Need to Compensate for Unlawful Arrests

Why in news?

The probe conducted by former NCB official into consumption of drugs on board a cruise ship seems to be a malicious and motivated probe.

What is Narcotics Control Bureau (NCB)?

- The Government of India constituted the Narcotics Control Bureau in 1986.
- **Functions**
  - Co-ordination of actions by various offices, State Governments and other authorities under the N.D.P.S. Act, Customs Act, Drugs and Cosmetics Act and any other law with the enforcement provisions of the NDPS Act, 1985.
  - Implementation of the obligation in respect of counter measures against illicit traffic under the various international conventions and protocols
  - Assistance to concerned authorities in foreign countries and international organisations to facilitate coordination for prevention and suppression of illicit traffic
  - Coordination of actions taken by the other concerned Ministries, Departments and Organizations in respect of matters relating to drug abuse
- The Narcotics Control Bureau is the apex coordinating agency and functions as an enforcement agency through its zones and sun-zones.

What is the background of the issue?

- The raid on the vessel resulted in seizure of narcotic substances and the arrest of several people.
- Even though nothing was seized, the agency made sensational claims in court about them being part of an international drug trafficking network
- It also cited messages purportedly exchanged on WhatsApp as evidence.
- A special investigation team from Delhi has now cited lapses in the initial investigation and the lack of prosecutable evidence
- It absolved Mr. Khan and five others and excluded them from the charge sheet filed recently.
- The lapses include
  - failure to video-graph the search of the ship
  - not conducting a medical examination to prove consumption
  - examining Mr. Khan’s phone and reading messages on it without any legal basis

What is the need of the hour?

- The agency made amends for the mischief done by the initial set of investigators by applying the standard of proof beyond reasonable doubt while presenting its final report.
- It is also time that the Government came out with a legal framework for compensating those jailed without proof.

- The country does not have a law on the grant of compensation to those maliciously prosecuted.
- Section 358 of the Cr.P.C. that provides for a fine to be imposed on a person on whose complaint a person is arrested without sufficient grounds should be expanded to cover just compensation by the state for unnecessary arrests.
- Even the Law Commission of India has recommended enactment of a law to make compensation in such cases an enforceable right.

References

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