

Article is two fold,  
firstly, that law



**ASSIGN  
BUSTER**

Article 22(2) of the Constitution states, “ Every person who is arrested and detained in custody shall be produced before the nearest magistrate within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place of arrest to the Court of the magistrate and no such person shall be detained in custody beyond the said period without the authority of a magistrate.” Section 57 of the Code contains more or less the same provisions as is contained in Article 22(2) of the Constitution. The object of this section, according to the Supreme Court, is two fold, firstly, that law does not favour detention in police custody except in special cases and that also for reasons to be stated by the Magistrate in writing, and, secondly, to enable such person to make representation before the Magistrate. The arrest commences with the restraint placed on the liberty of the accused and not with the time of arrest recorded by the arresting officer.

‘ Arrest’ starts with an arrester taking a person into his custody by action of words, restraining him from moving anywhere beyond the arrester’s control, and it continues until the person so restrained is either released from custody or, having been brought before a Magistrate, is remanded to custody by the Magistrate. The right of not being detained for more than 24 hours without judicial scrutiny has been created with a view; (i) To prevent arrest and detention for the purpose of extracting confessions, or as a means of compelling people to give information; (ii) To prevent police stations being used as though they were prisons—a purpose for which they are unsuitable; (iii) To afford an early recourse to a judicial officer independent of the police on all questions of bail or discharge. Section 57 of the Code enables the magistrates to keep a check over the police investigation and it is necessary

that the magistrates should try to enforce this requirement and where it is found disobeyed, come down heavily upon the police. In *Kultej Singh v. Circle Inspector of Police*, the Court has held that the detention or custody beyond twenty four hours was not illegal because there was reasonable explanation for the delay and the conduct of the respondents was not lacking in bona fides by satisfying with the first information report which revealed that the delay in producing the accused before the Magistrate was caused since the respondent officials were immediately required to go to other place in connection with communal rioting and they also tendered unconditional apology for the delay.

Section 167 of the Code of Criminal Procedure provides that where investigation of an offence cannot be completed within 24 hours, the police officer making the investigation may obtain permission to detain the accused for a term not exceeding 15 days in the whole on transmitting to the nearest judicial magistrate a copy of the entries in the diary relating to the case, and at the same time forwarding the accused to such Magistrate and the period of 15 days may be extended up to 90 days if the magistrate satisfies that adequate grounds exist for doing so. In the offences punishable with death, life imprisonment or imprisonment of ten years and extend up to sixty days in the case of investigation relating to any other offence.