



INDIAN PENAL CODE, 1860	BHARTIYA NYAYA SANHITA ACT, 2023
CRIMINAL PROCEDURE CODE, 1973	BHARATIYA NAGARIK SURAKSHA SANHITA, 2023
INDIAN EVIDENCE ACT, 1872	BHARATIYA SAKSHYA ADHINIYAM, 2023

TIMELINE



TIMELINE

01 JULY 2024

Date of Enactment



**21 DECEMBER
2023**

BNSS 2 was passed in
the RAJYA SABHA



**25 DECEMBER
2023**

President's Assent



531	Sections
02	Schedules
177	Sections Revised
09	New Sections
14	Sections Repealed

- **Offence (BNS)**
- **Information (S.173)**
- **Investigation (Ch. XIII)**
- **Arrest (Ch. V)**
- **Bail (Ch. XXXV)**
- **Trial (Ch. XIX)**
- **Judgement (Ch. XXIX)**
- **Appeal (Ch. XXXI)**

STAGES OF CRIMINAL TRIAL





SECTION 1

(1)	BHARATIYA NAGARIK SURAKSHA SANHITA
(2)	Except CH 9, 11 & 12 Shall not apply to Nagaland Tribal Areas
(3)	Came into force - 1st July 2024

SECTION 2

DEFINITIONS



(a)	Audio-video electronic
(b)	Bail
(c)	Bailable offence
(d)	Bail bond
(e)	Bond
(f)	Charge
(g)	Cognizable offence
(h)	Complaint
(i)	Electronic communication
(j)	High Court
(k)	Inquiry
(l)	Investigation
(m)	Judicial proceeding

(n)	Local jurisdiction
(o)	Non-cognizable offence
(p)	Notification
(q)	Offence
(r)	Officer in charge
(s)	Place
(t)	Police report
(u)	Police station
(v)	Public Prosecutor
(w)	Sub-division
(x)	Summons-case
(y)	Victim
(z)	Warrant-case



SUPREME COURT

HIGH COURT



SESSIONS COURT



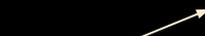
SUPREME COURT



HIGH COURT



SESSIONS COURT



SESSIONS JUDGE



ADL.. SESSIONS JUDGE



ASST. SESSIONS JUDGE



CHIEF JUDICIAL MAGISTRATE / CHIEF METROPOLITAN MAGISTRATE



JMFC

MM.

JMSC



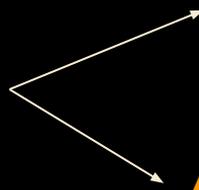
SUPREME COURT



HIGH COURT



SESSIONS COURT



SESSIONS JUDGE

Adl. SESSIONS JUDGE



CHIEF JUDICIAL MAGISTRATE



JUDICIAL MAGISTRATE FIRST CLASS

JUDICIAL MAGISTRATE SECOND CLASS



METROPOLITAN MAGISTRATE

ASSISTANT SESSIONS JUDGE



SAME

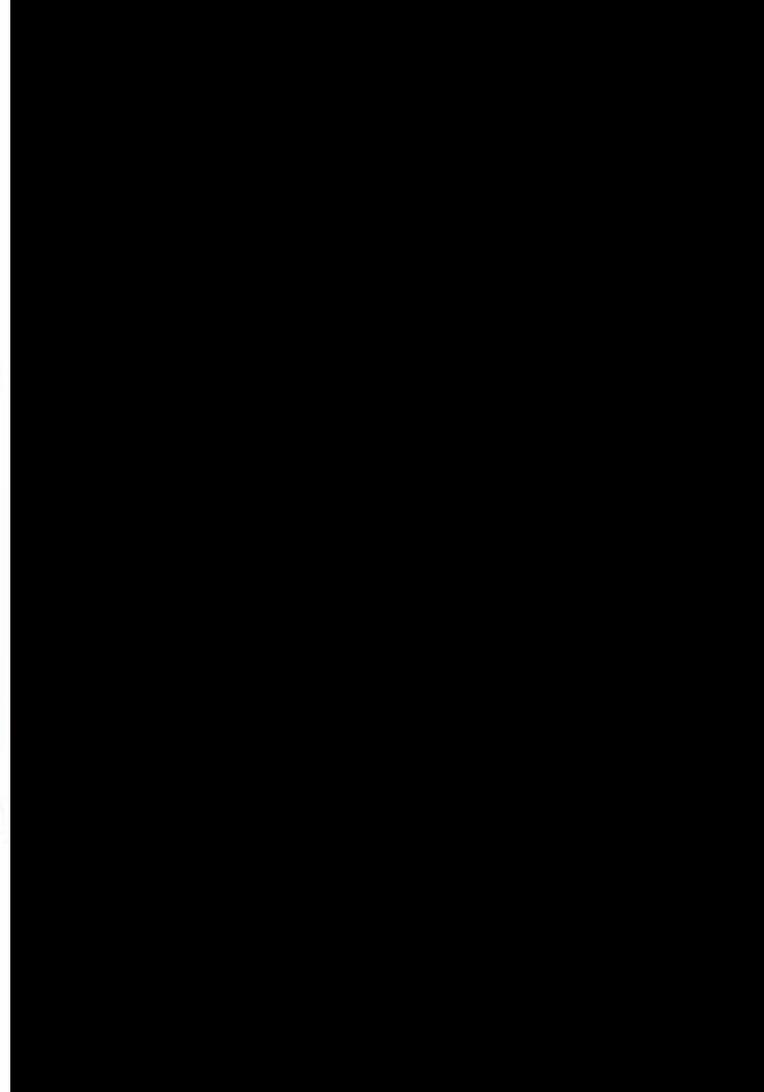
SUPREME COURT	ANY SENTENCE	
HIGH COURT (2(j))	ANY SENTENCE	22 (1)
SESSION JUDGE (8)	ANY SENTENCE DEATH - HIGH COURT CONFIRMATION	22 (2)
ADDITIONAL SESSIONS JUDGE (8)	ANY SENTENCE DEATH - HIGH COURT CONFIRMATION	22 (2)
CHIEF JUDICIAL MAGISTRATE (10)	7 YEARS	23 (1)
JUDICIAL MAGISTRATE FIRST CLASS (9)	3 YEARS 50K FINE CS	23 (2)
JUDICIAL MAGISTRATE SECOND CLASS (9)	1 YEAR 10K FINE CS	23 (3)

MAGISTRATE

EXECUTIVE

JUDICIAL

SECTION 14	EXECUTIVE MAGISTRATE	Every District - State Gov. may appoint
SECTION 15	SPECIAL EXECUTIVE MAGISTRATES	State Gov. may appoint for such term as it may think fit any Ex. Mag. or Police officer not below the rank of the S.P. Special Power / Special Area
SECTION 16	LOCAL JURISDICTION OF EX. MAG.	D.M Decides
SECTION 17	SUBORDINATION OF EX MAG.	D.M Leads



PUBLIC PROSECUTOR



Sec 18

Public Prosecutor

Sec 19

Assistant Public Prosecutor

Sec 20

Directorate of Prosecution

PUBLIC PROSECUTOR - 18

High Court Appointments	Central/State Government appoints Public and Additional Public Prosecutors after consultation with the High Court.
Delhi Appointments	Central Government appoints Prosecutors after consulting Delhi High Court.
District Appointments	State Government appoints Public and Additional Public Prosecutors. Prosecutors can be assigned to multiple districts.
Panel Preparation	District Magistrate (in consultation with Sessions Judge) prepares a panel for district appointments.
Eligibility for Appointment	Only candidates from the District Magistrate's panel can be appointed unless the Cadre system applies.
Cadre Appointments	States with a regular Cadre of Prosecuting Officers must appoint Prosecutors from the Cadre.

Definitions	Regular Cadre includes promotion pathways for Assistant Prosecutors. Prosecuting Officer covers all types of Prosecutors (Public, Special, etc.).
Eligibility Criteria	<ul style="list-style-type: none">- Public/Additional Prosecutors: 7 years practice as an advocate.- Special Prosecutors: 10 years practice as an advocate.
Victim's Advocate	Victims may engage their own advocate with court permission (for assisting prosecution).
Advocacy Experience	Time served as a Prosecutor (Public, Additional, Special, or Assistant) is counted as advocacy practice.

ASST. PUBLIC PROSECUTOR - 19

(1)	State Government appoints one or more Assistant Public Prosecutors in every district for Magistrates' Courts.
(2)	Central Government may appoint Assistant Public Prosecutors for specific cases or classes of cases in Magistrates' Courts.
(3)	If no Assistant Public Prosecutor is available, the District Magistrate can appoint another person with a 14-day notice to the State Government.
Proviso (a)	Police officers involved in the investigation of the case are ineligible for appointment.
Proviso (b)	Police officers below the rank of Inspector are ineligible for appointment.

(1)(a)	State Government may establish a Directorate of Prosecution (Director + Deputy Directors).
(1)(b)	District Directorate of Prosecution may include Deputy Directors and Assistant Directors.
(2)(a)	Eligibility: Director/Deputy Director – Advocate with 15+ years' practice or a Sessions Judge.
(2)(b)	Eligibility: Assistant Director – Advocate with 7+ years' practice or Magistrate of the First Class.
(3)	Director of Prosecution functions under the Home Department.
(4)	Deputy and Assistant Directors are subordinate to the Director of Prosecution.
(5)	Public Prosecutors in the High Court are subordinate to the Director of Prosecution.
(6)	Prosecutors in District Courts and Assistant Public Prosecutors are subordinate to Deputy/Assistant Directors.

(7)	Director monitors cases with punishments of 10+ years, life imprisonment, or death.
(8)	Deputy Director monitors cases with punishments of 7–10 years.
(9)	Assistant Director monitors cases with punishments of less than 7 years.
(10)	Director, Deputy Director, or Assistant Director can deal with all proceedings under the Sanhita.
(11)	State Government specifies additional powers/functions and jurisdiction via notification.
(12)	Advocate General is exempt from these provisions while acting as a Public Prosecutor.

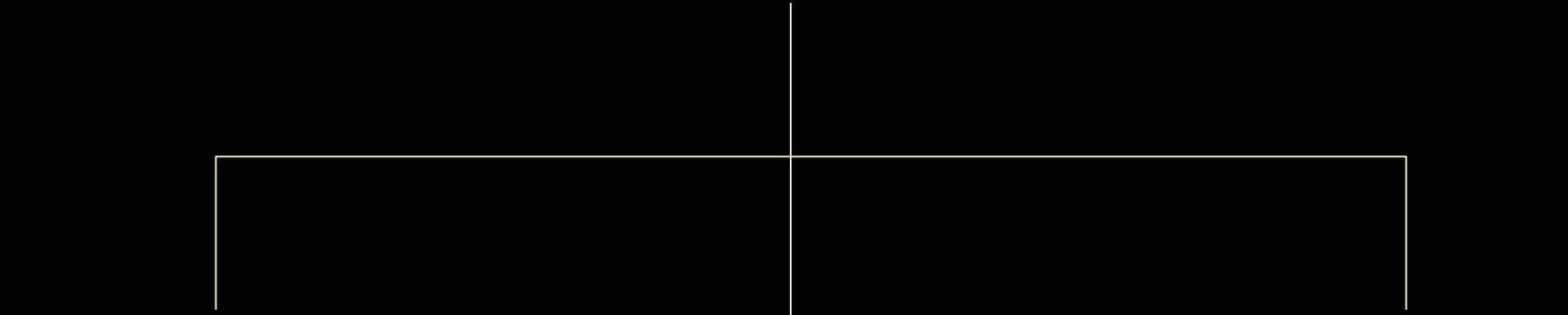
OFFENCES

COMPOUNDABLE

BAILABLE

COGNIZABLE

SUMMON VS WARRANT



MEANING

A compoundable offence is a type of crime where the person who has been wronged (the victim) and the accused can **settle the case** between themselves. Once they agree to settle, the case can be closed, often with the court's approval.

SECTION 359

NAME OF OFFENCE

BNS

SECTION

BNS

PERSON

WHO CAN COMPOUND

NAME OF OFFENCE	SECTION	PERSON
BNS	BNS	WHO CAN COMPOUND

359

TABLE 1

WITHOUT THE PERMISSION OF MAGISTRATE

TABLE 2

WITH THE PERMISSION OF MAGISTRATE

TABLE

Offence	Section of the Bharatiya Nyaya Sanhita, 2023 applicable	Person by whom offence may be compounded
1	2	3
Enticing or taking away or detaining with criminal intent a married woman.	84	The husband of the woman and the woman.
Voluntarily causing hurt.	115(2)	The person to whom the hurt is caused.
Voluntarily causing hurt on provocation.	122(1)	The person to whom the hurt is caused.
Voluntarily causing grievous hurt on grave and sudden provocation.	122(2)	The person to whom the hurt is caused.
Wrongfully restraining or confining any person.	126(2), 127(2)	The person restrained or confined.
Wrongfully confining a person for three days or more.	127(3)	The person confined.
Wrongfully confining a person for ten days or more.	127(4)	The person confined.
Wrongfully confining a person in secret.	127(6)	The person confined.
Assault or use of criminal force.	131,133,136	The person assaulted or to whom criminal force is used.

Table

Offence	Section of the Bharatiya Nyaya Sanhita applicable	Person by whom offence may be compounded
1	2	3
Word, gesture or act intended to insult the modesty of a woman.	79	The woman whom it was intended to insult or whose privacy was intruded upon.
Marrying again during the life-time of a husband or wife.	82(1)	The husband or wife of the person so marrying.
Causing miscarriage.	88	The woman to whom miscarriage is caused.
Voluntarily causing grievous hurt.	117(2)	The person to whom hurt is caused.

125

1	2	3
Causing hurt by doing an act so rashly and negligently as to endanger human life or the personal safety of others.	125(a)	The person to whom hurt is caused.
Causing grievous hurt by doing an act so rashly and negligently as to endanger human life or the personal safety of others.	125(b)	The person to whom hurt is caused.
Assault or criminal force in attempting wrongfully to confine a person.	135	The person assaulted or to whom the force was used.
Theft, by clerk or servant of property in possession of master.	306	The owner of the property stolen.

359 (1)

Certain offences under the Bharatiya Nyaya Sanhita, 2023 can be settled (compounded) by the victim or authorized persons,

359 (2)

Certain offences under the Bharatiya Nyaya Sanhita, 2023 can be settled (compounded) by the specified persons listed in a table, but only with the court's permission.

(3)	Abetment, attempt, or liability under Section 3(5) or Section 190 can also be compound in the same way as the main offence.
(4)(a)	If the person eligible to compound the offence is a child or of unsound mind , their legal guardian or authorized person can compound the offence with court permission .
(4)(b)	If the eligible person is dead , their legal representative (as per the Code of Civil Procedure, 1908) can compound the offence with court consent .
(5)	If the accused is committed for trial or appeal is pending , the offence can only be compounded with the permission of the trial or appellate court .
(6)	A High Court or Court of Session using its revision powers under Section 442 can allow an offence to be compounded if the person is eligible.
(7)	An offence cannot be compounded if the accused has a prior conviction that results in enhanced or different punishment for the offence.
(8)	Compounding an offence results in the acquittal of the accused with whom the offence was compounded.
(9)	No offence can be compounded except as provided under this section.

BAILABLE VS NON-BAILABLE

Defined under 2(c) of the BNSS

In case of bailable offence, accused can claim bail as a matter of right. If he is fulfilling all other conditions, Court or Officer in Charge of Police Station cannot deny bail.

In case of Bailable offence, there is no provision for anticipatory bail.

Defined under 2(c) of the BNSS

In case of non-bailable offence, accused cannot claim bail as a matter of right. Court or Officer in Charge of Police Station may grant bail

In case of Non-bailable offence, there is provision for anticipatory bail

Offences under BNS Both have been shown First Schedule, - **First Part and Column 5.**

Offences other than under BNS Both have been shown First Schedule, - **Second Part and Column 3.**

COGNIZABLE VS NON-COGNIZABLE

Defined under 2(g) of the BNSS	Defined under 2(0) of the BNSS
Cognizable offence” means an offence for which, and “cognizable case” means a case in which, a police officer may, in accordance with the First Schedule or under any other law for the time being in force, arrest without warrant.	Non- cognizable offence” means an offence for which, and “non- cognizable case” means a case in which, a police officer has no authority to arrest without warrant.
Arrest without warrant	Arrest with warrant.
Under section 173 FIR is registered related to cognizable offences.	Information as to non-cognizable cases is recorded under Section 174.
INVESTIGATION without order of MAGISTRATE	INVESTIGATION with order of MAGISTRATE

SUMMON VS WARRANT CASE

Defined under 2(x) of the BNSS

“Summons- case” means a case relating to an offence, and not being a warrant- case.

There is only one procedure prescribed for trial of summons cases (Sections 274 – 282).

Framing of charge is not necessary

SUMMON IS ISSUED

Trial of Summons Cases can be converted into trial of warrant cases.

Defined under 2(z) of the BNSS

“Warrant- case” means a case relating to an offence punishable with death, imprisonment for life or imprisonment for a term exceeding two years.

There are two types of procedure for trial of warrant cases by Magistrates namely: (1) Cases instituted on police report (Sections 261-266) and (2) Cases instituted otherwise than on police report (Sections 267 – 270,

Framing of charge is necessary

WARRANT IS ISSUED

Trial of Warrant Cases cannot be converted - Summons cases

(k) **INQUIRY v/s TRIAL** (--)

(k) **INQUIRY** v/s **INVESTIGATION** (l)

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INFORMATION

COGNIZABLE (173)

NON COGNIZABLE (174)



CRIME

ARREST



FIR



FIR means first time reporting of information to the **police** regarding commission of **cognizable offence**. By this criminal law comes into motion.

BNSS

S. 173

Cr.PC

S. 154

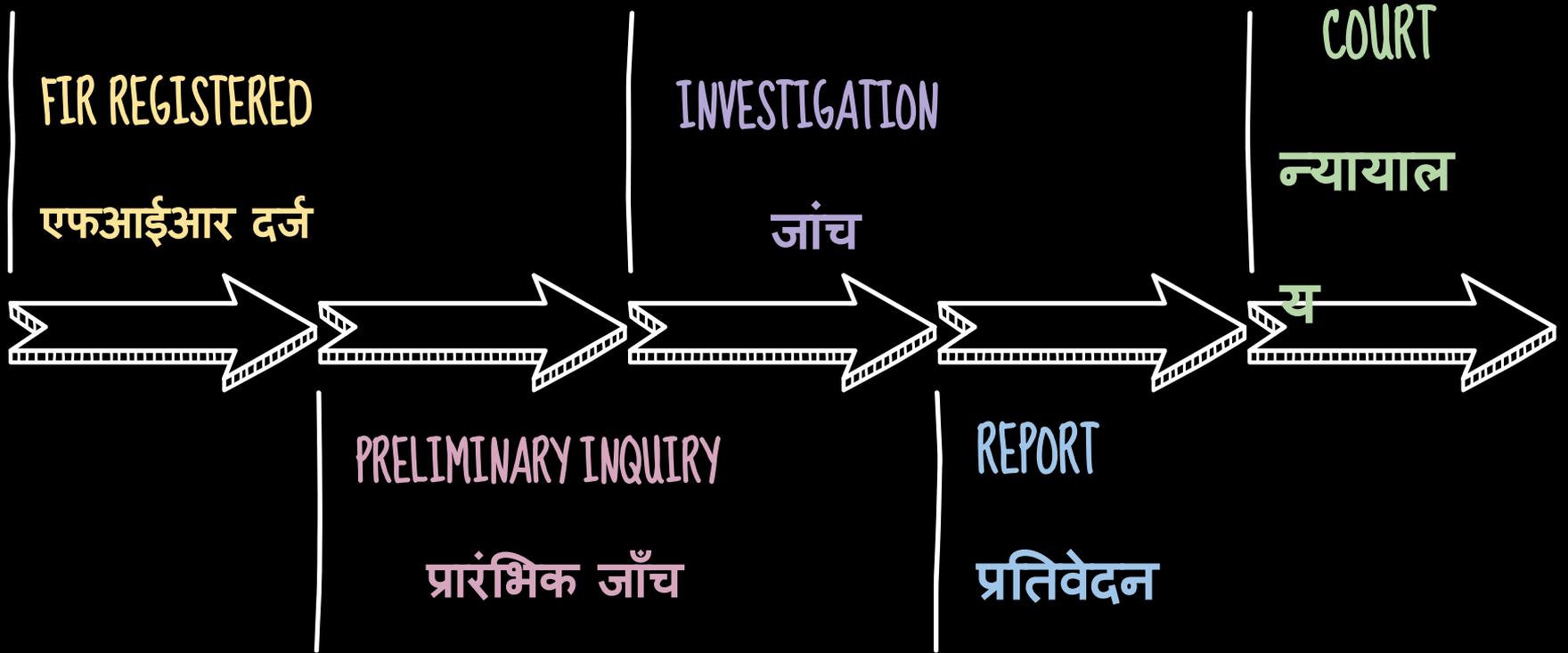
Cognizable Offence.

संज्ञेय अपराध

Schedule 1

More Serious Offences

JOURNEY OF FIR



ESSENTIALS OF FIR

- **Information**
- **Cognizable Offence**
- **Officer I/C of Police Station**
- **Women Police Officer**
- **Oral / Written**
- **Jurisdictional or Not**
- **Signature of Informant**
- **Substance in Book**

COPIES OF FIR

POLICE STATION

पुलिस स्टेशन

MAGISTRATE

मजिस्ट्रेट

INFORMANT

सूचना देनेवाला

CONTENT OF FIR

Gorle S. Naidu v. State of A.P. and Ors. (Dec. 15, 2003, SC)

“The FIR is not supposed to be an encyclopedia of the factors concerning the crime, yet there must be some definite information vis- a- vis (along with) the crime.”

WHO CAN FILE FIR ?



VICTIM



POLICE



THIRD PERSON

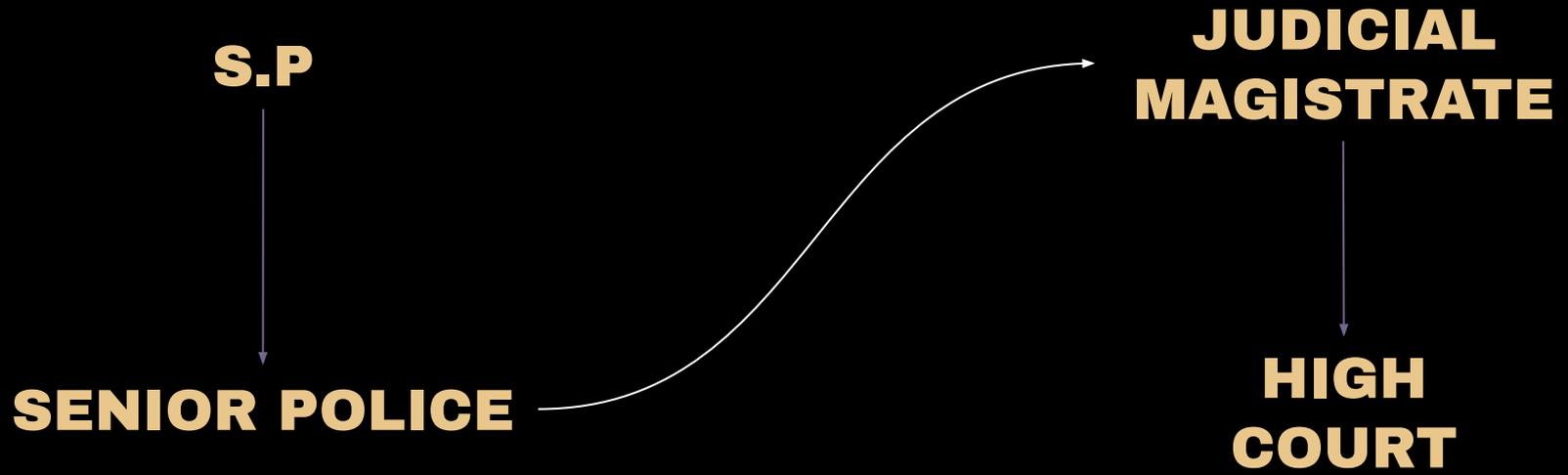


ACCUSED



COURT

FIR REFUSED



TYPES OF FIR

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graph TD; A[TYPES OF FIR] --> B[JURISDICTIONAL]; A --> C[NON JURISDICTIONAL]; B --> D[क्षेत्राधिकार]; C --> E[गैर क्षेत्राधिकार];
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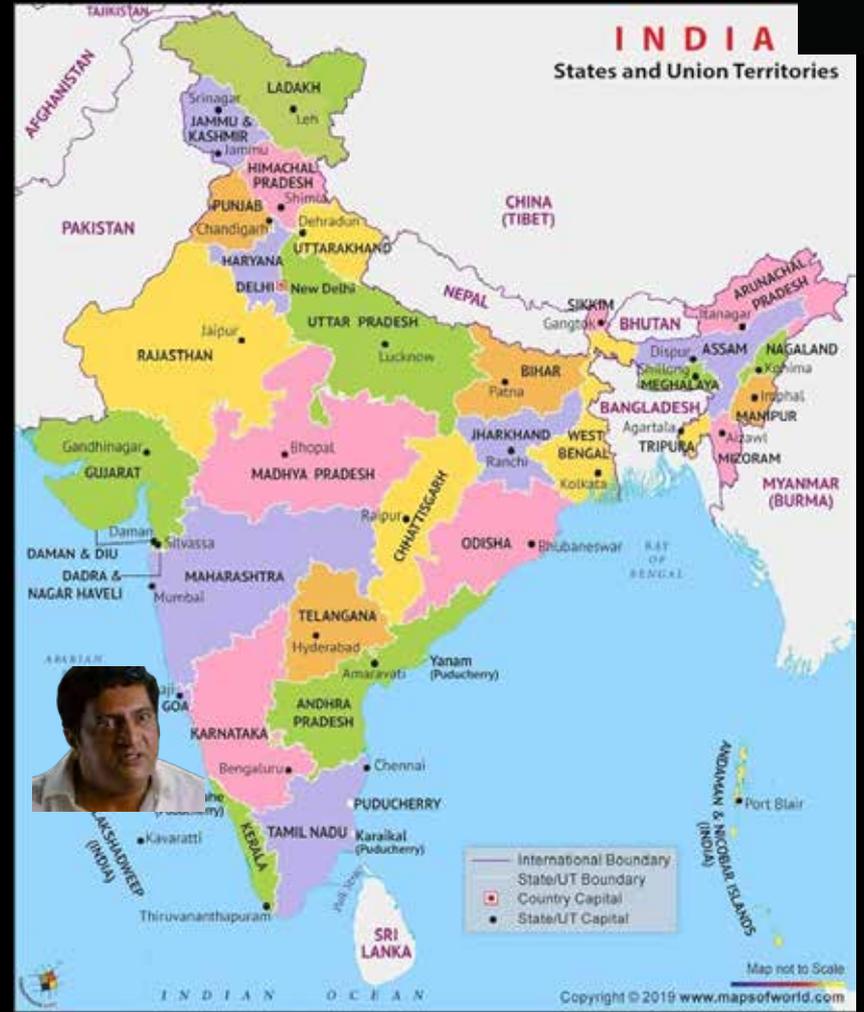
JURISDICTIONAL

क्षेत्राधिकार

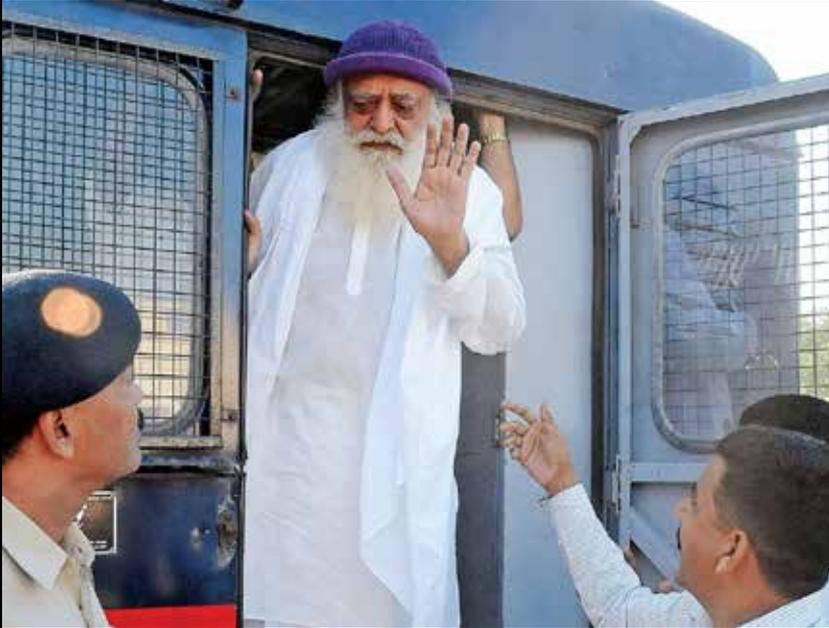
NON JURISDICTIONAL

गैर क्षेत्राधिकार

ZERO FIR



ZERO FIR



In case of Aasaram Bapu Rape case rape was committed in Jodhpur, Rajasthan. FIR was lodged in Kamla Market Police Station, New Delhi. This was the 'Zero FIR'. It was transferred to Jodhpur for investigation.

E - FIR

E-FIR

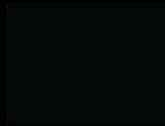


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SIGNED by INFORMANT

3 DAYS

PRELIMINARY INQUIRY



Cognizable Offence

3 Year - 7 Year

DSP

Preliminary Inquiry

14 Days

Prima Facie Case

Proceed Further



POLICE

WOMEN FIR

Section 64, Section 65, Section 66, Section 67, Section 68, Section 69, Section 70, Section 71,
Section 74, Section 75, Section 76, Section 77, Section 78, Section 79 Or Section 124
Bharatiya Nyaya Sanhita, 2023



WOMEN POLICE OFFICER

WOMEN FIR

Section 64,
Section 65,
Section 66,
Section 67,
Section 68,
Section 69,
Section 70,
Section 71, →
Section 74,
Section 75,
Section 76,
Section 77,
Section 78,
Section 79
Section 124

TEMPORARILY /
PERMANENTLY
PHYSICALLY / MENTALLY →

DISABLED

VIDEOGRAPHED

RESIDENCE / CONVENIENT
PLACE

INTERPRETER

MAGISTRATE

LALITA KUMARI CASE

On 5.5.2008, Lalita Kumari, aged about **six years**, went out of her house at 9 p.m. When she did not return for half an hour and Bhola Kamat was not successful in tracing her. Lalita Kumari was kidnapped by criminals. Officer in charge of police station, **Loni, Ghaziabad, U.P.** was not ready to register FIR on May 11, 2008. In direction of Superintendence of Police under section 154(3) FIR was registered. But Police authority was not interested to take stern action. Even they were not interested in investigation. Writ petition was filed under Article 32 of the Constitution of India by Lalita Kumari (minor) through her father, viz., Shri Bhola Kamat for the issuance of a writ of Habeas Corpus or direction(s) of like nature against the respondents herein for the protection of his minor daughter who has been kidnapped.

LALITA KUMARI CASE - GUIDELINES

Register FIR: Mandatory for all cognizable offences.

Preliminary Inquiry: Allowed only in specific cases (e.g., family, medical, corruption).

7-Day Limit: Inquiry must finish within 7 days.

Record Outcome: Document reasons if FIR isn't filed.

Officer Action: Non-compliance leads to action.

Magistrate Order: Can direct FIR if officers fail to register.

LALITA KUMARI CASE

Mandatory Registration of FIR:

- Word "shall" in Section 154 makes registration mandatory without needing "reasonable information."
- Preliminary inquiry is allowed in certain cases like:
 - Matrimonial disputes
 - Commercial offences
 - Medical negligence
 - Corruption cases
 - Delayed reporting (over 3 months)

1) **Officer in charge must record non-cognizable offence details in a book and:**

Refer the informant to the Magistrate.

Forward daily diary report to Magistrate every fortnight.

1) **Police cannot investigate a non-cognizable case without a Magistrate's order.**

2) **Police can exercise investigation powers (except arrest without warrant) with Magistrate's order.**

3) **If a case involves both cognizable and non-cognizable offences, it's treated as a cognizable case.**

INVESTIGATION

INVESTIGATION

175	POLICE OFFICERS POWER TO INVESTIGATE COGNIZABLE CASES	A police officer can investigate a cognizable case (one where the police can make an arrest without a warrant) without a Magistrate's order. IN JURISDICTION SP CAN ASK DSP
176	PROCEDURE FOR INVESTIGATION	A police officer must report to a Magistrate and investigate the case. They can visit the crime scene or delegate it to a subordinate officer. Special rules for rape cases. (AT RESIDENCE OF VICTIM) (7+ YEARS FORENSIC EXAM)
177	REPORT HOW SUBMITTED	Reports to the Magistrate can be directed through a superior officer, who may give instructions before forwarding it.

INVESTIGATION

178	POWER TO HOLD INVESTIGATION OR PRELIMINARY INQUIRY	Magistrates can direct investigations or conduct a preliminary inquiry upon receiving a report.
179	POLICE OFFICER'S POWER TO REQUIRE ATTENDANCE OF WITNESSES	Police can summon witnesses for investigation. Certain individuals (like children or the elderly 65+) may not be required to attend, except under specific conditions.
180	EXAMINATION OF WITNESSES BY POLICE	Police can examine witnesses orally and must record their statements. The witness must answer truthfully unless it would self-incriminate.

INVESTIGATION

181	STATEMENTS TO POLICE AND USE THEREOF	A statement made during investigation can't be used in trial unless the witness is called to testify. Such statements may be used for contradictions.
182	NO INDUCEMENT TO BE OFFERED	Police can't offer threats or promises to induce a statement during investigation, ensuring statements are made voluntarily.

INVESTIGATION

181

- 1) Magistrate may record confessions/statements; audio-video recording with an advocate.
 - 2) Confession must be voluntary; explained it can be used as evidence.
 - 3) No police custody if the accused declines to confess.
 - 4) Confession recorded, signed, and certified by Magistrate.
 - 5) Non-confession statements recorded as per Magistrate's discretion; oath allowed.
 - 6) (a) Victim statements recorded promptly, preferably by a woman Magistrate or with assistance if disabled.

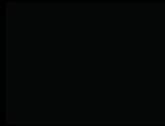
(b) Statements of disabled persons = examination-in-chief; cross-examined without re-recording.
- 1) Forward confessions/statements to trial Magistrate.

188	Subordinate police officer must report the result of the investigation to the officer in charge of the police station.
189	Accused to be released on bond if evidence is insufficient; must appear before a Magistrate if required.
190	Forward accused to Magistrate if evidence is sufficient; security may be taken for bailable offences.
191	Complainants and witnesses cannot be restrained or required to accompany police; refusal to comply can lead to custody.
192	Police must maintain a detailed investigation diary, not used as evidence but for aiding the court; accused cannot access it unless used for contradiction.

193	Investigation to be completed promptly; specific timelines for certain offences (e.g., POCSO: 2 months).
193(3)	Report format: Includes party names, nature of information, evidence, arrest status, and medical reports for specific cases.
193(5)	Magistrate to discharge or act on bonds or bail when accused is released.
193(6)	Police to forward all relevant documents and witness statements to Magistrate.
193(7)	Sensitive portions of statements may be excluded from disclosure with Magistrate's approval.
193(9)	Further investigation allowed even after initial report submission; requires court permission during a trial and must be completed within 90 days.

CHAPTER - V

ARREST OF PERSONS



BNSS

35

Cr.PC

41

ARTICLE 21

LIFE & PERSONAL LIBERTY

ARREST

RIGHT CURTAIL



Arrest is the act of taking a person into **custody** by legal **authority**.

गिरफ्तारी कानूनी प्राधिकार द्वारा किसी व्यक्ति को हिरासत में लेने का कार्य है



WHO CAN ARREST ?

POLICE OFFICER

MILITARY OFFICER

PRIVATE PERSON

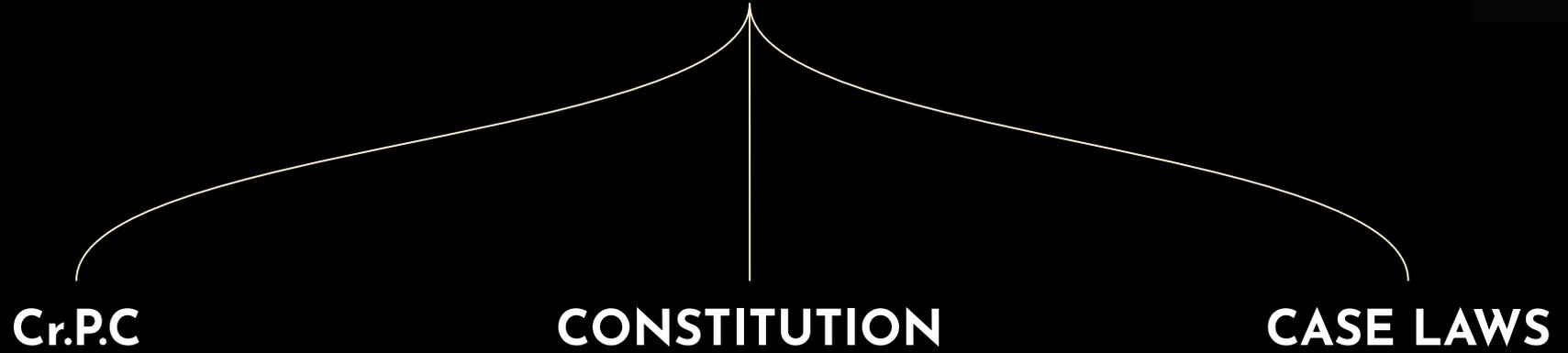
MAGISTRATE

OFFICER I/C OF PS

SUPERIOR OFFICER



RIGHTS OF ARRESTED PERSON



Provisions	Rights of Arrested Person
Article 22(1)	<i>Right to be informed the grounds of arrest</i>
Article 22(1)	<i>Right to consult legal practitioner of his choice</i>
Article 22(2)	<i>Right to be produced before Magistrate</i>
Article 22(2)	<i>No detention beyond 24 hours.</i>

SECTION 35

ARREST WITHOUT WARRANT

COGNIZABLE CASE



SECTION 35

Police can arrest without a warrant in certain situations.

(a) Committing a cognizable offence in presence of police.

(b) Reasonable suspicion of committing a cognizable offence punishable with up to 7 yrs.

Arrest necessary for:

- Preventing further offences**
- Proper investigation**
- Preventing evidence tampering**
- Ensuring court appearance**

SECTION 35

Reasons for arrest/non-arrest must be written by the police officer.

Credible information of a cognizable offence punishable by 7+ years or death.

- 1. Proclaimed offender**
- 2. Possession of stolen property**
- 3. Escaping custody**
- 4. Desertion from Armed Forces**
- 5. Extradition offences**

In cases where arrest is not required, police can issue a notice for the person to appear, and arrest if the person fails to comply.

Arrest of people aged 60+ or infirm requires permission from a Deputy Superintendent of Police for offences with less than 3 years punishment.

SECTION 35

1. No person who committed a Non - Cog. Case shall be arrested **without a warrant**
2. Police shall where the arrest is not necessary (Cog. Case) - Issue a **NOTICE to APPEAR**
3. **DUTY** of Notice issued person to **APPEAR**
4. IF Person complies then he **shall not be arrested.**
5. IF person FAILS to Comply; Then he **shall be Arrested**

SECTION 36

PROCEDURES OF ARREST AND DUTIES

1. **Clear and Visible Name Tag**

2. **Prepare a Memorandum of Arrest -**

Attested by one family member or some reputed neighbour

Countersigned by arrested person

1. **Inform the person of his right to inform relative.**

SECTION 37

Designated Police Officer

- 1. Police Control Room in every District and State Level**
- 2. Asst. SUB INSPECTOR - maintaining Records of Names of Arrested Person**
- 3. And Display records digitally - all police station and headquarters**

SECTION 38
RIGHT OF ARRESTED PERSON

ARRESTED PERSON CAN MEET AN ADVOCATE OF HIS CHOICE

THROUGH OR THROUGHOUT THE INTERROGATION

SECTION 39
ARREST ON REFUSAL TO GIVE NAMES

When Person commits in front of POLICE OFFICER - NON COGNIZABLE OFFENCE

REFUSES TO GIVE NAME AND RESIDENCE

ARRESTED

NAME GIVEN - RELEASED ON BOND

NOT GIVEN - 24 HRS - MAGISTRATE

SECTION 40

ARREST BY PRIVATE PERSON

PRIVATE PERSON CAN ARREST

COGNIZABLE - NON BAILABLE OFFENCE

6 Hours to Police Station / Officer

Police Officer - Can Arrest or Release

SECTION 41
ARREST BY MAGISTRATE

MAY ARREST ANY PERSON - IN HIS LOCAL JURISDICTION

JUDICIAL / EXECUTIVE

MAY ARREST OR DIRECT AN ARREST

SECTION 42

PROTECTION TO ARMED FORCES

**NO MEMBER OF THE CENTRAL ARMED FORCES SHALL BE ARRESTED FOR THE ACT
DONE IN HIS OFFICIAL DUTY WITHOUT INTIMATION TO THE CENTRAL GOV.**

STATE GOV CAN ALSO MAKE SUCH LAW FOR THEMSELVES

SECTION 43

ARREST HOW MADE

**DURING ARREST NO TOUCH IF PERSON HAS AGREED TO ARREST BY WORDS OR
GESTURES.**

**WOMAN - FEMALE OFFICER; UNTIL EXCEPTION HER ORAL SUBMISSION IS
SUFFICIENT**

IF PERSON RESISTS - USE ALL MEANS

SECTION 43

ARREST HOW MADE

Can use Handcuffs keeping in mind the gravity of the offence

No Right to cause Death - Unless Offence is Punishable with Death/Life

Except Exceptional Situation -

NO WOMAN ARREST - SUNSET - SUNRISE

IF REQUIRED - WOMAN OFFICER - JMFC REPORT AND PERMISSION

SECTION 45
PURSUIT OF OFFENDER

**POLICE OFFICER TO ARREST WITHOUT WARRANT MAY FOLLOW THE OFFENDER TO
ANY OTHER PLACE IN INDIA**

SECTION 46
UNNECESSARY RESTRAINT

**ARRESTED PERSON SHALL NOT BE RESTRICTED MORE THAN ENOUGH TO PREVENT
HIM FROM ESCAPING**

SECTION 47

RIGHT TO BAIL AND REASONS OF ARREST

Joginder Kumar v. State of Uttar Pradesh

(DOJ April 25, 1994)

- **Individual:** Joginder Kumar, a 28-year-old advocate.
- **Date & Time:** January 7, 1994, at 10 a.m.
- **Event:** SSP Ghaziabad called Joginder for inquiries.
- **Accompanied by:** Joginder arrived with his brothers.
- **Inquiry Duration:** Inquiries lasted until 12:55 p.m.
- **Information Provided:**
 - Authorities stated Joginder would be released in the evening.
 - Later informed that he had been sent to Mussoorie.
- **Follow-up:**
 - On January 9, 1994, Joginder's brother and relatives visited the police station in Mussoorie to check on him.
 - Discovered that Joginder had been taken to an undisclosed location.
- **Legal Action:** A writ petition for habeas corpus was filed.
- **Court Appearance:** The Senior Superintendent of Police and Joginder appeared before the court on January 14, 1994.



- **Arrest Principle:** Arrest shouldn't occur just because it's lawful.
- **Power vs. Justification:** Police must justify an arrest, not just have the power to make one.
- **Impact of Arrest:** Arrest can harm a person's reputation and self-esteem.
- **No Routine Arrests:** Arrests shouldn't be based solely on allegations.
- **Inform Relatives:** Relatives should be informed about the arrest.
- **Police Duty:** Officers should protect constitutional rights and avoid unwarranted arrests.
- **Need for Investigation:** Reasonable investigation is necessary before making an arrest.
- **Liberty Matters:** Denying liberty is a serious issue that requires careful thought.

Arnesh Kumar v. State of Bihar (July 2, 2014)



'Strictly Follow Arnesh Kumar Guidelines On Arrest' ...

31 Jul 2023 — The Supreme Court of India on Monday reiterated the guidelines laid down by the top court for arrest under **Section 498A** of the Indian Penal Code, 1860.

Arnesh Kumar v. State of Bihar

(July 2, 2014)

- **Legal Provisions Involved:**

- Section 498A of the IPC
- Section 4 of the Dowry Prohibition Act, 1961

- **Bail Status:**

- Anticipatory bail was rejected.

- **Supreme Court Appeal:**

- The matter reached the Supreme Court through a Special Leave Petition (SLP).

Police Investigation:

- Police must conduct a **preliminary investigation** before making arrests in cases punishable by less than seven years.
- **Recording reasons** for arrest (or for choosing not to arrest) is mandatory.

Magistrate's Role:

- Magistrates must ensure **compliance with legal procedures** by the police before authorizing detention.
- **Reasons for arrest** must be documented by police and scrutinized by magistrates.

Filing of FIR:

- Mere registration of an FIR does not justify an immediate arrest; police must consider the necessity based on a preliminary inquiry.

Accountability:

- Disciplinary action may be taken against officers for unnecessary arrests or detention in contravention of these guidelines.

Bail Considerations:

- The guidelines suggest a more lenient approach to **bail** in cases under Section 498A to prevent prolonged custody.

Shri D.K. Basu, Ashok K. Johri

V.

State Of West Bengal, State Of U.P. 1986

(Date of Judgment: 18|12|1996)

Bench: Hon'ble Justices Kuldip Singh, A.S. Anand)

Arrest Memo: Must be prepared at the time of arrest, signed by a witness and the arrestee, and include the time and location.

Family Notification: The arrested person's family or friend must be notified promptly about the arrest and the place of detention.

Right to a Lawyer: The arrestee must be informed of their right to have a lawyer during interrogation.

Medical Examination: Every 48 hours, the arrestee must undergo a medical examination by a doctor on the panel of approved government doctors.

Entry in Diary: Arrest details must be recorded in the police station's daily logbook, including the officer's name and witness details.

Copy of Memo for Magistrate: A copy of the arrest memo and documents must be sent to the magistrate.

Police Identification: During interrogation, police officers must wear accurate identification and name tags, recorded in the official register.

Arrest Record in Control Room: Arrest information should be displayed at the district control room within 12 hours.

CUSTODY

"**Custody**" refers to the **detention** of a person by law enforcement after an arrest, during which the individual is **not free** to leave and is **under the control** of the authorities.

BNSS

S. 187

Cr.PC

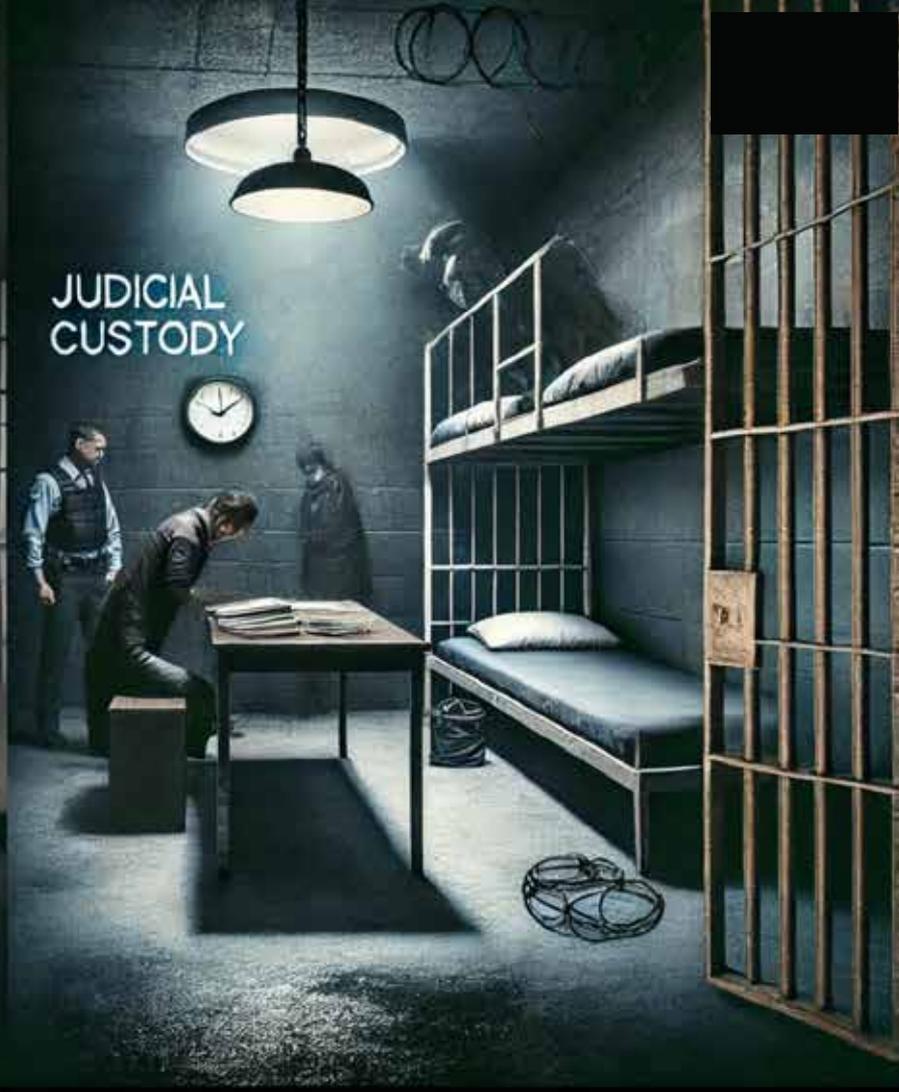
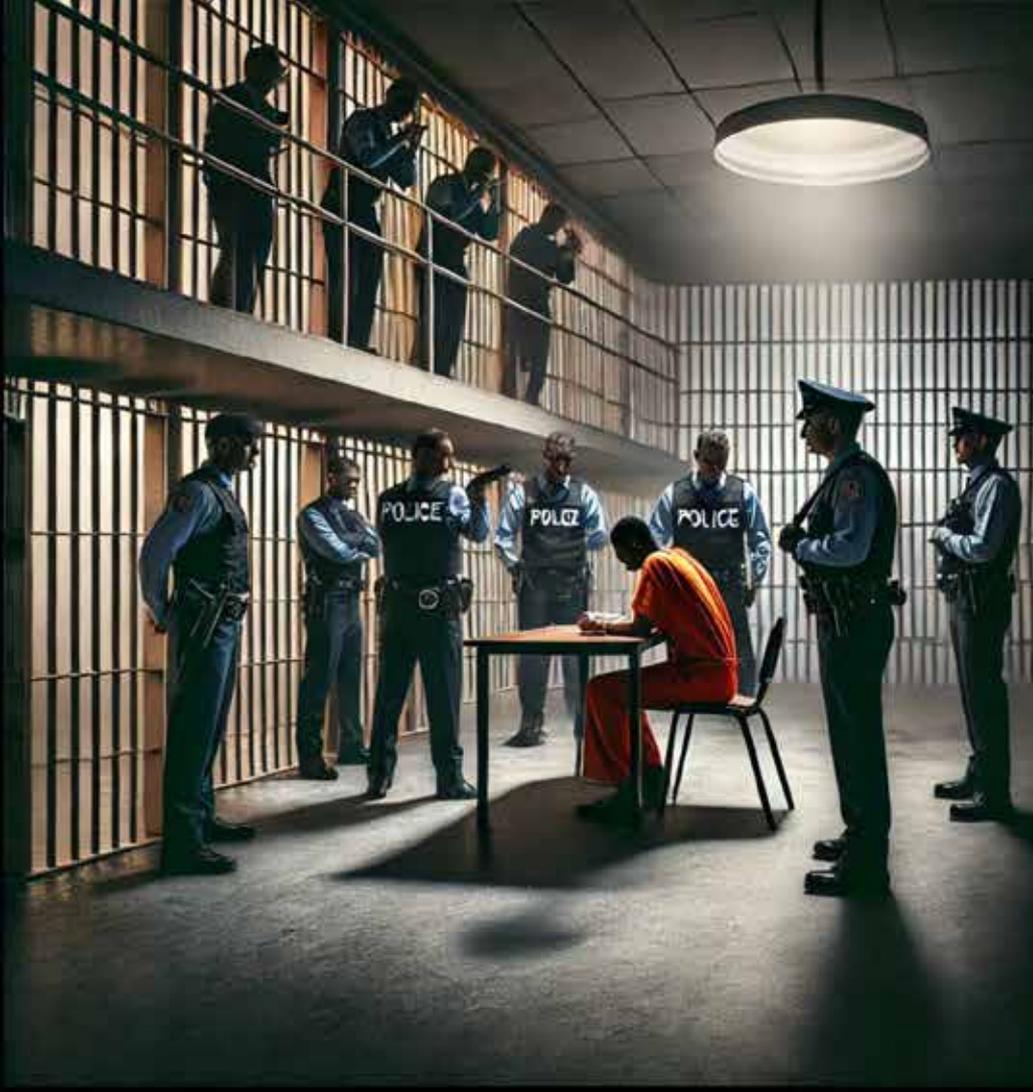
S. 167

ARREST

CUSTODY

J. MAGISTRATE

E. MAGISTRATE





OFFENCE

ARREST

INVESTIGATION

IN 24 HOUR

MORE THAN 24 HOUR

OFFENCE

ARREST

INVESTIGATION

IN 24 HOUR

MORE THAN 24 HOUR

CUSTODY



7 DAYS

15 DAYS

40 DAYS

60 DAYS

90 DAYS

Magistrate shall record reasons

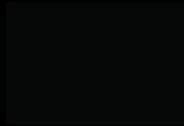
**JMSC = Police Custody
Specially Empowered**

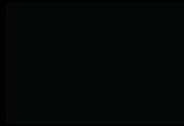
**Executive Magistrate
7 Day = Bail or Transfer**

**Police Custody
Every Time Produce**

**Judicial Custody
Vid Chat**

**Executive Magistrate
Specially Empowered**





7 Days

15 Days

90 Days ($90-15=75$)

60 Days ($60-15=45$)



100 DAYS



Rakesh Kumar Paul v. State of Assam
(16, August, 2017)

Period is Over

DEFAULT BAIL

State of Madhya Pradesh v. Rustam (1995)

**Exact 90th Day - Not Eligible
Expired - Accused has to apply**

DEFAULT BAIL

Shardulbhai Lakhmanbhai v. State Of Gujarat

Gujarat High Court

an accused's right to bail under **Section 167(2)(a)** CrPC is limited to the investigation stage and **ends once the charge-sheet is filed.**

(1)	Officer transmits diary entries and forwards accused to Magistrate if investigation can't be completed in 24 hours.
(2)	Magistrate may authorize detention up to 15 days; can forward accused if lacking jurisdiction.
(3)	Detention can exceed 15 days if justified, max: 90 days for severe offenses; 60 days for others.
(4)	Accused must be presented in person for initial and ongoing custody; video means allowed for extension.
(5)	Only empowered Magistrates can authorize police custody; second-class Magistrates can't do so.

(6)	If no Magistrate is available, the officer may forward to an Executive Magistrate for up to 7 days.
(7)	Magistrate must record reasons for police custody authorization.
(8)	Non-Chief Judicial Magistrates must send a copy of their order with reasons to the Chief Judicial Magistrate.
(9)	If investigation not concluded in 6 months, Magistrate must stop it unless justified.
(10)	Sessions Judge may vacate the order to stop investigation if further inquiry is deemed necessary.

SUMMON

WARRANT

63	Form of summons	Summons must be in writing, signed, sealed, or sent electronically.
64	Summons how served	Served personally or via electronic communication, with acknowledgment required.
65	Service of summons on corporate bodies, firms, and societies	Served on authorized persons or by registered post.
66	Service when persons summoned cannot be found	Delivered to an adult family member at the residence.
67	Procedure when service cannot be effected	Summons affixed at a conspicuous place, with Court inquiry for confirmation.
68	Service on Government servant	Sent to the head of the office where the person is employed for service.
69	Service of summons outside local limits	Sent to a Magistrate in the jurisdiction of the person summoned.
70	Proof of service in such cases	Affidavit or acknowledgment as evidence of service, including electronic methods.
71	Service of summons on witness	Summons may be served via post or electronically, with proof of delivery.

72	Warrant form and validity	Warrant must be written, signed, sealed, and valid until executed or canceled.
73	Power to take security on arrest warrant	Court may endorse bail conditions on warrants for release upon execution.
74	Warrants to whom directed	Warrants usually directed to police officers; others can be appointed if urgent.
75	Warrant directed to any person	Magistrates may direct warrants to private persons for certain arrests.
76	Warrant directed to police officers	Any police officer can execute a warrant endorsed to them.
77	Notification of substance of warrant	The arrested person must be informed of the warrant's content.

78	Prompt production before Court	Arrested individuals must be produced before Court within 24 hours.
79	Execution of warrants across India	Warrants can be executed anywhere in India.
80	Warrant execution outside jurisdiction	Warrants may be forwarded for execution outside the issuing Court's jurisdiction.
81	Police warrant execution beyond jurisdiction	Endorsement by a local Magistrate or officer is required, except in urgency.
82	Procedure for out-of-district arrests	Arrestees taken to the nearest competent Magistrate unless Court is nearby.
83	Magistrate's procedure for arrested persons	Magistrates can release on bail or arrange custody transfer to the issuing Court.

BAIL

French word **"Baillier"** which means to deliver or hand over.

Gurbaksh Singh v. State of Punjab 1980

to set at liberty a person arrested or imprisoned on security being taken off his appearance in the court on a particular day.

BAIL

```
graph TD; BAIL --> BAILABLE[BAILABLE OFFENCES]; BAIL --> NON_BAILABLE[NON BAILABLE OFFENCES];
```

BAILABLE OFFENCES

NON BAILABLE OFFENCES

BAIL

2(b)	"BAIL" is the temporary release of an accused person from custody, granted by the court or an officer, with certain conditions
2(d)	"BAIL BOND" means an undertaking for release with surety
2(e)	BOND means a personal bond or an undertaking for release without surety;

WHO CAN GRANT BAIL?



MAGISTRATE



POLICE



SESSIONS COURT



HIGH COURT

HIGH COURT

483

SESSIONS COURT

483

MAGISTRATE

187

POLICE

24 Hours - Custody | 478

BAIL

Regular Bail 480 (Non - B. | 478 - Bail.)

Anticipatory Bail 482

Default Bail 187

Interim Bail

478 In what cases Bail is to be given ?



MAGISTRATE



POLICE

Bailable Offence | Indigent Person | 1 Week | Failed to Comply Bond

479

Bail to Undertrials



- **HALF - Normal**
- **1/3 - First Time Offender**
- **Delay by Accused to be excluded**
- **PP argument - Court may Refuse**
- **No Detention Beyond Max Punish**
- **More than one offence - no 1st Time**
- **Superintendent of Jail**

480

Bail in Non Bailable Offence

Bail Eligibility	Accused of a non-bailable offence may be granted bail unless severe punishments apply.
Exceptions for Denial	Not granted if the offence is punishable by death, life imprisonment, or the accused has prior serious convictions.
Special Categories	Bail may be granted if the accused is a child, woman, sick, or infirm.
Public Prosecutor Hearing	Required if offence punishable by death, life, or 7+ years imprisonment.
No FIR Required	Lack of FIR filing does not block anticipatory bail.
Trial Delay (60 days)	Accused can get bail if trial delays over 60 days in Magistrate's Court.
Presumption of Innocence	Bail granted if Court believes accused may be innocent before judgment.
Written Reasons for Bail	Court/officer must record reasons for granting bail.
Re-arrest	Court can re-arrest if necessary post-bail.
Conditions on Bail	Attendance, no offence repeat, and no evidence tampering.

Anticipatory Bail 482

- **Application for Anticipatory Bail:** A person fearing arrest for a non-bailable offence can apply to the High Court or Court of Session for anticipatory bail.
- **Conditions on Bail:** Court may impose conditions, including:
 - **Availability for Interrogation:** Person must be available for questioning as required.
 - **No Influence on Witnesses:** No inducements, threats, or promises to witnesses.
 - **Travel Restriction:** Person cannot leave India without court permission.
 - **Additional Conditions:** Any other conditions as per Section 480.
- **Procedure if Arrested:** If the person is arrested without warrant, they can give bail and be released. If the Magistrate decides to issue a warrant, it must be a bailable warrant.
- **Exclusions:** This section does not apply to offences under Section 65 and sub-section (2) of Section 70 of the Bharatiya Nyaya Sanhita, 2023.

Gurbaksh Singh Sibbia v. State of Punjab (1980) - Key Points

- **Reason to Believe:** The applicant must provide specific events and facts to show a "reason to believe" they may be arrested.
- **Court's Responsibility:** High Court or Court of Session must evaluate anticipatory bail requests; cannot leave it to a Magistrate's discretion under Section 437.
- **FIR Not Required:** Filing a First Information Report (FIR) is not a prerequisite for anticipatory bail.
- **Condition for Granting Bail:** Anticipatory bail can be granted as long as the applicant is not yet arrested in connection with the case.
- **Post-Arrest Limitation:** Once arrested for an offence, the individual cannot apply for anticipatory bail related to that offence.
- **No Time Limitation:** The operation of the bail order should not generally be limited by time.

Sushila Aggarwal v. State (NCT of Delhi) (2020) - Summary

- **Concrete Basis:** Anticipatory bail applications must rely on specific facts.
- **Notice to Prosecutor:** Notify the Public Prosecutor about the application.
- **No Time Limits:** Courts aren't required to impose time restrictions on bail.
- **Considerations for Granting Bail:** Assess offence severity, applicant's role, and case facts.
- **Duration:** Bail continues until trial's end, even after chargesheet filing.
- **Specific Orders:** Bail should be limited to specific incidents, not blanket orders.
- **Reviewability:** Higher courts can review the correctness of bail orders.

CRPC VS BNSS

Gang Rape Accused - 16 Yrs to 18 Yrs

CRPC VS BNSS

**Extended Police Custody Beyond Initial 15 Days, Not a Reason
to Refuse Bail**

BAIL

481

Accused - BOND - To appear at Higher Court - Appeal etc

483

Special Power of Sessions Court and High Court

BAIL

478	In What Cases Bail to be Taken
479	Maximum Period for Under-Trial Prisoner Can Be Detained
480	When Bail May Be Taken in Case of Non-Bailable Offence
481	Bail to Require Accused to Appear Before Next Appellate Court
482	Direction for Grant of Bail to Person Apprehending Arrest
483	Special Powers of High Court or Court of Session Regarding Bail

CHARGE

CHARGE

2(f)

“charge” includes any head of charge when the charge contains more heads than one;

CHARGE

"charge" refers to a formal accusation made against a person who is suspected of committing an offense

Purpose of Framing of Charge

Birichh Bhuian and Others v. State of Bihar (20 Nov. 1962)

“A charge is a precise formulation of a specific accusation made against a person of an offence alleged to have been committed by him.”

Purpose of Framing of Charge

Mohan Singh v. State of Bihar (26 August, 2011, SC)

“The purpose of framing a charge is to give intimation to the accused of clear, unambiguous and precis notice of the nature of accusation that the accused is called upon to meet in the course of a trial.

How Charge Works



VICTIM



ACCUSED



COURT

WHEN ?



POLICE



COURT

Journey of Charge



COURT

PROVE / DISPROVE

CONVICTION

ACQUITTED

DISCHARGE

FORM No. 33

CHARGES

(See sections 234, 235 and 236)

I. CHARGES WITH ONE-HEAD

(I)(a) I,.....(*name and office of Magistrate, etc.*), hereby charge you.....(*name of accused person*) as follows:—

(b) On section 147.—That you, on or about the.....day of....., at....., waged war against the Government of India and thereby committed an offence punishable under section 147 of the Bharatiya Nyaya Sanhita, 2023 and within the cognizance of this Court.

(c) And I hereby direct that you be tried by this Court on the said charge.

(*Signature and seal of the Magistrate*)

II. CHARGES WITH TWO OR MORE HEADS

(1)(a) I,.....(*name and office of Magistrate, etc.*), hereby charge you.....(*name of accused person*) as follows:—

(b) On section 179.—*First*—That you, on or about the.....day of....., at....., knowing a coin to be counterfeit, delivered the same to another person, by name, *A. B.*, as genuine, and thereby committed an offence punishable under section 179 of the Bharatiya Nyaya Sanhita, 2023 and within the cognizance of the Court of Session.

Secondly—That you, on or about the.....day of....., at....., knowing a coin to be counterfeit attempted to induce another person, by name, *A. B.*, to receive it as genuine, and thereby committed an offence punishable under section 179 of the Bharatiya Nyaya Sanhita, 2023 and within the cognizance of the Court of Session.

(c) And I hereby direct that you be tried by the said Court on the said charge.

(*Signature and seal of the Magistrate*)

234. CONTENTS

- State the offense.
- Use specific name if available.
- Include part of the definition if no name.
- Mention law and section.
- Implies all legal conditions are met.
- Write in court's language.
- Note prior convictions if relevant for sentencing.

235.

- **Charge Details:** Must include time, place, and person/thing involved.
- **Breach of Trust or Misappropriation:** For charges like criminal breach of trust, specifying the total amount or description of the property and a range of dates is sufficient, without needing specific items or exact dates. The time span should not exceed one year.

236.

When Manner Must Be Stated: If the details in Sections 234 and 235 aren't enough, the manner of committing the offense must be included.

Examples:

- **Theft:** No need to state the manner.
- **Cheating:** Must state how the cheating occurred.

Alteration ?

239 -

- Court can alter or add charges anytime before judgment.
- If no prejudice to accused or prosecutor, trial can proceed.
- If prejudice is likely, court may adjourn or order a new trial.
- If prior sanction is required, it must be obtained before proceeding.

239 -

Both parties can recall or re-summon witnesses if charges are altered, unless it's for delay or vexation.

- Court may allow further witnesses if considered material.

JOINDER ?

241-

- Each distinct offense must have a separate charge and trial.
- The Magistrate can try charges together if the accused requests and the Magistrate believes it won't prejudice the case.

242-

- Offenses of the same kind committed within 12 months can be charged and tried together (up to 5 offenses).
- "Same kind" means offenses punishable under the same law or section.

JOINDER ?

246

- **Same Offense in Same Transaction:** People accused of the same offense committed in the same transaction can be tried together.
- **Abetment/Attempt Offenses:** People accused of committing an offense, along with those accused of abetting or attempting to commit it, can be tried together.
- **Same Kind of Offense within 12 Months:** People who committed more than one offense of the same kind within 12 months (as per Section 242) can be tried together.

JOINDER ?

- **Different Offenses in Same Transaction:** Persons committing different offenses in the same transaction can be tried together.
- **Receiving Stolen Property:** Persons accused of theft, extortion, cheating, or criminal misappropriation, along with those receiving, concealing, or assisting in disposing of the stolen property, can be tried together.
- **Offenses Related to Stolen Property:** Persons accused under Section 317 (2) and (5) for stolen property that has been transferred from one offense can be tried together.
- **Counterfeit Coin Offenses:** Persons accused of offenses related to counterfeit coins and any related offenses can be tried together.

CONVICTION ?

247

Withdrawal of remaining charges

CH-15 | INITIATION OF PROCEEDINGS

210	Cognizance of Offences by Magistrate	Magistrates can take cognizance based on complaints, police reports (including electronic submissions), or their own knowledge. CJM may empower second-class magistrates for such actions.
211	Transfer on Application of Accused	Accused can request transfer of case to another Magistrate before evidence is taken. Transfer is managed by CJM.
212	Making Over of Cases to Magistrates	CJM can assign cases to subordinate Magistrates for inquiry or trial. Empowered first-class Magistrates can also make over cases as directed by CJM.
213	Cognizance of Offences by Court of Session	Sessions Court can take cognizance only when cases are committed by Magistrates unless expressly provided by law.
214	Additional Sessions Judges to Try Cases	Additional Sessions Judges try cases assigned by Sessions Judge or directed by High Court.

215	Prosecution for Offences Against Public Servants, Justice, and Documents in Evidence	Court requires written complaints by public servants or relevant courts for offences against public authority, justice, or evidence-related documents.
216	Procedure for Witnesses in Case of Threatening	Witnesses can file complaints regarding threats under Section 232 of the Bharatiya Nyaya Sanhita (BNS), 2023.
217	Prosecution for Offences Against State and Criminal Conspiracy	Court requires prior sanction of Central/State Government for offences against the state or conspiracy, with some exceptions. Sanction process involves preliminary police investigation for specific offences.
218	Prosecution of Judges and Public Servants	Requires government sanction to prosecute Judges, Magistrates, or public servants for offences committed during official duties. Includes provisions for deemed sanction if not decided within 120 days. No sanction is needed for specific offences under BNS, 2023.
219	Prosecution for Offences Against Marriage	Court requires complaints by aggrieved persons for offences against marriage under Sections 81-84 of BNS, 2023. Exceptions exist for children, persons with disabilities, or others unable to file complaints.

CH-16 | COMPLAINTS TO MAGISTRATES

223

Examination of
Complainant

- Magistrate examines complainant and witnesses on oath; record signed by all.
- Exceptions: No examination needed if:
 - (a) Complaint is from a public servant or Court.
 - (b) Case is transferred under Section 212.

- No cognizance without hearing the accused.
- Complaints against public servants require:
 - (a) Public servant's assertion on the incident.
 - (b) Report from superior officer.

224

Procedure by Incompetent
Magistrate

- Written complaint returned for filing in proper court.
- Oral complaint redirected to proper court.

CH-16 | COMPLAINTS TO MAGISTRATES

225	Postponement of Issue of Process	<ul style="list-style-type: none">- Magistrate may delay process issuance for inquiry or investigation if the accused resides outside jurisdiction.- No investigation direction if:<ul style="list-style-type: none">(a) Offence is triable only by Sessions Court.(b) Complainant not examined under Sec. 223.
		<ul style="list-style-type: none">- Magistrate can examine witnesses on oath during inquiry.- Investigators (non-police) have police powers, except for arrest without warrant.
226	Dismissal of Complaint	<ul style="list-style-type: none">- Complaint dismissed if no sufficient grounds for proceeding after examining statements or inquiry results.- Magistrate must record reasons for dismissal.

CH-17 | COMMENCEMENT OF PROCEEDINGS

227	Issue of Process	Summons/Warrant: Based on case type (summons or warrant); list of witnesses required; fees to be paid.
		Process can be issued electronically; complaint copy accompanies summons/warrant in written complaint cases.
228	Dispensing with Personal Attendance	Accused Appearance: Accused may appear via advocate; Magistrate can direct personal attendance if needed.
229	Special Summons for Petty Offences	Allows guilty plea through advocate or written communication; fines \leq ₹5,000; excludes some laws (e.g., MV Act).
230	Supply of Documents (Police Report Cases)	Police report, FIR, witness statements, and other relevant documents to be provided to accused and victim.

CH-17 | COMMENCEMENT OF PROCEEDINGS

230	Supply of Documents (Police Report Cases)	Police report, FIR, witness statements, and other relevant documents to be provided to accused and victim.
		Documents may be inspected or provided electronically if voluminous.
231	Supply of Documents (Non-Police Report Cases)	Similar provisions as Section 230 but for cases exclusively triable by Court of Session.
232	Commitment of Case to Court of Session	Magistrate commits the case to Court of Session for trial; timeline: 90–180 days for completion of commitment.
233	Procedure for Complaint and Police Investigation Cases	Stay Proceedings: Magistrate waits for police report and may try complaint and police report cases jointly.



TRIAL

MEANING

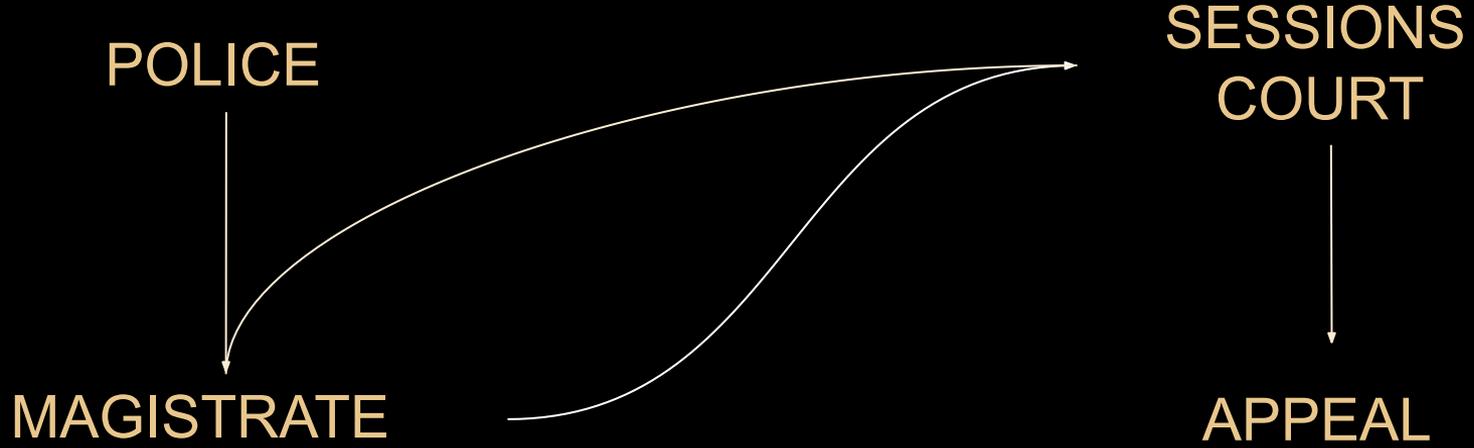
A trial is the legal process where the court examines evidence, hears witnesses, and makes a determination about the criminal liability of the accused.

2(m) - “judicial proceeding” includes any proceeding in the course of which evidence is or may be legally taken on oath;

TRIAL

CONVICTION

ACQUITTAL



TYPES

1. SESSIONS TRIAL
1. WARRANT TRIAL
1. SUMMON TRIAL
1. SUMMARY TRIAL

TYPES

1. **SESSIONS TRIAL [Ch. 19; Sec. 248-260]**
1. **WARRANT TRIAL [Ch. 20; Sec. 261 - 273]**
1. **SUMMON TRIAL [Ch. 21; Sec. 274-282]**
1. **SUMMARY TRIAL [Ch. 22; Sec. 283-288]**

CHAPTER XIX
TRIAL BEFORE A COURT OF SESSION

- 248. Trial to be conducted by Public Prosecutor.
- 249. Opening case for prosecution.
- 250. Discharge.
- 251. Framing of charge.
- 252. Conviction on plea of guilty.
- 253. Date for prosecution evidence.
- 254. Evidence for prosecution.
- 255. Acquittal.
- 256. Entering upon defence.
- 257. Arguments.
- 258. Judgment of acquittal or conviction.
- 259. Previous conviction.
- 260. Procedure in cases instituted under sub-section (2) of section 222.

ON POLICE REPORT

230	Copies to Accused (Police Report & Other Documents)
261	Complied 230
262	Accused may be discharged (60 Day application)(Examination)
263	Framing of Charge (within 60 days) (read and explained)
264	Conviction - Plea of Guilty
265	Evidence for Prosecution (Summon witness etc) (AV mode)
266	Evidence of Defence (AV Mode)

ON COMPLAINT

267

Evidence for Prosecution (Hear Prosecution)

268

Accused may be discharged

269

When accused is not Discharged

Charge(readout); Plead Guilty; Witness for Prosecution (Cross);

Remaining witness after cross; No prosecution witness for cross - Not Considered.

270

Evidence for Defence

CONCLUSION OF TRIAL

271

ACQUITTAL or CONVICTION

Previous Conviction after this Conviction.

272

Absence of Complainant

Compoundable | Non Cogz | 30 day | Discharge

273

Compensation

30 Day jail | 2000 Compensation | Explain Why

SUMMON CASE

274

Substance of Accusation to be Stated

Explain Accused | Not necessary - Charge | Plea Guilty or Defense?

275

Conviction on Plea of Guilty

276

Conviction on Plea of Guilty (Accused Absent)(Petty Case)

Letter Plea Guilty - Pay Fine + Sentence

277

When not Convicted

Hear Both Parties and Evidences | Summons | Pay to Court

278

ACQUITTAL or CONVICTION

SUMMON CASE

279	Non Appearance or Death of Complainant 30 Day Advocate (Magistrate may Approve)
280	Withdrawal of Complaint Magistrate Permit
281	Power to Stop Proceeding JMFC CJM
282	Summon Case to Warrant Case

283	Magistrates can try minor offenses summarily (e.g., theft, intimidation) with a value \leq ₹20,000 or imprisonment \leq 3 years. No appeal allowed for summary trials.
284	High Courts can allow second-class Magistrates to try minor offenses (fine/imprisonment \leq 6 months) summarily.
285	Summary trial procedure follows summons-case rules, with a maximum sentence of 3 months imprisonment.
286	Magistrates must record case details (e.g., case number, dates, plea, finding, sentence).
287	If the accused pleads not guilty, the Magistrate must record a brief judgment and evidence.
288	Records and judgments must be in the court's language and signed by the Magistrate.

JUDGEMENT

MEANING

In criminal law, a judgment is the official decision of a court regarding the guilt or innocence of a defendant after a trial or plea. This judgment encompasses both the verdict (finding of guilt or acquittal) and, if the defendant is found guilty, the sentence or penalty imposed.

2(9) "judgment" means the statement given by the Judge of the grounds of a decree or order;

TRIAL



CONVICTION

ACQUITTAL

CHAPTER - 29

392 - 406

392. JUDGEMENT

Judgment Pronouncement: Must be in open court, within 45 days, with notice to parties.

Options: (a) Deliver whole judgment, (b) Read full judgment, (c) Read operative part and explain.

Shorthand Record: If (a), judgment is transcribed, signed, and dated by the judge.

Signature and Date: If (b) or (c), judge signs and dates in court.

Judgment Availability: Copy available to parties free of cost, uploaded online within 7 days.

Accused's Presence: If in custody, must attend in person or via video. If not in custody, must attend unless acquitted or fined.

Absence of Parties: Judgment valid even if parties are absent or notice is not served correctly.

393. LANGUAGE AND CONTENTS

Language: Judgment must be written in the court's language.

Contents:

- Points for determination, decision, and reasons for the decision.
- Specify the offence, relevant section of the law, and punishment for conviction.
- For acquittal, state the offence and order the accused's release.

Alternative Judgment: If unsure about which section applies, the court must pass judgment in the alternative.

393. LANGUAGE AND CONTENTS

Death or Life Sentence: Reasons must be provided, including special reasons for a death sentence.

Short Sentences: If the sentence is less than 3 months, reasons must be recorded unless specified by law.

Death Sentence: If sentenced to death, the judgment must specify hanging by the neck.

Other Orders: Orders under certain sections (136, 157, 144, 164, 166) must include points for determination, decision, and reasons. (give security)

394. ORDER FOR NOTIFYING ADDRESSES

- **Conviction:** If a person convicted of an offence punishable with 3+ years imprisonment is convicted again for a similar offence, the court may order their residence and any changes to be notified for up to 5 years after sentence expiration.
- **Scope:** Applies to criminal conspiracies, abetment, and attempts to commit such offences.

395. ORDE-COMPENSATION

- **Compensation from Fine:** When a fine is imposed, the court may order:
 - Payment of prosecution expenses.
 - Compensation for loss or injury caused by the offence (if recoverable in a Civil Court).
 - Compensation for death (under the Fatal Accidents Act, 1855).
 - Compensation to a bona fide purchaser if stolen property is recovered.
- **Appeal:** No payment before the appeal period ends or the appeal decision is made.
- **Without Fine:** If no fine is imposed, the court may still order compensation for loss or injury caused by the offence.
- **Appellate Courts:** Appellate, High Courts, or Courts of Session can also make such orders.
- **Civil Suit:** Any compensation paid under this section will be considered in subsequent civil suits regarding the same matter.

395. VICTIM - COMPENSATION - SCHEME

- **Scheme Setup:** State and Central Governments will create a fund for victim compensation and rehabilitation.
- **Court Recommendations:** District/State Legal Service Authorities decide the compensation amount based on court recommendations.
- **Inadequate Compensation:** If compensation is insufficient, the court can recommend more.
- **Unidentified Offender:** Victims can apply for compensation even if the offender is not found.
- **Timely Action:** Compensation must be awarded within 2 months of inquiry.
- **Immediate Relief:** Victims may receive emergency medical aid or interim relief.
- **Additional Compensation:** Compensation is over and above fines paid to the victim.

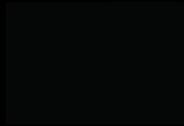
396. VICTIM TREATMENT

Mandatory Medical Care: All hospitals (public or private) must provide immediate first-aid or medical treatment to victims of specific crimes under the Bharatiya Nyaya Sanhita, 2023, and the Protection of Children from Sexual Offences Act, 2012.

Free of Cost: Treatment must be provided free of charge.

Police Notification: Hospitals must inform the police immediately after providing treatment.

398. WITNESS PROTECTION SCHEME



399. COMPENSATION - GROUNDLESS ARREST

- **Compensation for False Arrest:** If a Magistrate finds that an arrest was made without sufficient grounds, they may award compensation up to ₹1,000 to the person wrongfully arrested for their loss of time and expenses.
- **Multiple Arrests:** If multiple people are arrested, each can receive compensation up to ₹1,000.
- **Recovery of Compensation:** The compensation can be recovered as a fine. If not paid, the person responsible for the arrest may face up to 30 days of simple imprisonment.

400. COSTS: NON-COGNIZABLE CASE

- **Costs in Non-Cognizable Offence:** If a court convicts the accused in a non-cognizable offence case, it may order the accused to pay the complainant's costs, including expenses like process fees, witnesses, and advocate's fees.
- **Default Payment:** If the accused fails to pay, they may face simple imprisonment for up to 30 days.
- **Applicability:** The Appellate Court, High Court, or Court of Session can also make this order during appeals or revisions.

402. Special Reasons to be Recorded in Certain Cases

If a court could have dealt with an accused under provisions like probation or juvenile laws (e.g., under the Probation of Offenders Act, 1958, or Juvenile Justice Act, 2015) but chooses not to, it must record special reasons for not doing so in its judgment.

403. Court Not to Alter Judgment

Once a court has signed its judgment or final order, it cannot alter or review the judgment except for correcting clerical or arithmetical errors.

404. Copy of Judgment to be Given to Accused and Others

- **(1)** If the accused is sentenced to imprisonment, they must immediately receive a free copy of the judgment.
- **(2)** On request, the accused may get a certified copy or translation of the judgment (if it's appealable), free of cost.
- **(3)** If the judgment is appealable, the court must inform the accused of the appeal period.
- **(4)** Affected persons may request a copy of the judgment or record on payment, with the option for free copies in special cases.

405. Judgment When to be Translated	If the original judgment is recorded in a language different from the court's official language, a translation of the judgment must be added to the record upon request by either party.
406. Court of Session to Send Copy of Finding and Sentence to District Magistrate	In cases tried by a Court of Session or Chief Judicial Magistrate, a copy of the finding and sentence must be forwarded to the District Magistrate within whose jurisdiction the trial took place.

407	Sentence of death to be submitted by Court of Session for confirmation	When a Court of Session imposes a death sentence, it must be submitted to the High Court for confirmation.
408	Power to direct further inquiry to be made or additional evidence to be taken	The High Court can order further inquiry or the collection of additional evidence before confirming the death sentence.
409	Power of High Court to confirm sentence or annul conviction	The High Court has the authority to either confirm the death sentence or annul the conviction entirely.
410	Confirmation or new sentence to be signed by two Judges	For the confirmation of the death sentence or the imposition of a new sentence, the decision must be signed by two judges of the High Court.
411	Procedure in case of difference of opinion	If there is a difference of opinion between the judges, the matter will be resolved according to the procedure prescribed by law.
412	Procedure in cases submitted to High Court for confirmation	This section details the procedures that must be followed when a death sentence is submitted to the High Court for confirmation.

MEANING

An appeal is a legal process in which a party who is dissatisfied with a decision made by a lower court requests a higher court to review and potentially change that decision.

BNSS

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CHAPTER - 31

413 - 435

413. NO APPEAL - UNLESS PROVIDED

No Appeals by Default: Appeals aren't allowed unless specified by the BNSS or another law.

Victim's Appeal Rights: Victims can appeal if:

- The accused is acquitted,
- Convicted of a lesser offense, or
- Given inadequate compensation.

Appeal Location: The appeal goes to the usual appellate court for that conviction.

414. APPEAL FROM ORDERS OF KEEPING PEACE

Right to Appeal: A person can appeal to the Court of Session if:

- They are ordered to give security for keeping peace or good behavior (Section 136).
- They are affected by an order refusing or rejecting a surety (Section 140).

Exception: This appeal right does not apply if proceedings are already before a Sessions Judge under Section 141 (2) or (4).

415. - APPEALS FROM CONVICTIONS

- **Supreme Court Appeal:** A person convicted by a High Court in its original jurisdiction can appeal to the Supreme Court.
- **High Court Appeal:** A person convicted by a Sessions Judge or with a sentence over seven years can appeal to the High Court.
- **Court of Session Appeal:** Others convicted by a Magistrate or sentenced under specific sections can appeal to the Court of Session.
- **Six-Month Deadline:** Appeals against sentences under specific sections must be resolved within six months.

High Court (original jurisdiction)	Supreme Court	Conviction on trial directly held by the High Court under its extraordinary criminal jurisdiction.	No specific time limit mentioned
Sessions Judge / Additional Sessions Judge	High Court	<ul style="list-style-type: none"> - Conviction on trial with a sentence of imprisonment for more than seven years. - Any person convicted at the same trial. 	No specific time limit mentioned
Other Courts	High Court	Conviction with a sentence of imprisonment for more than seven years.	No specific time limit mentioned
Magistrate of the First or Second Class	Court of Session	<ul style="list-style-type: none"> - Conviction on a trial held by a first- or second-class Magistrate. - Sentencing under Section 364. - Sentencing or orders passed under Section 401 by any Magistrate. 	No specific time limit mentioned
Sentences under Sections 64, 65, 66, 67, 68, 70, or 71 of BNSS	Applicable Appellate Court	Appeal against these specific sentences.	6 months from the date of filing appeal

416. NO APPEAL

No Appeal When Pleading Guilty:

- If the accused pleads guilty and is convicted:
- No appeal if convicted by a High Court.
- Limited appeal for convictions by Sessions Court or First/Second Class Magistrate, but only on the extent or legality of the sentence.

417. NO APPEAL - PETTY CASES

- **No Appeal in Petty Cases:**
- **High Court:** No appeal if sentenced to imprisonment ≤ 3 months, fine $\leq ₹1,000$, or both.
- **Sessions Court:** No appeal if sentenced to imprisonment ≤ 3 months, fine $\leq ₹200$, or both.
- **Magistrate (First Class):** No appeal if fined $\leq ₹100$.
- **Magistrate (Summary Trial):** No appeal if fine $\leq ₹200$.

417. NO APPEAL - PETTY CASES

- **Exceptions:**
 - Appeals allowed if another punishment is combined.
 - No appeal based on:
 - Security for peace,
 - Imprisonment for default of fine,
 - Multiple fines as long as the total is within the specified limit.

418. APPEAL - STATE GOVERNMENT

- **State Government Appeal:**
 - The State Government can direct the Public Prosecutor to appeal against an inadequate sentence.
 - **Magistrate's sentence:** Appeal to the Court of Session.
 - **Other courts' sentence:** Appeal to the High Court.
- **Central Government's Role:**
 - If the offence was investigated by a Central agency, the Central Government can also direct the Public Prosecutor to appeal.
- **Sentence Enhancement:**
 - The court cannot increase the sentence without giving the accused a chance to defend against the enhancement. The accused can also plead for acquittal or sentence reduction.
- **Six-Month Deadline:**
 - Appeals under specific sections (64-71) must be disposed of within six months.

419. APPEAL - ACQUITTAL

- **Appeal in Case of Acquittal:**
 - **District Magistrate:** Can direct appeal to the Court of Session if acquittal is passed by a Magistrate in cognizable, non-bailable offence cases.
 - **State Government:** Can direct appeal to the High Court if acquittal is passed by any court other than the High Court.
 - **Central Government:** Can also direct an appeal if the offence was investigated by a Central agency.
- **High Court's Leave:**
 - Appeals to the High Court require prior leave of the court.
- **Special Leave for Complainant:**
 - Complainant may seek special leave to appeal in acquittal cases, subject to time limits:
 - **Public servant:** 6 months.
 - **Other complainants:** 60 days.
- **Refusal of Special Leave:**
 - If the High Court refuses special leave, no appeal can be filed.

420	Appeal Against Conviction by High Court	If the High Court convicts an accused (after reversing acquittal) with sentence of death, life imprisonment, or 10+ years, the accused can appeal to the Supreme Court.
421	Special Right of Appeal in Certain Cases	In trials where multiple individuals are convicted, all or any of them can appeal if there's an appealable judgment passed for one of them.
422	Appeal to Court of Session	Appeals to the Court of Session are heard by the Sessions Judge or Additional Sessions Judge. Appeals against Magistrate (second class) convictions can be heard by the Chief Judicial Magistrate.
423	Petition of Appeal	An appeal must be filed in writing by the appellant or their advocate, with a copy of the judgment/order, unless directed otherwise by the court.
424	Procedure When Appellant is in Jail	If the appellant is in jail, they can submit their appeal petition to the jail officer, who will forward it to the Appellate Court.

425. SUMMARY DISMISSAL - APPEAL

- The Appellate Court may dismiss an appeal summarily if there are no sufficient grounds for interference.
- **Conditions for dismissal:**
 - The appellant or their advocate must be given a reasonable opportunity to be heard.
 - For appeals from jail (under section 424), dismissal can occur if the appeal is frivolous or if producing the appellant in court is inconvenient.
 - The appeal cannot be dismissed before the allowed appeal period expires.
- The Appellate Court may call for the case record before dismissing the appeal.
- If the Court of Session or Chief Judicial Magistrate dismisses the appeal, they must record reasons.
- If another appeal has not been considered, the Court may hear the new appeal in the interests of justice.

426. PROCEDURE - NORMAL APPEAL

- If an appeal is not dismissed summarily, the Appellate Court will notify:
 - The **appellant** or their advocate.
 - An **officer** appointed by the State Government.
 - The **complainant** (if the appeal is from a judgment in a complaint case).
 - The **accused** (if the appeal is under sections 418 or 419).
- The Court will send for the case record unless it is already available and hear the parties.
- If the appeal concerns only the severity or legality of the sentence, the appeal may be decided without the case record.
- If the appeal is about sentence severity, the appellant **cannot raise other grounds** without the Court's permission.

427. POWERS

- The Appellate Court may:
 - Dismiss the appeal if there's no ground for interference.
 - In appeals from acquittal: reverse the order, re-trial, or pass sentence.
 - In appeals from conviction: acquit, discharge, or modify the sentence.
 - In sentence enhancement appeals: reverse conviction or alter the sentence.
 - In other orders: alter or reverse the order.
- Sentence enhancement requires the accused to be given a chance to show cause.
- The Court can't impose a higher punishment than the original court.

428	The rules for judgment in original criminal courts apply to appellate courts (Session or CJM). The accused doesn't need to be present unless the Appellate Court orders otherwise.
429(1)	High Court certifies its judgment or order to the lower court that passed the appealed order. If the court is a Magistrate's, it's sent via the Chief Judicial Magistrate. If it's an Executive Magistrate, it's sent via the District Magistrate.
429(2)	The certified judgment or order must be executed by the lower court in accordance with the High Court's directions. If needed, the record is amended.

- **Section 430(1):** The Appellate Court can suspend a sentence pending appeal and release the convicted person on bail or their own bond, for reasons recorded in writing. If convicted of a serious offence (death, life imprisonment, or 10+ years), the Public Prosecutor is given a chance to oppose bail.
- **Section 430(2):** The High Court can exercise the same power in appeals from lower courts.
- **Section 430(3):** If a convicted person intends to appeal, the convict may be released on bail for a sufficient period to file the appeal, unless special reasons exist to refuse bail. The sentence is considered suspended during this period.
- **Section 430(4):** If the appellant is sentenced to imprisonment after appeal, the time spent on bail will not count toward their sentence.

431. Arrest of accused in appeal from acquittal	High Court can issue a warrant for the arrest of the accused in an appeal from acquittal and may either commit to prison or grant bail.
432. Appellate Court may take further evidence	Appellate Court can take additional evidence if necessary, either by itself or direct Magistrate/Court. Accused has the right to be present.
433. Procedure where Judges of Court of appeal are equally divided	If judges are divided, the case is referred to another Judge for opinion. If required, a larger Bench can re-hear the case.
434. Finality of judgments and orders on appeal	Judgments/orders by Appellate Court are final, except in specific cases. Appeals against acquittal or for enhancement of sentence can still be heard.
435. Abatement of appeals	Appeals under sections 418/419 abate on the death of the accused. Other appeals abate on the appellant's death, but near relatives can apply to continue the appeal within 30 days.

CHAPTER XXXII

REFERENCE AND REVISION

436	Reference to High Court	The Sessions Court or any Court can refer a case to the High Court for review if a legal question arises or if there is a need for clarification.
437	Disposal of case according to decision of High Court	After receiving a reference, the High Court decides the case, and the lower Court must follow the High Court's decision.
438	Calling for records to exercise powers of revision	The High Court can call for records from any lower Court to review and revise a case if necessary.
439	Power to order inquiry	The High Court has the power to order an inquiry into any case under its revision powers.
440	Sessions Judge's powers of revision	A Sessions Judge can revise decisions made by lower Courts within their jurisdiction if they see fit.
441	Power of Additional Sessions Judge	An Additional Sessions Judge can exercise revision powers in the same manner as a Sessions Judge.

442	High Court's powers of revision	The High Court can revise any decision from subordinate Courts if it finds that the judgment or order is legally wrong or unjust.
443	Power of High Court to withdraw or transfer revision cases	The High Court can withdraw or transfer revision cases from one Court to another for proper adjudication.
444	Option of Court to hear parties	The Court has the option to hear the parties involved before making a decision in revision cases.
445	High Court's order to be certified to lower Court	Once the High Court issues its order in a revision case, it must be sent to the lower Court to ensure compliance and implementation.

514

(1) No Court shall take cognizance of certain offences after the period of limitation has expired, unless specified otherwise in the Sanhita.

(2) **Period of Limitation for different offences:**

(a) **6 months** – Offences punishable with fine only.

(b) **1 year** – Offences punishable with imprisonment for up to 1 year.

(c) **3 years** – Offences punishable with imprisonment for more than 1 year but not exceeding 3 years.

(3) If multiple offences are tried together, the limitation period is determined based on the offence with the most severe punishment.

Explanation The limitation period is calculated from either the filing of a complaint (Section 223) or the recording of information (Section 173).

514

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Explanation The limitation period is calculated from either the filing of a complaint (Section 223) or the recording of information (Section 173).

MEANING

Maintenance refers to the financial support that one individual is legally obligated to provide to another who is unable to support themselves.

समझौता योग्य अपराध एक प्रकार का अपराध है जहां जिस व्यक्ति (पीड़ित) के साथ अन्याय हुआ है और आरोपी आपस में मामले को सुलझा सकते हैं। एक बार जब वे समझौता करने के लिए सहमत हो जाते हैं, तो मामला बंद किया जा सकता है, अक्सर अदालत की मंजूरी के साथ।

CHAPTER - 10

144 - 147

HUSBAND - WIFE



BNSS

Sec. 144

Cr.PC

Sec. 125

MAINTENANCE = FINANCIAL SUPPORT



MAINTENANCE





144. ORDER OF MAINTENANCE

- **Eligibility for Maintenance:**
 - **Wife:** Unable to maintain herself.
 - **Child (Legitimate/Illegitimate):** Unable to maintain itself, whether married or not.
 - **Child with Disability:** Unable to maintain itself due to physical/mental abnormality, even after reaching majority.
 - **Parents:** Unable to maintain themselves.
- **Magistrate's Authority:**
 - Can order maintenance at a rate determined by the Magistrate.
 - Payment can be directed to the beneficiary by the Magistrate.
- **Provisions for Female Children:**
 - Father may be ordered to provide maintenance until the female child reaches majority, if her husband is incapable of maintaining her.

144. ORDER OF MAINTENANCE

- **Interim Maintenance:**
 - Magistrate can order interim maintenance and expenses during the proceeding.
 - Application for interim maintenance should ideally be disposed of within 60 days.
- **Failure to Comply:**
 - Non-compliance can lead to a warrant for levying the amount.
 - Imprisonment (up to 1 month) for non-payment after warrant execution.
 - Warrant can be issued within 1 year from the due date of the payment.
- **Refusal to Live Together:**
 - If a husband offers to maintain the wife but she refuses to live with him, the Magistrate may still order maintenance, unless the refusal is unjustified.
 - Adultery or keeping a mistress by the husband can be grounds for the wife refusing to live with him.

144. ORDER OF MAINTENANCE

- **Exclusions for Wife's Maintenance:**

- Wife is not entitled to maintenance if she is living in adultery or refusing to live with her husband without sufficient reason.
- If living separately by mutual consent, no maintenance is due.

- **Cancellation of Order:**

- Maintenance order can be canceled if the wife is living in adultery or refuses to live with the husband without reason, or if they are living separately by mutual consent.

145. PROCEDURE

- **Where to File:** Proceedings can be filed in the district where the person, wife, mother of illegitimate child, or parents reside.
- **Evidence:** Must be presented in the presence of the person or their advocate; follows summons-case procedure.
- **Ex Parte Proceedings:** If the person avoids service, the case can be heard without them; orders can be set aside within 3 months.
- **Costs:** Court may order costs as deemed just.

146. ALTERATION

- **Change in Circumstances:** Magistrate can alter the maintenance amount if there is a change in the person's circumstances.
- **Civil Court Decision:** If a Civil Court decision affects the maintenance order, the Magistrate may cancel or alter it.
- **Divorce and Maintenance:**
 - If the woman remarries, the maintenance order is canceled from the date of remarriage.
 - If she has received a divorce settlement, the maintenance order is canceled accordingly.
 - If she voluntarily waived her rights to maintenance after divorce, the order is canceled from that date.
- **Consideration in Civil Court:** When recovering maintenance or dowry, the Civil Court will consider the monthly allowance paid under Section 144.

147. ENFORCEMENT

Section 147 - Enforcement of Order of Maintenance:

- **Copy of Order:** A copy of the maintenance or interim maintenance order is given to the beneficiary or their guardian free of charge.
- **Enforcement:** The order can be enforced by any Magistrate in any location if the Magistrate confirms the identity of the parties and non-payment of the allowance or expenses due.

DV ACT VS BNSS

Juveria Abdul Majid Khan Patni v. Atif Iqbal Musoori (2014)

The Supreme Court in this case held that Section 125 of CrPC (now covered under Section 144 of BNSS) empowers to give maintenance order while Section 20 of the DV Act can be **used in addition** to the Section 125 of CrPC for giving monetary relief.

DV ACT VS BNSS

Nikhil Danani v. Tanya Banon Danani (2019)

The Delhi High Court distinguished Section 125 CrPC (now Section 144 BNSS) from Section 20 of the DV Act, noting that while the former focuses solely on maintenance, the latter provides broader relief, including compensation for lost earnings, medical expenses, property damage, and maintenance for both the aggrieved person and their children.

Rajnish v. Neha (2020)

The Supreme Court clarified that even if a wife is earning, she may still be entitled to maintenance.

The court emphasised that maintenance is a measure of social justice.

Vineeta Sharma v. Rakesh Sharma (2020)

The Supreme Court declared that daughters have equal rights in ancestral property and are entitled to maintenance, reinforcing gender equality in inheritance and maintenance laws.



Savitaben Somabhai Bhatiya v. State of Gujarat, it was emphasized that a woman must establish a legally valid marriage to claim maintenance.

Chaturbhuj v. Sita Bai clarified that the term "unable to maintain herself" relates to the lifestyle enjoyed while living with her husband, not merely survival post-separation.

Mohd. Ahmed Khan v. Shah Bano Begum upheld that a Muslim divorced woman is entitled to maintenance from her former husband under Section 125 CrPC, even if her personal law suggests otherwise.

- **Shah Bano Case:** The Supreme Court extended the scope of Section 125 CrPC to grant maintenance to Muslim women beyond the Iddat period, challenging the personal law's interpretation.
- **Daniel Latifi Case:** The Court upheld the Muslim Women Act, but interpreted it to ensure that divorced Muslim women could still claim maintenance after Iddat, thereby offering a more balanced protection.

PLEA BARGAINING



CHAPTER XI

MAINTENANCE OF PUBLIC ORDER AND TRANQUILLITY

A.—Unlawful assemblies

148. Dispersal of assembly by use of civil force.
149. Use of armed forces to disperse assembly.
150. Power of certain armed force officers to disperse assembly.
151. Protection against prosecution for acts done under sections 148, 149 and 150.

B.—Public nuisances

152. Conditional order for removal of nuisance.
153. Service or notification of order.
154. Person to whom order is addressed to obey or show cause.
155. Penalty for failure to comply with section 154.
156. Procedure where existence of public right is denied.
157. Procedure where person against whom order is made under section 152 appears to show-cause.
158. Power of Magistrate to direct local investigation and examination of an expert.
159. Power of Magistrate to furnish written instructions, etc.
160. Procedure on order being made absolute and consequences of disobedience.
161. Injunction pending inquiry.
162. Magistrate may prohibit repetition or Continuance of public nuisance.

C.—Urgent cases of nuisance or apprehended danger

163. Power to issue order in urgent cases of nuisance or apprehended danger.

D.—Disputes as to immovable property

164. Procedure where dispute concerning land or water is likely to cause breach of peace.
165. Power to attach subject of dispute and to appoint receiver.
166. Dispute concerning right of use of land or water.
167. Local inquiry.

CHAPTER XII

PREVENTIVE ACTION OF THE POLICE

SECTIONS

- 168. Police to prevent cognizable offences.
- 169. Information of design to commit cognizable offences.
- 170. Arrest to prevent commission of cognizable offences.
- 171. Prevention of injury to public property.
- 172. Persons bound to conform to lawful directions of police