed in the execution of the request

- [State details of manner and form² in which evidence is to be taken and transmitted to the requesting party, if relevant]
- [State any special requirements as to certification/ authentication of documents]
- [State if attendance by representative of the requesting party at examination of witnesses/ execution of request is required and, if so, the title of the post held by the proposed representative.

e.g.

The summon along with the copy of the complaint filed in the court may be served upon **12.06.2018** and his signature on the duplicate copy of the summon may be taken as token of acknowledgment and forwarded to the Ministry of Home Affairs, Government of India, through diplomatic channel.

Period of Execution

It is requested that the request be executed within [Person should appear before this court on **12.06.2018** i.e. 02.06.2018] E.g. at least 10 days before i.e. (date) **02.06.2018**, which is the next date of hearing in the Court of **12.06.2018**

Signed by : _____
Name /Designation : _____
Office : _____
Date : _____

²please provide proforma or form of words as appropriate

SAMPLE NOTICE TO PERSON SERVED UNDER ARTICLE 14

Annex B

TO

[State name and address of person to be served] e.g.
Department of Justice Canada
Programs Branch
284 Wellington Street, 6th Floor
Ottawa, Ontario
CANADA
K1A 0H8
Telephone: 613 941-4193
Fax: 613 941-2269
E-mail: pb-dgp@justice.gc.ca

The Central Authority in India - Ministry of Home Affairs [INDIA] has made a request pursuant to the Agreement between the Government of Republic of Canada and the Government of India (Requesting State) concerning Mutual Legal Assistance in Criminal Matters for the service of the attached process:

[describe process and documents, if any to be served] e.g.

Viz: to serve summons issued by the Shri Ravi Inder Kaur, Addl. Chief Judicial Magistrate, Amritsar in FIR BEARING ITS No 238 Dated 25-10-2017 REGISTERED UNDER SECTION 406 / 420/ 120-B of INDIAN PENAL CODE BY POLICE STATION of SADAR, AMRITSAR, PUNJAB (INDIA).

Please note that by serving the process on behalf of the Central Authority in India

Ministry of Home Affairs [Requesting State], the Government of Republic of CANADA [Requested State] takes no position with respect to the merits of any proceedings in the Shri. RAVI INDER KAUR, Addl. CHIEF JUDICIAL MAGISTRATE AMRITSAR in the FIR BEARING ITS No 238 Dated 25-10-2017 REGISTERED UNDER SECTION 406 / 420/ 120-B of INDIAN PENAL CODE BY POLICE STATION of SADAR, AMRITSAR, PUNJAB (INDIA).
[Requesting State].

Please review the attached process carefully for instruction and deadlines. If you have any questions about them you may wish to consult a lawyer. You may also contact [[the representative of the Requesting State] directly at [0183-2225124] to get free legal aid.

However, if the process is a process other than a summons to appear as a witness under the law of the India [P.S. Sadar, Amritsar], please note that [to be advised by the Requesting State of other possible consequences, if any under its law if the person refuses or fails to accept service or fails to comply with the terms of service of process]. E.g. **warrant of arrest will be issued by the Additional Chief Judicial Magistrate, Amritsar**, if the person refuses or fails to accept service or fails to comply with the terms of service of process.

(_____)

Central Authority of India – Ministry of Home Affairs.

Date: