

The Bharatiya Nagarik Suraksha Sanhita, 2023.

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OVERVIEW OF CHANGES

1973 Act	2023 Act
CrPC, “code”	Bharatiya Nagarik Suraksha Sanhita, 2023, “sanhita” used in place of “code”
38 chapters (including Ch. VIIA)	38 chapters
528 Sections (484), 2 schedules, 56 forms	533 Sections, 2 schedules, 56 forms
References to IPC	References to BNS

Statement of Objects and Reasons

- **scientific:** use of technology and forensic sciences in the investigation, summons, information
- **time bound:** investigation, trial and judgments
- **citizen centric:** supply of FIR copy and progress of investigation
- **trial:** summary trial mandatory for petty offences, accused examination through VC, magisterial system

Note: will not go into minor changes of terminologies, structure of provisions

531. Repeal and savings.—

- **(1) The Code of Criminal Procedure, 1973 (2 of 1974) is hereby repealed.**
- **(2) Notwithstanding such repeal—**
 - **(a) if, immediately before the date on which this Sanhita comes into force, there is any appeal, application, trial, inquiry or investigation pending, then, such appeal, application, trial, inquiry or investigation shall be disposed of, continued, held or made, as the case may be, in accordance with the provisions of the Code of Criminal Procedure, 1973 (2 of 1974), as in force immediately before such commencement (hereinafter referred to as the said Code), as if this Sanhita had not come into force;**

- **(b) all notifications published, proclamations issued, powers conferred, forms provided by rules, local jurisdictions defined, sentences passed and orders, rules and appointments, not being appointments as Special Magistrates, made under the said Code and which are in force immediately before the commencement of this Sanhita, shall be deemed, respectively, to have been published. issued. conferred. specified, defined, passed or made under the corresponding provisions of this Sanhita;**
- **(c) any sanction accorded or consent given under the said Code in pursuance of which no proceeding was commenced under that Code, shall be deemed to have been accorded or given under the corresponding provisions of this Sanhita and proceedings may be commenced under this Sanhita in pursuance of such sanction or consent.**
- **(3) Where the period specified for an application or other proceeding under the said Code had expired on or before the commencement of this Sanhita, nothing in this Sanhita shall be construed as enabling any such application to be made or proceeding to be commenced under this Sanhita by reason only of the fact that a longer period therefor is specified by this Sanhita or provisions are made in this Sanhita for the extension of time.**

CHAPTER I

PRELIMINARY

BNSS 1 - 5 ; CRPC 1 - 5

Definitions (S. 2 BNSS)

Insertions

- (a) “Audio-video electronic” – VC, identification, search & seizure
- (b) “bail” defined for first time – release of accused upon imposition certain conditions an officer/Court on execution of bond/bail bond
- (d) “bail bond” – release with surety
- (e) “bond” – personal bond, release without surety
- (f) Electronic communication – communication through electronic device
- (j) Investigation – Explanation: special Acts to prevail over Sanhita

Changes

Words and phrases used in the legislation but not defined – reference to BNS and IT Act

Omissions

Definitions of “metropolitan”, “prescribed”

(a) “audio-video electronic means”

- **(a) “audio-video electronic means” shall include use of any communication device for the purposes of video conferencing, recording of processes of identification, search and seizure or evidence, transmission of electronic communication and for such other purposes and by such other means as the State Government may, by rules provide;**

(b) “bail”

- **(b) “bail” means release of a person accused of or suspected of commission of an offence from the custody of law upon certain conditions imposed by an officer or Court on execution by such person of a bond or a bail bond;**

- **(a) “bail bond” means an undertaking for release with surety;**

- **(e) “bond” means a personal bond or an undertaking for release without surety;**

(1) “investigation”

- includes all the proceedings under this **Sanhita** for the collection of evidence conducted by a police officer or by any person (other than a Magistrate) who is authorised by a Magistrate in this behalf.
- **Corresponding Law: S. 2(h) of Act 2 of 1974.**
- ***Explanation.*—Where any of the provisions of a special Act are inconsistent with the provisions of this Sanhita, the provisions of the special Act shall prevail;**

CHAPTER II: CONSTITUTION OF CRIMINAL COURTS AND OFFICES

BNSS 6 – 20 ; CRPC 6 – 25-A

15. Special Executive Magistrates.—

- The State Government may appoint, for such term as it may think fit, Executive Magistrates or any police officer not below the rank of Superintendent of Police or equivalent, to be known as Special Executive Magistrates, for particular areas or for the performance of particular functions and confer on such Special Executive Magistrates such of the powers as are conferrable under this Sanhita on Executive Magistrates, as it may deem fit.
- **Corresponding Law: S. 21 of Act 2 of 1974.**

- Metropolitan Area, Metropolitan Magistrates, Assistant Sessions Judge - Deletion
- **Inserted proviso to S. 18 (Public Prosecutors)** (other states its Central Govt or State Govt after consultation with HC)
- Some changes like Clause (6) on PP appointment.
- **S. 20 - Directorate of Prosecution – significant changes**
- District Directorate Prosecution
- **Change in eligibility criteria:** Sub-s. 2(a) – Director/Dy.D of Prosecution - 15 yrs advocate or Sessions Judge; Sub-s. 2(b) – Asst. D of Prosecution - 7 years advocate or JMFC

The powers and functions of these authorities are :—

- Director of Prosecution shall be responsible for giving opinions on filing appeals and monitoring cases involving offences punishable with 10 years or more/life imprisonment/death.
- The Deputy Director of prosecution shall examine police report and monitor the cases involving offences punishable for 7 to 10 years.
- The Assistant Director of Prosecution shall monitor cases involving offences punishable for less than 7 years.

CHAPTER III: POWER OF COURTS

BNSS 21 – 29 ; CRPC 26 - 35

- Omitted jurisdiction in case of juveniles (s. 27 CrPC)
- Removed mention of Assistant Sessions Judge, Metropolitan Magistrates
- Section 23 BNSS enhanced the power of Magistrate of 1st class to impose fine from `10,000 to `50,000 and the Magistrate of 2nd class from `5,000 to `10,000.
- Empowered to award community service as a form of punishment.
- Community service has been defined as 'Court ordered work that benefits the community, and which is not entitled to any remuneration [Explanation to section 23].
- Section 25 BNSS states in case of concurrent running of sentences in a trial, the maximum period of imprisonment shall not exceed 20 years (instead of 14 years in section 31 CrPC).

CHAPTER IV: POWERS OF SUPERIOR OFFICERS OF POLICE AND AID TO THE MAGISTRATES AND THE POLICE

BNSS 30 – 34 ; CRPC 36 - 40

NO CHANGE

CHAPTER V

ARREST OF PERSON

BNSS 35 – 62 ; CRPC 41 – 60-A

35. When police may arrest without warrant.—

- (1) Any police officer may without an order from a Magistrate and without a warrant, arrest any person—
 - (a) who commits, in the presence of a police officer, a cognizable offence; or
Corresponding Law: S. 41(1)(a) of Act 2 of 1974.
 - (b) against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists that he has committed a cognizable offence punishable with imprisonment for a term which may be less than seven years or which may extend to seven years whether with or without fine, if the following conditions are satisfied, namely:—
 - (i) the police officer has reason to believe on the basis of such complaint, information, or suspicion that such person has committed the said offence;
 - (ii) the police officer is satisfied that such arrest is necessary—

- *(a)* to prevent such person from committing any further offence; or
 - *(b)* for proper investigation of the offence; or
 - *(c)* to prevent such person from causing the evidence of the offence to disappear or tampering with such evidence in any manner; or
 - *(d)* to prevent such person from making any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to the police officer; or
 - *(e)* as unless such person is arrested, his presence in the Court whenever required cannot be ensured,
- and the police officer shall record while making such arrest, his reasons in writing:
 - Provided that a police officer shall, in all cases where the arrest of a person is not required under the provisions of this sub-section, record the reasons in writing for not making the arrest; or

Corresponding Law: S. 41(1)(b) of Act 2 of 1974.

- **(c)** against whom credible information has been received that he has committed a cognizable offence punishable with imprisonment for a term which may extend to more than seven years whether with or without fine or with death sentence and the police officer has reason to believe on the basis of that information that such person has committed the said offence; or

Corresponding Law: S. 41(1)(ba) of Act 2 of 1974.

- **(d)** who has been proclaimed as an offender either under this Sanhita or by order of the State Government; or

Corresponding Law: S. 41(1)(c) of Act 2 of 1974.

- **(e)** in whose possession anything is found which may reasonably be suspected to be stolen property and who may reasonably be suspected of having committed an offence with reference to such thing; or

Corresponding Law: S. 41(1)(d) of Act 2 of 1974.

- **(f)** who obstructs a police officer while in the execution of his duty, or who has escaped, or attempts to escape, from lawful custody; or

Corresponding Law: S. 41(1)(e) of Act 2 of 1974.

- **(g)** who is reasonably suspected of being a deserter from any of the Armed Forces of the Union; or

Corresponding Law: S. 41(1)(f) of Act 2 of 1974.

- **(h) who has been concerned in, or against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists, of his having been concerned in, any act committed at any place out of India which, if committed in India, would have been punishable as an offence, and for which he is, under any law relating to extradition, or otherwise, liable to be apprehended or detained in custody in India; or**

Corresponding Law: S. 41(1)(g) of Act 2 of 1974.

- **(j) who, being a released convict, commits a breach of any rule made under sub-section (5) of Section 394; or**

Corresponding Law: S. 41(1)(h) of Act 2 of 1974.

- **(j) for whose arrest any requisition, whether written or oral, has been received from another police officer, provided that the requisition specifies the person to be arrested and the offence or other cause for which the arrest is to be made and it appears therefrom that the person might lawfully be arrested without a warrant by the officer who issued the requisition.**

Corresponding Law: S. 41(1)(i) of Act 2 of 1974.

- **(2) Subject to the provisions of Section 39, no person concerned in a non-cognizable offence or against whom a complaint has been made or credible information has been received or reasonable suspicion exists of his having so concerned, shall be arrested except under a warrant or order of a Magistrate.**

Corresponding Law: S. 41(2) of Act 2 of 1974.

- (3) The police officer shall, in all cases where the arrest of a person is not required under sub-section (1) issue a notice directing the person against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists that he has committed a cognizable offence, to appear before him or at such other place as may be specified in the notice.

Corresponding Law: S. 41-A(1) of Act 2 of 1974.

- (4) Where such a notice is issued to any person, it shall be the duty of that person to comply with the terms of the notice.

Corresponding Law: S. 41-A(2) of Act 2 of 1974.

- (5) Where such person complies and continues to comply with the notice, he shall not be arrested in respect of the offence referred to in the notice unless, for reasons to be recorded, the police officer is of the opinion that he ought to be arrested.

Corresponding Law: S. 41-A(3) of Act 2 of 1974.

- (6) Where such person, at any time, fails to comply with the terms of the notice or is unwilling to identify himself, the police officer may, subject to such orders as may have been passed by a competent Court in this behalf, arrest him for the offence mentioned in the notice.

Corresponding Law: S. 41-A(4) of Act 2 of 1974.

- (7) No arrest shall be made without prior permission of an officer not below the rank of Deputy Superintendent of Police in case of an offence which is punishable for imprisonment of less than three years and such person is infirm or is above sixty years of age.

ARNESH KUMAR VS. STATE OF BIHAR (2014)

- SECTION 41 A COMPLIANCE
- All the State Governments to instruct its police officers not to automatically arrest when a case under [Section 498-A](#) of the IPC is registered but to satisfy themselves about the necessity for arrest under the parameters laid down above flowing from [Section 41](#), [Cr.PC](#);
- All police officers be provided with a check list containing specified sub- clauses under [Section 41\(1\)\(b\)\(ii\)](#);
- The police officer shall forward the check list duly filed and furnish the reasons and materials which necessitated the arrest, while forwarding/producing the accused before the Magistrate for further detention;
- The Magistrate while authorising detention of the accused shall peruse the report furnished by the police officer in terms aforesaid and only after recording its satisfaction, the Magistrate will authorise detention;

- The decision not to arrest an accused, be forwarded to the Magistrate within two weeks from the date of the institution of the case with a copy to the Magistrate which may be extended by the Superintendent of police of the district for the reasons to be recorded in writing;
- Notice of appearance in terms of [Section 41A](#) of Cr.PC be served on the accused within two weeks from the date of institution of the case, which may be extended by the Superintendent of Police of the District for the reasons to be recorded in writing;
- Failure to comply with the directions aforesaid shall apart from rendering the police officers concerned liable for departmental action, they shall also be liable to be punished for contempt of court to be instituted before High Court having territorial jurisdiction.
- Authorising detention without recording reasons as aforesaid by the judicial Magistrate concerned shall be liable for departmental action by the appropriate High Court.
- We hasten to add that the directions aforesaid shall not only apply to the cases under [Section 498-A](#) of the I.P.C. or [Section 4](#) of the Dowry Prohibition Act, the case in hand, but also such cases where offence is punishable with imprisonment for a term which may be less than seven years or which may extend to seven years; whether with or without fine.
- We direct that a copy of this judgment be forwarded to the Chief Secretaries as also the Director Generals of Police of all the State Governments and the Union Territories and the Registrar General of all the High Courts for onward transmission and ensuring its compliance.

FORM No. 1

NOTICE FOR APPEARANCE BY THE POLICE

[See Section 35(3)]

Serial No.....

Police Station.....

To,

.....

[Name of the Accused/Noticed]

.....

[Last known Address]

.....

[Phone No./Email ID (if any)]

In pursuance of sub-section (3) of Section 35 of the Bharatiya Nagarik Suraksha Sanhita, 2023, I hereby inform you that during the investigation of FIR/Case No dated u/s registered at Police Station, it is revealed that there are reasonable grounds to question you to ascertain facts and circumstances from you, in relation to the present investigation. Hence you are directed to appear before me at AM/PM on..... at

Police Station.

Name and Designation of the Officer In charge

(Seal)

36. Procedure of arrest and duties of officer making arrest.—

- Every police officer while making an arrest shall—
 - (a) bear an accurate, visible and clear identification of his name which will facilitate easy identification;
 - (b) prepare a memorandum of arrest which shall be—
 - (i) attested by at least one witness, who is a member of the family of the person arrested or a respectable member of the locality where the arrest is made;
 - (ii) countersigned by the person arrested; and
 - (c) inform the person arrested, unless the memorandum is attested by a member of his family, that he has a right to have a relative or a friend or any other person named by him to be informed of his arrest.

Corresponding Law: S. 41-B of Act 2 of 1974.

37. Designated police officer.—

- The State Government shall—
 - (a) establish a police control room in every district and at State level;

Corresponding Law: S. 41-C(1) of Act 2 of 1974. Clause (b) and Clause (c) deleted.

- (b) designate a police officer in every district and in every police station, not below the rank of Assistant Sub-Inspector of Police who shall be responsible for maintaining the information about the names and addresses of the persons arrested, nature of the offence with which charged, which shall be prominently displayed in any manner including in digital mode in every police station and at the district headquarters.

38. Right of arrested person to meet an advocate of his choice during interrogation.— (Previously 41D)

•When any person is arrested and interrogated by the police, he shall be entitled to meet an advocate of his choice during interrogation, though not throughout interrogation.

ARREST IN NON-COG. CASES

If a person in presence of the Police commits a non-cognizable offence or is accused of committing such offence and refuses or gives false name and address, the Police may arrest him to ascertain his true name and address.

When such ascertainments have been made, he may be released on bond with or without surety to appear before Magistrate if required. If the person is non-Indian, the sureties should be Indian resident.

Should the true name and address be not ascertained within 24 hours or should he fail to execute a bond or sufficient sureties, he should be placed before the Magistrate. His detention by Police beyond 24 hours is not permissible.

39. Arrest on refusal to give name and residence.— (P 42)

- (1) When any person who, in the presence of a police officer, has committed or has been accused of committing a non-cognizable offence refuses on demand of such officer to give his name and residence or gives a name or residence which such officer has reason to believe to be false, he may be arrested by such officer in order that his name or residence may be ascertained.
- (2) When the true name and residence of such person have been ascertained, he shall be released on a bond or bail bond, to appear before a Magistrate if so required:
 - Provided that if such person is not resident in India, the bail bond shall be secured by a surety or sureties resident in India.
- (3) If the true name and residence of such person is not ascertained within twenty-four hours from the time of arrest or if he fails to execute the bond or bail bond, or, if so required, to furnish sufficient sureties, he shall forthwith be forwarded to the nearest Magistrate having jurisdiction.

170. Arrest to prevent commission of cognizable offences.— (P. 151)

- **(1) A police officer knowing of a design to commit any cognizable offence may arrest, without orders from a Magistrate and without a warrant, the person so designing, if it appears to such officer that the commission of the offence cannot be otherwise prevented.**
- **(2) No person arrested under sub-section (1) shall be detained in custody for a period exceeding twenty-four hours from the time of his arrest unless his further detention is required or authorised under any other provisions of this Sanhita or of any other law for the time being in force.**
- **Corresponding Law: S. 151 of Act 2 of 1974.**

172. Persons bound to conform to lawful directions of police.— (NEW PROVISION)

- **(1) All persons shall be bound to conform to the lawful directions of a police officer given in fulfilment of any of his duty under this Chapter.**
- **(2) A police officer may detain or remove any person resisting, refusing, ignoring or disregarding to conform to any direction given by him under sub-section (1) and may either take such person before a Magistrate or, in petty cases, release him as soon as possible within a period of twenty-four hours.**

40. Arrest by private person and procedure on such arrest.— (P 43)

- (1) Any private person may arrest or cause to be arrested any person who in his presence commits a non-bailable and cognizable offence, or any proclaimed offender, and, without unnecessary delay, **but within six hours from such arrest**, shall make over or cause to be made over any person so arrested to a police officer, or, in the absence of a police officer, take such person or cause him to be taken in custody to the nearest police station.
- (2) If there is reason to believe that such person comes under the provisions of sub-section (1) of Section 35, a police officer shall **take him in custody**.
- (3) If there is reason to believe that he has committed a non-cognizable offence, and he refuses on the demand of a police officer to give his name and residence, or gives a name or residence which such officer has reason to believe to be false, he shall be dealt with under the provisions of Section 39; but if there is no sufficient reason to believe that he has committed any offence, he shall be at once released.

41. Arrest by Magistrate.— (P. 44)

- **(1) When any offence is committed in the presence of a Magistrate, whether Executive or Judicial, within his local jurisdiction, he may himself arrest or order any person to arrest the offender, and may thereupon, subject to the provisions herein contained as to bail, commit the offender to custody.**
- **(2) Any Magistrate, whether Executive or Judicial, may at any time arrest or direct the arrest, in his presence, within his local jurisdiction, of any person for whose arrest he is competent at the time and in the circumstances to issue a warrant.**

42. Protection of members of Armed Forces from arrest.— (P 45)

- **(1) Notwithstanding anything contained in Section 35 and Sections 39 to 41 (both inclusive), no member of the Armed Forces of the Union shall be arrested for anything done or purported to be done by him in the discharge of his official duties except after obtaining the consent of the Central Government.**
- **(2) The State Government may, by notification, direct that the provisions of sub-section (1) shall apply to such class or category of the members of the Force charged with the maintenance of public order as may be specified therein, wherever they may be serving, and thereupon the provisions of that sub-section shall apply as if for the expression “Central Government” occurring therein, the expression “State Government” were substituted.**

Procedure of Arrest

- Actually touch or confine the body of the person;
- Unless he/she submits to the custody by word or action;
- If there is forcible resistance or attempt to evade arrest;
- All means necessary be used to effect the arrest; but
- Death can not be caused unless the person to be arrested is accused of an offence punishable with death or imprisonment for life.

43. Arrest how made.— (P. 46)

- **(1) In making an arrest the police officer or other person making the same shall actually touch or confine the body of the person to be arrested, unless there be a submission to the custody by word or action:**
 - **Provided that where a woman is to be arrested, unless the circumstances indicate to the contrary, her submission to custody on an oral intimation of arrest shall be presumed and, unless the circumstances otherwise require or unless the police officer is a female, the police officer shall not touch the person of the woman for making her arrest.**
- **(2) If such person forcibly resists the endeavour to arrest him, or attempts to evade the arrest, such police officer or other person may use all means necessary to effect the arrest.**

- **(3) The police officer may, keeping in view the nature and gravity of the offence, use handcuff while making the arrest of a person or while producing such person before the court who is a habitual or repeat offender, or who escaped from custody, or who has committed offence of organised crime, terrorist act, drug related crime, or illegal possession of arms and ammunition, murder, rape, acid attack, counterfeiting of coins and currency-notes, human trafficking, sexual offence against children, or offence against the State.**
- **(4) Nothing in this section gives a right to cause the death of a person who is not accused of an offence punishable with death or with imprisonment for life. (Previously Clause 3).**

• **(5) Save in exceptional circumstances, no woman shall be arrested after sunset and before sunrise, and where such exceptional circumstances exist, the woman police officer shall, by making a written report, obtain the prior permission of the Magistrate of the first class within whose local jurisdiction the offence is committed or the arrest is to be made. (Previously Clause 4).**

44. Search of place entered by person sought to be arrested.—

(P. 47.)

- **(1) If any person acting under a warrant of arrest, or any police officer having authority to arrest, has reason to believe that the person to be arrested has entered into, or is within, any place, any person residing in, or being in charge of, such place shall, on demand of such person acting as aforesaid or such police officer, allow him free ingress thereto, and afford all reasonable facilities for a search therein.**

- **(2) If ingress to such place cannot be obtained under sub-section (1), it shall be lawful in any case for a person acting under a warrant and in any case in which a warrant may issue, but cannot be obtained without affording the person to be arrested an opportunity of escape, for a police officer to enter such place and search therein, and in order to effect an entrance into such place, to break open any outer or inner door or window of any house or place, whether that of the person to be arrested or of any other person, if after notification of his authority and purpose, and demand of admittance duly made, he cannot otherwise obtain admittance:**
 - **Provided that if any such place is an apartment in the actual occupancy of a female (not being the person to be arrested) who, according to custom, does not appear in public, such person or police officer shall, before entering such apartment, give notice to such female that she is at liberty to withdraw and shall afford her every reasonable facility for withdrawing, and may then break open the apartment and enter it.**
- **(3) Any police officer or other person authorised to make an arrest may break open any outer or inner door or window of any house or place in order to liberate himself or any other person who, having lawfully entered for the purpose of making an arrest, is detained therein.**

45. Pursuit of offenders into other jurisdictions.— (P. 48)

- A police officer may, for the purpose of arresting without warrant any person whom he is authorised to arrest, pursue such person into any place in India.**

46. No unnecessary restraint.— (p. 49.)

- **The person arrested shall not be subjected to more restraint than is necessary to prevent his escape.**

47. Person arrested to be informed of grounds of arrest and of right to bail.—(p50)

- **(1) Every police officer or other person arresting any person without warrant shall forthwith communicate to him full particulars of the offence for which he is arrested or other grounds for such arrest.**
- **(2) Where a police officer arrests without warrant any person other than a person accused of a non-bailable offence, he shall inform the person arrested that he is entitled to be released on bail and that he may arrange for sureties on his behalf.**

48. Obligation of person making arrest to inform about arrest, etc., to relative or friend (Earlier – to a nominated person).— (p. 50A)

- **(1) Every police officer or other person making any arrest under this Sanhita shall forthwith give the information regarding such arrest and place where the arrested person is being held to any of his relatives, friends or such other persons as may be disclosed or nominated by the arrested person for the purpose of giving such information and also to the designated police officer in the district.**

- **(2) The police officer shall inform the arrested person of his rights under sub-section (1) as soon as he is brought to the police station.**
- **(3) An entry of the fact as to who has been informed of the arrest of such person shall be made in a book to be kept in the police station in such form as the State Government may, by rules, provide. (Previously: as may be prescribed in this behalf by state government)**
- **(4) It shall be the duty of the Magistrate before whom such arrested person is produced, to satisfy himself that the requirements of sub-section (2) and sub-section (3) have been complied with in respect of such arrested person.**

49. Search of arrested person.— (P 51)

- (1) Whenever,—
 - (i) a person is arrested by a police officer under a warrant which does not provide for the taking of bail, or under a warrant which provides for the taking of bail but the person arrested cannot furnish bail; and
 - (ii) a person is arrested without warrant, or by a private person under a warrant, and cannot legally be admitted to bail, or is unable to furnish bail,
- the officer making the arrest or, when the arrest is made by a private person, the police officer to whom he makes over the person arrested, may search such person, and place in safe custody all articles, other than necessary wearing-apparel, found upon him and where any article is seized from the arrested person, a receipt showing the articles taken in possession by the police officer shall be given to such person.
- (2) Whenever it is necessary to cause a female to be searched, the search shall be made by another female with strict regard to decency.

50. Power to seize offensive weapons.—(P. 52)

- The police officer or other person making any arrest under this Sanhita may, **immediately after the arrest is made**, take from the person arrested any offensive weapons which he has about his person, and shall deliver all weapons so taken to the Court or officer before which or whom the officer or person making the arrest is required by this Sanhita to produce the person arrested.

51. Examination of accused by medical practitioner at request of police officer.(P 53)

- (1) When a person is arrested on a charge of committing an offence of such a nature and alleged to have been committed under such circumstances that there are reasonable grounds for believing that an examination of his person will afford evidence as to the commission of an offence, it shall be lawful for a registered medical practitioner, acting at the request of any police officer (**Previously “not below the rank of SI”**), and for any person acting in good faith in his aid and under his direction, to make such an examination of the person arrested as is reasonably necessary in order to ascertain the facts which may afford such evidence, and to use such force as is reasonably necessary for that purpose.

- (2) Whenever the person of a female is to be examined under this section, the examination shall be made only by, or under the supervision of, a female registered medical practitioner.
- **(3) The registered medical practitioner shall, without any delay, forward the examination report to the investigating officer.**
- *Explanation.*—In this section and Sections 52 and 53,—
 - (a) “examination” shall include the examination of blood, blood stains, semen, swabs in case of sexual offences, sputum and sweat, hair samples and finger nail clippings by the use of modern and scientific techniques including DNA profiling and such other tests which the registered medical practitioner thinks necessary in a particular case;
 - (b) “registered medical practitioner” means a medical practitioner who possesses any medical qualification recognised under the National Medical Commission Act, 2019 (30 of 2019) and whose name has been entered in the National Medical Register or a State Medical Register under that Act.

52. Examination of person accused of rape by medical practitioner.— (P 53A)

- (1) When a person is arrested on a charge of committing an offence of rape or an attempt to commit rape and there are reasonable grounds for believing that an examination of his person will afford evidence as to the commission of such offence, it shall be lawful for a registered medical practitioner employed in a hospital run by the Government or by a local authority and in the absence of such a practitioner within the radius of sixteen kilometres from the place where the offence has been committed, by any other registered medical practitioner, acting at the request of any police officer, and for any person acting in good faith in his aid and under his direction, to make such an examination of the arrested person and to use such force as is reasonably necessary for that purpose.
- (2) The registered medical practitioner conducting such examination shall, without any delay, examine such person and prepare a report of his examination giving the following particulars, namely:—
 - (i) the name and address of the accused and of the person by whom he was brought;
 - (ii) the age of the accused;
 - (iii) marks of injury, if any, on the person of the accused;
 - (iv) the description of material taken from the person of the accused for DNA profiling; and
 - (v) other material particulars in reasonable detail.
- (3) The report shall state precisely the reasons for each conclusion arrived at.
- (4) The exact time of commencement and completion of the examination shall also be noted in the report.
- (5) The registered medical practitioner shall, without any delay, forward the report to the investigating officer, who shall forward it to the Magistrate referred to in Section 193 as part of the documents referred to in clause (a) of sub-section (6) of that section.

53. Examination of arrested person by medical officer.— (P 54)

- (1) When any person is arrested, he shall be examined by a medical officer in the service of the Central Government or a State Government, and in case the medical officer is not available, by a registered medical practitioner soon after the arrest is made:
 - **Provided that if the medical officer or the registered medical practitioner is of the opinion that one more examination of such person is necessary, he may do so:**
 - **Provided further that where the arrested person is a female, the examination of the body shall be made only by or under the supervision of a female medical officer, and in case the female medical officer is not available, by a female registered medical practitioner.**
- (2) The medical officer or a registered medical practitioner so examining the arrested person shall prepare the record of such examination, mentioning therein any injuries or marks of violence upon the person arrested, and the approximate time when such injuries or marks may have been inflicted.
- (3) Where an examination is made under sub-section (1), a copy of the report of such examination shall be furnished by the medical officer or registered medical practitioner, as the case may be, to the arrested person or the person nominated by such arrested person.

54. Identification of person arrested.—(P.54A)

- Where a person is arrested on a charge of committing an offence and his identification by any other person or persons is considered necessary for the purpose of investigation of such offence, the Court, having jurisdiction may, on the request of the officer in charge of a police station, direct the person so arrested to subject himself to identification by any person or persons in such manner as the Court may deem fit:
- Provided that if the person identifying the person arrested is mentally or physically disabled, such process of identification shall take place under the supervision of a Magistrate who shall take appropriate steps to ensure that such person identifies the person arrested using methods that person is comfortable with and **the identification process shall be recorded by any audio-video electronic means.** (Earlier it was provided further, now videography merged in first proviso itself).

55. Procedure when police officer deposes subordinate to arrest without warrant.— (p. 55)

- (1) When any officer in charge of a police station or any police officer making an investigation under Chapter XIII requires any officer subordinate to him to arrest without a warrant (otherwise than in his presence) any person who may lawfully be arrested without a warrant, he shall deliver to the officer required to make the arrest an order in writing, specifying the person to be arrested and the offence or other cause for which the arrest is to be made and the officer so required shall, before making the arrest, notify to the person to be arrested the substance of the order and, if so required by such person, shall show him the order.
- (2) Nothing in sub-section (1) shall affect the power of a police officer to arrest a person under Section 35.

56. Health and safety of arrested person.— (P. 55A)

- It shall be the duty of the person having the custody of an accused to take reasonable care of the health and safety of the accused.**

57. Person arrested to be taken before Magistrate or officer in charge of police station.— (P 56)

- A police officer making an arrest without warrant shall, without unnecessary delay and subject to the provisions herein contained as to bail, take or send the person arrested before a Magistrate having jurisdiction in the case, or before the officer in charge of a police station.**

58. Person arrested not to be detained more than twenty-four hours.— (P. 57)

- No police officer shall detain in custody a person arrested without warrant for a longer period than under all the circumstances of the case is reasonable, and such period shall not, in the absence of a special order of a Magistrate under Section 187, exceed twenty-four hours exclusive of the time necessary for the journey from the place of arrest to the Magistrate's Court, **whether having jurisdiction or not.**

59. Police to report apprehensions.— (P. 58)

- **Officers in charge of police stations shall report to the District Magistrate, or, if he so directs, to the Sub-divisional Magistrate, the cases of all persons arrested without warrant, within the limits of their respective stations, whether such persons have been admitted to bail or otherwise.**

60. Discharge of person apprehended.— (P. 59)

- **No person who has been arrested by a police officer shall be discharged except on his bond, or bail bond, or under the special order of a Magistrate.**

61. Power, on escape, to pursue and retake.—(P. 60)

- **(1) If a person in lawful custody escapes or is rescued, the person from whose custody he escaped or was rescued may immediately pursue and arrest him in any place in India.**
- **(2) The provisions of Section 44 shall apply to arrests under subsection (1) although the person making any such arrest is not acting under a warrant and is not a police officer having authority to arrest.**
- **Corresponding Law: S. 60 of Act 2 of 1974.**

62. Arrest to be made strictly according to Sanhita.— (P. 60A).

- No arrest shall be made except in accordance with the provisions of this Sanhita or any other law for the time being in force providing for arrest.**
- Corresponding Law: S. 60-A of Act 2 of 1974.**

Constitutional Safeguards

Article 22 –

- i. Right to be informed of the grounds of arrest.
- ii. Right to consent and to be defended by a legal practitioner of his choice.
- iii. Right to be produced before a Magistrate within 24 hours of arrest.
- iv. Right not to be detained in custody beyond 24 hours except by order of the Magistrate.

Article 22 (1) and (2) applies to arrest without warrant other than on preventive detention.

- Joginder Kumar Vs. State of UP (1994) 4 SCC 260.
- D. K. Basu, (1997) 6 SCC 642.

CHAPTER VI

PROCESSES TO COMPEL

APPEARANCES

- BNSS
 - SUMMON 63-71
 - WARRANT OF ARREST 72-83
 - PROCLAMATION AND ATTACHMENT 84-89
 - OTHER RULES REGARDING PROCESSES 90-93
- CRPC
 - SUMMON 61-69
 - WARRANT OF ARREST 70-81
 - PROCLAMATION AND ATTACHMENT 82-86
 - OTHER RULES REGARDING PROCESSES 87-90

SUMMONS

New provisions:

- **S. 63(ii) [Form of Summons]**

Summons in an encrypted or any other form of electronic communication bearing image and seal of Court

- **S. 64 [Summons how served]**

Proviso to S. 64(1)

Provided that the police station or the registrar in the Court shall maintain a register to enter the address, email address, phone number and such other details as State Government may, by rules, provide.

Proviso to S. 64(2)

Provided that summons bearing the image of Court's seal may also be served by electronic communication in such form and in such manner, as the State Government may, by rules, provide.

- New provisions:
- **S. 65(1) [Service of summons on corporate bodies etc.]**
- **Scope of officials specific and broadened:** Director, Manager, Secretary or other officer of the company or corporation [earlier secretary, local manager, principal officer]
- **S. 65(2)**
- Service on firms and association of individuals
- **S. 70(3) [Proof of service]**
- All summons served through electronic communication under sections 64 to 71 shall be considered as duly served and a copy of such electronic summons shall be attested and kept as a proof of service of summons.
- **S. 71(2)**
- On proof of delivery of service u/s. 70(3) of electronic communication to the satisfaction of the Court, the Court issuing summons may deem that the summons had been duly served.
- Changes in Provision:
- **Section 66 [service when persons summoned cannot be found]** Made gender neutral [earlier

WARRANT OF ARREST

New provision:

- S. 82(2) [Procedure on arrest of person against whom warrant issued]

(2) On the arrest of any person referred to in sub-section (1), the police officer shall forthwith give the information regarding such arrest and the place where the arrested person is being held to the designated police officer in the district and to such officer of another district where the arrested person normally resides.

[warrant executed outside district in which it was issued]

PROCLAMATION AND ATTACHMENT

- New provisions:
 - S. 84(4) [Proclamation for person absconding]
- If proclamation is with respect to person accused of an offence with 10 yrs imprisonment or more, and person fails to appear, Court may pronounce them as a proclaimed offender
- [earlier specific IPC offences were mentioned in this clause]

86. Identification and attachment of property of proclaimed person.—

- The Court may, on the written request from a police officer not below the rank of the Superintendent of Police or Commissioner of Police, initiate the process of requesting assistance from a Court or an authority in the contracting State for identification, attachment and forfeiture of property belonging to a proclaimed person in accordance with the procedure provided in Chapter VIII.**

CHAPTER VII

PROCESSES TO COMPEL PRODUCTION OF THINGS

BNSS 94 – 110 ; CRPC 91 - 105

94. Summons to produce document or other thing.—

- (1) Whenever any Court or any officer in charge of a police station considers that the production of any document, **electronic communication, including communication devices, which is likely to contain digital evidence** or other thing is necessary or desirable for the purposes of any investigation, inquiry, trial or other proceeding under this Sanhita by or before such Court or officer, such Court may issue a summons or such officer may, by a written order, either in physical form **or in electronic form**, require the person in whose possession or power such document or thing is believed to be, to attend and produce it, or to produce it, at the time and place stated in the summons or order.⁵
- (2) Any person required under this section merely to produce a document, or other thing shall be deemed to have complied with the requisition if he causes such document or thing to be produced instead of attending personally to produce the same.
- (3) Nothing in this section shall be deemed—
 - (a) to affect Sections 129 and 130 of the Bharatiya Sakshya Adhiniyam, 2023 or the Bankers' Books Evidence Act, 1891 (13 of 1891); or
 - (b) to apply to a letter, postcard, or other document or any parcel or thing in the custody of the postal authority.
- **Corresponding Law: S. 91 of Act 2 of 1974.**

SEARCH AND SEIZURE: USE OF AUDIO VIDEO ELECTRONIC MEANS

103. Persons in charge of closed place to allow search.—

- (1) Whenever any place liable to search or inspection under this Chapter is closed, any person residing in, or being in charge of, such place, shall, on demand of the officer or other person executing the warrant, and on production of the warrant, allow him free ingress thereto, and afford all reasonable facilities for a search therein.
- (2) If ingress into such place cannot be so obtained, the officer or other person executing the warrant may proceed in the manner provided by sub-section (2) of Section 44.
- (3) Where any person in or about such place is reasonably suspected of concealing about his person any article for which search should be made, such person may be searched and if such person is a woman, the search shall be made by another woman with strict regard to decency.
- (4) Before making a search under this Chapter, the officer or other person about to make it shall call upon **two or more independent and respectable inhabitants** of the locality in which the place to be searched is situate or of any other locality if no such inhabitant of the said locality is available or is willing to be a witness to the search, to attend and witness the search and may issue an order in writing to them or any of them so to do.

- (5) The search shall be made in their presence, and a list of all things seized in the course of such search and of the places in which they are respectively found shall be prepared by such officer or other person and signed by such witnesses; but no person witnessing a search under this section shall be required to attend the Court as a witness of the search unless specially summoned by it.
- (6) The occupant of the place searched, or some person in his behalf, shall, in every instance, be permitted to attend during the search, and a copy of the list prepared under this section, signed by the said witnesses, shall be delivered to such occupant or person.
- (7) When any person is searched under sub-section (3), a list of all things taken possession of shall be prepared, and a copy thereof shall be delivered to such person.
- (8) Any person who, without reasonable cause, refuses or neglects to attend and witness a search under this section, when called upon to do so by an order in writing delivered or tendered to him, shall be deemed to have committed an offence under Section 222 of the Bharatiya Nyaya Sanhita, 2023.
- **Corresponding Law:** S. 100 of Act 2 of 1974.

105. Recording of search and seizure through audio-video electronic means.—

- The process of conducting search of a place or taking possession of any property, article or thing under this Chapter or under Section 185, including preparation of the list of all things seized in the course of such search and seizure and signing of such list by witnesses, shall be recorded through any audio-video electronic means preferably mobile phone and the police officer shall without delay forward such recording to the District Magistrate, Sub-divisional Magistrate or Judicial Magistrate of the first class.

106. Power of police officer to seize certain property.—

- (1) Any police officer may seize any property which may be alleged or suspected to have been stolen, or which may be found under circumstances which create suspicion of the commission of any offence.
- (2) Such police officer, if subordinate to the officer in charge of a police station, shall forthwith report the seizure to that officer.
- (3) Every police officer acting under sub-section (1) shall forthwith report the seizure to the Magistrate having jurisdiction and where the property seized is such that it cannot be conveniently transported to the Court, or where there is difficulty in securing proper accommodation for the custody of such property, or where the continued retention of the property in police custody may not be considered necessary for the purpose of investigation, he may give custody thereof to any person on his executing a bond undertaking to produce the property before the Court as and when required and to give effect to the further orders of the Court as to the disposal of the same:
 - Provided that where the property seized under sub-section (1) is subject to speedy and natural decay and if the person entitled to the possession of such property is unknown or absent and the value of such property is less than five hundred rupees, it may forthwith be sold by auction under the orders of the Superintendent of Police and the provisions of Sections 503 and 504 shall, as nearly as may be practicable, apply to the net proceeds of such sale.
- **Corresponding Law:** S. 102 of Act 2 of 1974

107. Attachment, forfeiture or restoration of property.—

- (1) Where a police officer making an investigation has reason to believe that any property is derived or obtained, **directly or indirectly**, as a result of a criminal activity or from the commission of **any offence**, he may, with the approval of the Superintendent of Police or Commissioner of Police, **make an application to the Court or the Magistrate exercising jurisdiction to take cognizance of the offence or commit for trial or try the case, for the attachment of such property.**
- (2) If the Court or the Magistrate has reasons to believe, **whether before or after taking evidence**, that all or any of such properties are proceeds of crime, the Court or the Magistrate may issue a notice upon such person calling upon him to show cause within a period of fourteen days as to why an order of attachment shall not be made.
- (3) Where the notice issued to any person under sub-section (2) specifies any property as being held by any other person on behalf of such person, a copy of the notice shall also be served upon such other person.

- (4) The Court or the Magistrate may, after considering the explanation, if any, to the show-cause notice issued under sub-section (2) and the material fact available before such Court or Magistrate and after giving a reasonable opportunity of being heard to such person or persons, may pass an order of attachment, in respect of those properties which are found to be the proceeds of crime:
 - Provided that if such person does not appear before the Court or the Magistrate or represent his case before the Court or Magistrate within a period of fourteen days specified in the show-cause notice, the Court or the Magistrate may proceed to pass the *ex parte* order.
- (5) Notwithstanding anything contained in sub-section (2), if the Court or the Magistrate is of the opinion that issuance of notice under the said sub-section would defeat the object of attachment or seizure, the Court or Magistrate may by an interim order passed *ex parte* direct attachment or seizure of such property, and such order shall remain in force till an order under sub-section (6) is passed.
- (6) If the Court or the Magistrate finds the attached or seized properties to be the proceeds of crime, the Court or the Magistrate shall by order direct the District Magistrate to rateably distribute such proceeds of crime to the persons who are affected by such crime.
- (7) On receipt of an order passed under sub-section (6), the District Magistrate shall, within a period of sixty days distribute the proceeds of crime either by himself or authorise any officer subordinate to him to effect such distribution.
- (8) If there are no claimants to receive such proceeds or no claimant is ascertainable or there is any surplus after satisfying the claimants, **such proceeds of crime shall stand forfeited to the Government.**

CHAPTER VIII

RECIPROCAL ARRANGEMENTS FOR ASSISTANCE IN CERTAIN MATTERS AND PROCEDURE FOR ATTACHMENT AND FORFEITURE OF PROPERTY

BNSS 111 – 124 ; CRPC 105-A – 105L

S. 166A has become S. 112 (Letter of request to competent authority)

S. 166B has become S. 113 (Letter of request from a country or place outside India)

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Reciprocal Arrangements for Assistance in certain matters and procedure for Attachment and Forfeiture of Property • BNSS confers power upon Magistrate (akin to PMLA Act) to attach property identified as ‘proceeds of crime’ [section 111(c) BNSS] and also dispose of such property even ex-parte.

CHAPTER IX
SECURITY FOR KEEPING PEACE AND
GOOD BEHAVIOUR

BNSS 125 – 143 ; CRPC 106 - 124

•S. 129 [Security for good behaviour from habitual offenders] Laws referred to in section updated

CHAPTER X

ORDER FOR MAINTENANCE

BNSS 144 – 147 ; CRPC 125 - 128

- Section 145 BNSS empowers parents to file cases where they reside.

CHAPTER XI

MAINTENANCE OF PUBLIC ORDER

AND TRANQUILITY

BNSS 148 – 167; CRPC 129 – 148

- **S. 149(1) [use of armed forces to disperse assembly]**

The DM or any other EM authorised by him, who is present, may cause it to be dispersed by armed forces [earlier EM of the highest rank who is present, now any EM]

- **S. 154 [Person against whom conditional order for removal of nuisance proceedings are ongoing]**

Person against whom such order is made may be permitted for appearance through audio-video conferencing

- **S. 157 [Procedure when person shows cause]**

Proviso: proceedings to be completed within 90 days, which can be extended to 120 days after recording reasons in writing

Omission of S. 144A – prohibition on carrying of arms

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CHAPTER XII

PREVENTIVE ACTION OF POLICE

BNSS 168 – 172 ; CRPC 149 - 152

Change in Provision:

- S. 170 [Arrest to prevent commission of cognisable offences]

Specific use of term “Judicial Magistrate”

New Provision:

Inspection of weights and measures [erstwhile S. 153 CrPC] omitted

172. Persons bound to conform to lawful directions of police.—

- **(1) All persons shall be bound to conform to the lawful directions of a police officer given in fulfilment of any of his duty under this Chapter.**
- **(2) A police officer may detain or remove any person resisting, refusing, ignoring or disregarding to conform to any direction given by him under sub-section (1) and may either take such person before a Magistrate or, in petty cases, release him as soon as possible within a period of twenty-four hours.**

CHAPTER XIII
INFORMATION TO THE POLICE AND
THEIR POWERS TO INVESTIGATE

BNSS 173 – 196 ; CRPC 154 - 176

- Many changes in content
- Logical sequence of sections remains same, except:
 - S. 166, 166A and 166B shifted under Ch. 8 as S. 112, 113 BNSS respectively (Reciprocal Arrangements)

CHAPTER XIII

INFORMATION TO THE POLICE AND THEIR POWERS TO

INVESTIGATE (173-196)

- 173. Information in Cognizable Cases (P 154).
- 174. Information as to Non-cognizable cases and investigation of such cases (P 155).
- 175. Police officer's Power to Investigate Cognizable Case (P 156).
- 176. Procedure for Investigation (P. 157)
- 177. Report how Submitted (P. 158)
- 178. Power to hold investigation or preliminary inquiry (P. 159)
- 179. Police officer's power to require attendance of witnesses (P. 160)
- 180. Examination of witnesses by police (P. 161)

- **181. Statements to police and use thereof (P. 162 – words “not to be signed” omitted)**
- **182. No inducement to be offered (P. 163)**
- **183. Recording of confessions and statements (P. 164)**
- **184. Medical examination of victim of rape (P. 164A)**
- **185. Search by police officer (P. 165)**
- **186. When officer in charge of police station may require another to issue search-warrant (P. 166)**
- **187. Procedure when investigation cannot be completed in twenty-four hours (P. 167)**
- **188. Report of investigation by subordinate police officer (P. 168)**
- **189. Release of accused when evidence deficient (P. 169)**
- **190. Cases to be sent to Magistrate, when evidence is sufficient (P. 170)**
- **191. Complainant and witnesses not to be required to accompany police officer and not to be subject to restraint (P. 171)**
- **192. Diary of proceedings in investigation (P. 172)**
- **193. Report of police officer on completion of investigation (P. 173)**
- **194. Police to enquire and report on suicide, etc (P. 174)**
- **195. Power to summon persons (P. 175)**
- **196. Inquiry by Magistrate into cause of death (P. 176)**

173. Information in cognizable cases.— (P. 154)

- (1) Every information relating to the commission of a cognizable offence, **irrespective of the area where the offence is committed, may be given orally or by electronic communication** to an officer in charge of a police station, and if given—
 - (i) orally, it shall be reduced to writing by him or under his direction, and be read over to the informant; and every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the person giving it;
 - (i) **by electronic communication, it shall be taken on record by him on being signed within three days by the person giving it, and the substance thereof shall be entered in a book to be kept by such officer in such form as the State Government may by rules prescribe in this behalf:**
- **Provided that if the information is given by the woman against whom an offence under 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 of the Bharatiya Nyaya Sanhita, 2023 is alleged to have been committed or attempted, then such information shall be recorded, by a woman police officer or any woman officer:**

- **Provided further that—**
 - **(a) in the event that the person against whom an offence under 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 of the Bharatiya Nyaya Sanhita, 2023 is alleged to have been committed or attempted, is temporarily or permanently mentally or physically disabled, then such information shall be recorded by a police officer, at the residence of the person seeking to report such offence or at a convenient place of such person's choice, in the presence of an interpreter or a special educator, as the case may be;**
 - **(b) the recording of such information shall be videographed;**
 - **(c) the police officer shall get the statement of the person recorded by a Magistrate under clause (a) of sub-section (6) of Section 183 as soon as possible.**
- **Corresponding Law: S. 154(1) of Act 2 of 1974.**
- **(2) A copy of the information as recorded under sub-section (1) shall be given forthwith, free of cost, to the informant or the victim.**⁸
- **Corresponding Law: S. 154(2) of Act 2 of 1974.**

- (3) Without prejudice to the provisions contained in Section 175, on receipt of information relating to the commission of any cognizable offence, which is made punishable for three years or more but less than seven years. the officer in charge of the police station may with the prior permission from an officer not below the rank of Deputy Superintendent of Police, considering the nature and gravity of the offence,—

- (i) proceed to conduct preliminary enquiry to ascertain whether there exists a *prima facie* case for proceeding in the matter within a period of fourteen days; or

- (ii) proceed with investigation when there exists a *prima facie* case.

- (4) Any person aggrieved by a refusal on the part of an officer in charge of a police station to record the information referred to in sub-section (1), may send the substance of such information, in writing and by post, to the Superintendent of Police concerned who, if satisfied that such information discloses the commission of a cognizable offence, shall either investigate the case himself or direct an investigation to be made by any police officer subordinate to him, in the manner provided by this Sanhita, and such officer shall have all the powers of an officer in charge of the police station in relation to that offence **failing which such aggrieved person may make an application to the Magistrate.**

- **Corresponding Law: S. 154(3) of Act 2 of 1974.**

174. Information as to non-cognizable cases and investigation of such cases.— (P. 155)

- **(1) When information is given to an officer in charge of a police station of the commission within the limits of such station of a non-cognizable offence, he shall enter or cause to be entered the substance of the information in a book to be kept by such officer in such form as the State Government may by rules prescribe in this behalf, and,—**
 - **(i) refer the informant to the Magistrate;**
 - **(ii) forward the daily diary report of all such cases fortnightly to the Magistrate.**

- **(2) No police officer shall investigate a non-cognizable case without the order of a Magistrate having power to try such case or commit the case for trial.**
- **(3) Any police officer receiving such order may exercise the same powers in respect of the investigation (except the power to arrest without warrant) as an officer in charge of a police station may exercise in a cognizable case.**
- **(4) Where a case relates to two or more offences of which at least one is cognizable, the case shall be deemed to be a cognizable case, notwithstanding that the other offences are non-cognizable.**
- **Corresponding Law: S. 155 of Act 2 of 1974**

175. Police officer's power to investigate cognizable case.— (P. 156)

- (1) Any officer in charge of a police station may, without the order of a Magistrate, investigate any cognizable case which a Court having jurisdiction over the local area within the limits of such station would have power to inquire into or try under the provisions of Chapter XIV:
 - **Provided that considering the nature and gravity of the offence, the Superintendent of Police may require the Deputy Superintendent of Police to investigate the case.**
- **Corresponding Law: S. 156(1) of Act 2 of 1974.**
- (2) No proceeding of a police officer in any such case shall at any stage be called in question on the ground that the case was one which such officer was not empowered under this section to investigate.
- **Corresponding Law: S. 156(2) of Act 2 of 1974.**

- (3) Any Magistrate empowered under Section 210 may, after considering the application supported by an affidavit made under sub-section (4) of Section 173, and after making such inquiry as he thinks necessary and submission made in this regard by the police officer, order such an investigation as above-mentioned.

- **Corresponding Law: S. 156(3) of Act 2 of 1974.**

- (4) Any Magistrate empowered under Section 210, may, upon receiving a complaint against a public servant arising in course of the discharge of his official duties, order investigation, subject to—

- (a) receiving a report containing facts and circumstances of the incident from the officer superior to him; and

- (b) after consideration of the assertions made by the public servant as to the situation that led to the incident so alleged.

176. Procedure for investigation.— (P. 157)

- **(1) If, from information received or otherwise, an officer in charge of a police station has reason to suspect the commission of an offence which he is empowered under Section 175 to investigate, he shall forthwith send a report of the same to a Magistrate empowered to take cognizance of such offence upon a police report and shall proceed in person, or shall depute one of his subordinate officers not being below such rank as the State Government may, by general or special order, prescribe in this behalf, to proceed, to the spot, to investigate the facts and circumstances of the case, and, if necessary, to take measures for the discovery and arrest of the offender:**

- **Provided that—**

- **(a) when information as to the commission of any such offence is given against any person by name and the case is not of a serious nature, the officer in charge of a police station need not proceed in person or depute a subordinate officer to make an investigation on the spot;**
- **(b) if it appears to the officer in charge of a police station that there is no sufficient ground for entering on an investigation, he shall not investigate the case:**
- **Provided further that in relation to an offence of rape, the recording of statement of the victim shall be conducted at the residence of the victim or in the place of her choice and as far as practicable by a woman police officer in the presence of her parents or guardian or near relatives or social worker of the locality and such statement may also be recorded through any audio-video electronic means including mobile phone.**

- (2) In each of the cases mentioned in clauses (a) and (b) of the first proviso to sub-section (1), the officer in charge of the police station shall state in his report the reasons for not fully complying with the requirements of that sub-section by him, and, forward the daily diary report fortnightly to the Magistrate and in the case mentioned in clause (b) of the said proviso, the officer shall also forthwith notify to the informant, if any, in such manner as may be prescribed by rules made by the State Government.

- (3) On receipt of every information relating to the commission of an offence which is made punishable for seven years or more, the officer in charge of a police station shall, from such date, as may be notified within a period of five years by the State Government in this regard, cause the forensic expert to visit the crime scene to collect forensic evidence in the offence and also cause videography of the process on mobile phone or any other electronic device:

- Provided that where forensic facility is not available in respect of any such offence, the State Government shall, until the facility in respect of that matter is developed or made in the State, notify the utilisation of such facility of any other State.

Jafel Biswas v. State of W.B., (2019) 12 SCC
560.

- ► **Delay in sending report to Magistrate.**— Mere delay in sending said report itself cannot lead to a conclusion that trial is vitiated or accused is entitled to be acquitted,

177. Report how submitted.—(P. 158)

- **(1) Every report sent to a Magistrate under Section 176 shall, if the State Government so directs, be submitted through such superior officer of police as the State Government, by general or special order, appoints in that behalf.**
- **(2) Such superior officer may give such instructions to the officer in charge of the police station as he thinks fit, and shall, after recording such instructions on such report, transmit the same without delay to the Magistrate.**

178. Power to hold investigation or preliminary inquiry.— (S. 159)

- **The Magistrate, on receiving a report under Section 176, may direct an investigation, or, if he thinks fit, at once proceed, or depute any Magistrate subordinate to him to proceed, to hold a preliminary inquiry into, or otherwise to dispose of, the case in the manner provided in this Sanhita.**

179. Police officer's power to require attendance of witnesses.— (P. 160)

- (1) Any police officer making an investigation under this Chapter may, by order in writing, require the attendance before himself of any person being within the limits of his own or any adjoining station who, from the information given or otherwise, appears to be acquainted with the facts and circumstances of the case; and such person shall attend as so required:
 - Provided that no male person under the age of fifteen years or above the age of sixty years or a woman or a mentally or physically disabled person **or a person with acute illness** shall be required to attend at any place other than the place in which such person resides:
 - **Provided further that if such person is willing to attend at the police station, such person may be permitted so to do.**
- (2) The State Government may, by rules made in this behalf, provide for the payment by the police officer of the reasonable expenses of every person, attending under sub-section (1) at any place other than his residence.
- **Corresponding Law: S. 160 of Act 2 of 1974.**

180. Examination of witnesses by police.— (P. 161

- **(1) Any police officer making an investigation under this Chapter, or any police officer not below such rank as the State Government may, by general or special order, prescribe in this behalf, acting on the requisition of such officer. may examine orally any person supposed to be acquainted with the facts and circumstances of the case.**
- **(2) Such person shall be bound to answer truly all questions relating to such case put to him by such officer, other than questions the answers to which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture.**

- **(3) The police officer may reduce into writing any statement made to him in the course of an examination under this section; and if he does so, he shall make a separate and true record of the statement of each such person whose statement he records:**

- **Provided that statement made under this sub-section may also be recorded by audio-video electronic means:**

- **Provided further that the statement of a woman against whom an offence under 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 of the Bharatiya Nyaya Sanhita, 2023 is alleged to have been committed or attempted, shall be recorded, by a woman police officer or any woman officer.**

- **Corresponding Law: S. 161 of Act 2 of 1974**

181. Statements to police and use thereof.— (P. 162)

- (1) No statement made by any person to a police officer in the course of an investigation under this Chapter, shall, if reduced to writing, be signed by the person making it; nor shall any such statement or any record thereof, whether in a police diary or otherwise, or any part of such statement or record, be used for any purpose, save as hereinafter provided, at any inquiry or trial in respect of any offence under investigation at the time when such statement was made:

- Provided that when any witness is called for the prosecution in such inquiry or trial whose statement has been reduced into writing as aforesaid, any part of his statement, if duly proved, may be used by the accused, and with the permission of the Court, by the prosecution, to contradict such witness in the manner provided by Section 148 of the Bharatiya Sakshya Adhiniyam, 2023; and when any part of such statement is so used, any part thereof may also be used in the re-examination of such witness, but for the purpose only of explaining any matter referred to in his cross-examination.

- (2) Nothing in this section shall be deemed to apply to any statement falling within the provisions of clause (a) of Section 26 of the Bharatiya Sakshya Adhiniyam, 2023; or to affect the provisions of the proviso to sub-section (2) of Section 23 of that Adhiniyam.

- *Explanation.*—An omission to state a fact or circumstance in the statement referred to in sub-section (1) may amount to contradiction if the same appears to be significant and otherwise relevant having regard to the context in which such omission occurs and whether any omission amounts to a contradiction in the particular context shall be a question of fact.

- **Corresponding Law:** S. 162 of Act 2 of 1974

182. No inducement to be offered.— (P. 163)

- (1) No police officer or other person in authority shall offer or make, or cause to be offered or made, any such inducement, threat or promise as is mentioned in Section 22 of the Bharatiya Sakshya Adhinyam, 2023.
- (2) But no police officer or other person shall prevent, by any caution or otherwise, any person from making in the course of any investigation under this Chapter any statement which he may be disposed to make of his own free will:
 - Provided that nothing in this sub-section shall affect the provisions of sub-section (4) of Section 183.
 - **Corresponding Law: S. 163 of Act 2 of 1974.**

183. Recording of confessions and statements.— (P. 164)

- (1) Any Magistrate of the District in which the information about commission of any offence has been registered, may, whether or not he has jurisdiction in the case, record any confession or statement made to him in the course of an investigation under this Chapter or under any other law for the time being in force, or at any time afterwards but before the commencement of the inquiry or trial:
- Provided that any confession or statement made under this sub-section may also be recorded by audio-video electronic means in the presence of the advocate of the person accused of an offence:
- Provided further that no confession shall be recorded by a police officer on whom any power of a Magistrate has been conferred under any law for the time being in force.
- **Corresponding Law:** S. 164(1) of Act 2 of 1974.

- (2) The Magistrate shall, before recording any such confession, explain to the person making it that he is not bound to make a confession and that, if he does so, it may be used as evidence against him; and the Magistrate shall not record any such confession unless, upon questioning the person making it, he has reason to believe that it is being made voluntarily.

- **Corresponding Law:** S. 164(2) of Act 2 of 1974.

- (3) If at any time before the confession is recorded, the person appearing before the Magistrate states that he is not willing to make the confession, the Magistrate shall not authorise the detention of such person in police custody.

- **Corresponding Law:** S. 164(3) of Act 2 of 1974.

- (4) Any such confession shall be recorded in the manner provided in Section 316 for recording the examination of an accused person and shall be signed by the person making the confession; and the Magistrate shall make a memorandum at the foot of such record to the following effect:—

- “I have explained to (name) that he is not bound to make a confession and that, if he does so, any confession he may make may be used as evidence against him and I believe that this confession was voluntarily made. It was taken in my presence and hearing, and was read over to the person making it and admitted by him to be correct, and it contains a full and true account of the statement made by him.

- (Signed) A. B.

- Magistrate.”.

- **Corresponding Law:** S. 164(4) of Act 2 of 1974.

- (5) Any statement (other than a confession) made under sub-section (1) shall be recorded in such manner hereinafter provided for the recording of evidence as is, in the opinion of the Magistrate, best fitted to the circumstances of the case; and the Magistrate shall have power to administer oath to the person whose statement is so recorded.

- **Corresponding Law:** S. 164(5) of Act 2 of 1974.

- (6) (a) In cases punishable under 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 of the Bharatiya Nyaya Sanhita, 2023, the Magistrate shall record the statement of the person against whom such offence has been committed in the manner specified in sub-section (5), as soon as the commission of the offence is brought to the notice of the police:

- Provided that such statement shall, as far as practicable, be recorded by a woman Magistrate and in her absence by a male Magistrate in the presence of a woman:

- Provided further that in cases relating to the offences punishable with imprisonment for ten years or more or with imprisonment for life or with death, the Magistrate shall record the statement of the witness brought before him by the police officer:

- Provided also that if the person making the statement is temporarily or permanently, mentally or physically disabled, the Magistrate shall take the assistance of an interpreter or a special educator in recording the statement:

- Provided also that if the person making the statement is temporarily or permanently, mentally or physically disabled, the statement made by the person, with the assistance of an interpreter or a special educator, shall be recorded through audio-video electronic means preferably by mobile phone;

- Corresponding Law: S. 164(5-A)(a) of Act 2 of 1974.

- **(b) a statement recorded under clause (a) of a person, who is temporarily or permanently, mentally or physically disabled, shall be considered a statement *in lieu* of examination-in-chief, as specified in Section 142 of the Bharatiya Sakshya Adhinyam, 2023 such that the maker of the statement can be cross-examined on such statement, without the need for recording the same at the time of trial.**

- **Corresponding Law: S. 164(5-A)(b) of Act 2 of 1974.**

- **(7) The Magistrate recording a confession or statement under this section shall forward it to the Magistrate by whom the case is to be inquired into or tried.**

- **Corresponding Law: S. 164(6) of Act 2 of 1974**

184. Medical examination of victim of rape.— (P. 164A)

(1) Where, during the stage when an offence of committing rape or attempt to commit rape is under investigation, it is proposed to get the person of the woman with whom rape is alleged or attempted to have been committed or attempted, examined by a medical expert, such examination shall be conducted by a registered medical practitioner employed in a hospital run by the Government or a local authority and in the absence of such a practitioner, by any other registered medical practitioner, with the consent of such woman or of a person competent to give such consent on her behalf and such woman shall be sent to such registered medical practitioner within twenty-four hours from the time of receiving the information relating to the commission of such offence.

(2) The registered medical practitioner, to whom such woman is sent, shall, without delay, examine her person and prepare a report of his examination giving the following particulars, namely:—

(i) the name and address of the woman and of the person by whom she was brought;

(ii) the age of the woman;

(iii) the description of material taken from the person of the woman for DNA profiling;

(iv) marks of injury, if any, on the person of the woman;

(v) general mental condition of the woman; and

(vi) other material particulars in reasonable detail.

(3) The report shall state precisely the reasons for each conclusion arrived at.

(4) The report shall specifically record that the consent of the woman or of the person competent to give such consent on her behalf to such examination had been obtained.

(5) The exact time of commencement and completion of the examination shall also be noted in the report.

(6) The registered medical practitioner shall, within a period of seven days forward the report to the investigating officer who shall forward it to the Magistrate referred to in Section 193 as part of the documents referred to in clause (a) of sub-section (6) of that section.

(1) Nothing in this section shall be deemed to apply to any person who is not a registered medical practitioner.

(2) For the purposes of this section, "registered medical practitioner" shall have the same meaning as respectively assigned to them in Section 193.

Section 184A (1) (2) (3) (4) (5) (6)

185. Search by police officer.—(P. 165)

- (1) Whenever an officer in charge of a police station or a police officer making an investigation has reasonable grounds for believing that anything necessary for the purposes of an investigation into any offence which he is authorised to investigate may be found in any place within the limits of the police station of which he is in charge, or to which he is attached, and that such thing cannot in his opinion be otherwise obtained without undue delay, such officer may, after recording in writing the grounds of his belief in the case-diary and specifying in such writing, so far as possible, the thing for which search is to be made, search, or cause search to be made, for such thing in any place within the limits of such station.
- (2) A police officer proceeding under sub-section (1), shall, if practicable, conduct the search in person:
- **Provided that the search conducted under this section shall be recorded through audio-video electronic means preferably by mobile phone.**

- (3) If he is unable to conduct the search in person, and there is no other person competent to make the search present at the time, he may, after recording in writing his reasons for so doing, require any officer subordinate to him to make the search, and he shall deliver to such subordinate officer an order in writing, specifying the place to be searched, and so far as possible, the thing for which search is to be made; and such subordinate officer may thereupon search for such thing in such place.
- (4) The provisions of this Sanhita as to search-warrants and the general provisions as to searches contained in Section 103 shall, so far as may be, apply to a search made under this section.
- (5) Copies of any record made under sub-section (1) or sub-section (3) shall forthwith, **but not later than forty-eight hours**, be sent to the nearest Magistrate empowered to take cognizance of the offence, and the owner or occupier of the place searched shall, on application, be furnished, free of cost, with a copy of the same by the Magistrate.
- **Corresponding Law: S. 165 of Act 2 of 1974.**

186. When officer in charge of police station may require another to issue search-warrant.—(P. 166)

- **(1) An officer in charge of a police station or a police officer not being below the rank of sub-inspector making an investigation may require an officer in charge of another police station, whether in the same or a different district, to cause a search to be made in any place, in any case in which the former officer might cause such search to be made, within the limits of his own station.**
- **(2) Such officer, on being so required, shall proceed according to the provisions of Section 185, and shall forward the thing found, if any, to the officer at whose request the search was made.**

- (3) Whenever there is reason to believe that the delay occasioned by requiring an officer in charge of another police station to cause a search to be made under sub-section (1) might result in evidence of the commission of an offence being concealed or destroyed, it shall be lawful for an officer in charge of a police station or a police officer making any investigation under this Chapter to search, or cause to be searched, any place in the limits of another police station in accordance with the provisions of Section 185, as if such place were within the limits of his own police station.

- (4) Any officer conducting a search under sub-section (3) shall forthwith send notice of the search to the officer in charge of the police station within the limits of which such place is situate, and shall also send with such notice a copy of the list (if any) prepared under Section 103, and shall also send to the nearest Magistrate empowered to take cognizance of the offence, copies of the records referred to in sub-sections (1) and (3) of Section 185.

- (5) The owner or occupier of the place searched shall, on application, be furnished free of cost with a copy of any record sent to the Magistrate under sub-section (4).

- **Corresponding Law: S. 166 of Act 2 of 1974.**

CUSTODY

187. Procedure when investigation cannot be completed in twenty-four hours.—(P. 167)

- (1) Whenever any person is arrested and detained in custody, and it appears that the investigation cannot be completed within the period of twenty-four hours fixed by Section 58, and there are grounds for believing that the accusation or information is well-founded, the officer in charge of the police station or the police officer making the investigation, if he is not below the rank of sub-inspector, shall forthwith transmit to the nearest Magistrate (**Earlier Judicial Magistrate**) a copy of the entries in the diary hereinafter specified relating to the case, and shall at the same time forward the accused to such Magistrate.
- **Corresponding Law: S. 167(1) of Act 2 of 1974.**

- (2) The Magistrate to whom an accused person is forwarded under this section may, irrespective of whether he has or has no jurisdiction to try the case, **after taking into consideration whether such person has not been released on bail or his bail has been cancelled**, authorise, from time to time, the detention of the accused in such custody as such Magistrate thinks fit, for a term not exceeding fifteen days in the whole, **or in parts, at any time during the initial forty days or sixty days out of detention period of sixty days or ninety days, as the case may be, as provided in sub-section (3)**, and if he has no jurisdiction to try the case or commit it for trial, and considers further detention unnecessary, he may order the accused to be forwarded to a Magistrate having such jurisdiction.

- **Corresponding Law: S. 167(2) of Act 2 of 1974.**

- (3) The Magistrate may authorise the detention of the accused person, **(P- OTHERWISE THAN IN THE CUSTODY OF THE POLICE)** beyond the period of fifteen days, if he is satisfied that adequate grounds exist for doing so, but no Magistrate shall authorise the detention of the accused person in custody under this sub-section for a total period exceeding—

- **(i) ninety days, where the investigation relates to an offence punishable with death, imprisonment for life or imprisonment for a term of ten years or more;**

- **(ii) sixty days, where the investigation relates to any other offence,**

- and, on the expiry of the said period of ninety days, or sixty days, as the case may be, the accused person shall be released on bail if he is prepared to and does furnish bail, and every person released on bail under this sub-section shall be deemed to be so released under the provisions of Chapter XXXV for the purposes of that Chapter.

- **Corresponding Law: S. 167(2)(a) of Act 2 of 1974.**

- (4) No Magistrate shall authorise detention of the accused in custody of the police under this section unless the accused is produced before him in person for the first time and subsequently every time till the accused remains in the custody of the police, but the Magistrate may extend further detention in judicial custody on production of the accused either in person or through the audio-video electronic means.

- **Corresponding Law:** S. 167(2)(b) of Act 2 of 1974.

- (5) No Magistrate of the second class, not specially empowered in this behalf by the High Court, shall authorise detention in the custody of the police.

- *Explanation I.*—For the avoidance of doubts, it is hereby declared that, notwithstanding the expiry of the period specified in sub-section (3), the accused shall be detained in custody so long as he does not furnish bail.

- *Explanation II.*—If any question arises whether an accused person was produced before the Magistrate as required under sub-section (4), the production of the accused person may be proved by his signature on the order authorising detention or by the order certified by the Magistrate as to production of the accused person through the audio-video electronic means, as the case may be:

- Provided that in case of a woman under eighteen years of age, the detention shall be authorised to be in the custody of a remand home or recognised Probation institution: **(OLD PROVISION BUT DOES WE NEED IT?)**

- **Provided further that no person shall be detained otherwise than in police station under police custody or in prison under judicial custody or a place declared as prison by the Central Government or the State Government (EXCLUDED THE POSSIBILITY OF HOUSE ARREST).**

- **Corresponding Law:** S. 167(2)(c) of Act 2 of 1974.

- (6) Notwithstanding anything contained in sub-section (1) to sub-section (5), the officer in charge of the police station or the police officer making the investigation, if he is not below the rank of a sub-inspector, may, where a Magistrate is not available, transmit to the nearest Executive Magistrate, on whom the powers of a Magistrate have been conferred, a copy of the entry in the diary hereinafter specified relating to the case, and shall, at the same time, forward the accused to such Executive Magistrate, and thereupon such Executive Magistrate, may, for reasons to be recorded in writing, authorise the detention of the accused person in such custody as he may think fit for a term not exceeding seven days in the aggregate; and, on the expiry of the period of detention so authorised, the accused person shall be released on bail except where an order for further detention of the accused person has been made by a Magistrate competent to make such order; and, where an order for such further detention is made, the period during which the accused person was detained in custody under the orders made by an Executive Magistrate under this sub-section, shall be taken into account in computing the period specified in sub-section (3):

- Provided that before the expiry of the period aforesaid, the Executive Magistrate shall transmit to the nearest Judicial Magistrate the records of the case together with a copy of the entries in the diary relating to the case which was transmitted to him by the officer in charge of the police station or the police officer making the investigation, as the case may be.

- **Corresponding Law:** S. 167(2-A) of Act 2 of 1974.

- (7) A Magistrate authorising under this section detention in the custody of the police shall record his reasons for so doing.

- **Corresponding Law:** S. 167(3) of Act 2 of 1974.

- **(8) Any Magistrate other than the Chief Judicial Magistrate making such order shall forward a copy of his order, with his reasons for making it, to the Chief Judicial Magistrate.**

- **Corresponding Law: S. 167(4) of Act 2 of 1974.**

- **(9) If in any case triable by a Magistrate as a summons-case, the investigation is not concluded within a period of six months from the date on which the accused was arrested, the Magistrate shall make an order stopping further investigation into the offence unless the officer making the investigation satisfies the Magistrate that for special reasons and in the interests of justice the continuation of the investigation beyond the period of six months is necessary.**

- **Corresponding Law: S. 167(5) of Act 2 of 1974.**

- **(10) Where any order stopping further investigation into an offence has been made under sub-section (9), the Sessions Judge may, if he is satisfied, on an application made to him or otherwise, that further investigation into the offence ought to be made, vacate the order made under sub-section (9) and direct further investigation to be made into the offence subject to such directions with regard to bail and other matters as he may specify.**

- **Corresponding Law: S. 167(6) of Act 2 of 1974.**

188. Report of investigation by subordinate police officer.—(P. 168)

- **When any subordinate police officer has made any investigation under this Chapter, he shall report the result of such investigation to the officer in charge of the police station.**
- **Corresponding Law: S. 168 of Act 2 of 1974.**

189. Release of accused when evidence deficient.—(P. 169)

- If, upon an investigation under this Chapter, it appears to the officer in charge of the police station that there is not sufficient evidence or reasonable ground of suspicion to justify the forwarding of the accused to a Magistrate, such officer shall, if such person is in custody, release him on his executing a bond or bail bond, as such officer may direct, to appear, if and when so required, before a Magistrate empowered to take cognizance of the offence on a police report, and to try the accused or commit him for trial.
- **Corresponding Law: S. 169 of Act 2 of 1974.**

190. Cases to be sent to Magistrate, when evidence is sufficient.—(P. 170)

- (1) If, upon an investigation under this Chapter, it appears to the officer in charge of the police station that there is sufficient evidence or reasonable ground as aforesaid, such officer shall forward the accused under custody to a Magistrate empowered to take cognizance of the offence upon a police report and to try the accused or commit him for trial, or, if the offence is bailable and the accused is able to give security, shall take security from him for his appearance before such Magistrate on a day fixed and for his attendance from day to day before such Magistrate until otherwise directed:
- **Provided that if the accused is not in custody, the police officer shall take security from such person for his appearance before the Magistrate and the Magistrate to whom such report is forwarded shall not refuse to accept the same on the ground that the accused is not taken in custody.**

- Section 190 BNSS mandates that if the accused is not arrested, the police officer shall take security from such person for his appearance before the Judicial Magistrate. The provision is in accordance with the directions of Supreme Court in Siddharth v. State of Uttar Pradesh, (2022) 1 SCC 676 reiterated in Satender Kumar Antil v. Central Bureau of Investigation, 8 (2022) 10 SCC 51.

- **(2) When the officer in charge of a police station forwards an accused person to a Magistrate or takes security for his appearance before such Magistrate under this section, he shall send to such Magistrate any weapon or other article which it may be necessary to produce before him, and shall require the complainant (if any) and so many of the persons who appear to such officer to be acquainted with the facts and circumstances of the case as he may think necessary to execute a bond to appear before the Magistrate as thereby directed and prosecute or give evidence (as the case may be) in the matter of the charge against the accused.**
- **(3) If the Court of the Chief Judicial Magistrate is mentioned in the bond, such Court shall be held to include any Court to which such Magistrate may refer the case for inquiry or trial, provided reasonable notice of such reference is given to such complainant or persons.**
- **(4) The officer in whose presence the bond is executed shall deliver a copy thereof to one of the persons who executed it, and shall then send to the Magistrate the original with his report.**
- **Corresponding Law: S. 170 of Act 2 of 1974.**

191. Complainant and witnesses not to be required to accompany police officer and not to be subject to restraint.—(P. 171)

- No complainant or witness on his way to any Court shall be required to accompany a police officer, or shall be subjected to unnecessary restraint or inconvenience, or required to give any security for his appearance other than his own bond:
- Provided that if any complainant or witness refuses to attend or to execute a bond as directed in Section 190, the officer in charge of the police station may forward him in custody to the Magistrate, who may detain him in custody until he executes such bond, or until the hearing of the case is completed.
- **Corresponding Law: S. 171 of Act 2 of 1974.**

192. Diary of proceedings in investigation.—(P. 172)

- **(1) Every police officer making an investigation under this Chapter shall day by day enter his proceedings in the investigation in a diary, setting forth the time at which the information reached him, the time at which he began and closed his investigation. the place or places visited by him. and a statement of the circumstances ascertained through his investigation.**
- **Corresponding Law: S. 172(1) of Act 2 of 1974.**
- **(2) The statements of witnesses recorded during the course of investigation under Section 180 shall be inserted in the case diary.**
- **Corresponding Law: S. 172(1-A) of Act 2 of 1974.**

- (3) The diary referred to in sub-section (1) shall be a volume and duly paginated.
- **Corresponding Law:** S. 172(1-B) of Act 2 of 1974.
- (4) Any Criminal Court may send for the police diaries of a case under inquiry or trial in such Court, and may use such diaries, not as evidence in the case, but to aid it in such inquiry or trial.
- **Corresponding Law:** S. 172(2) of Act 2 of 1974.
- (5) Neither the accused nor his agents shall be entitled to call for such diaries, nor shall he or they be entitled to see them merely because they are referred to by the Court; but, if they are used by the police officer who made them to refresh his memory, or if the Court uses them for the purpose of contradicting such police officer, the provisions of Section 148 or Section 164, as the case may be, of the Bharatiya Sakshya Adhiniyam, 2023, shall apply.
- **Corresponding Law:** S. 172(3) of Act 2 of 1974.

193. Report of police officer on completion of investigation.— (P. 173)

- (1) Every investigation under this Chapter shall be completed without unnecessary delay.
- **Corresponding Law:** S. 173(1) of Act 2 of 1974.
- (2) The investigation in relation to an offence under Sections 64, 65, 66, 67, 68, 70, 71 of the Bharatiya Nyaya Sanhita, 2023 or **under Sections 4, 6, 8 or Section 10 of the Protection of Children from Sexual Offences Act, 2012 (32 of 2012)** shall be completed within two months from the date on which the information was recorded by the officer in charge of the police station.
- **Corresponding Law:** S. 173(1-A) of Act 2 of 1974.

- (3) (i) As soon as the investigation is completed, the officer in charge of the police station shall forward, including through electronic communication to a Magistrate empowered to take cognizance of the offence on a police report, a report in the form as the State Government may, by rules provide, stating—

- (a) the names of the parties;
- (b) the nature of the information;
- (c) the names of the persons who appear to be acquainted with the circumstances of the case;
- (d) whether any offence appears to have been committed and, if so, by whom;
- (e) whether the accused has been arrested;
- (f) whether the accused has been released on his bond or bail bond;
- (g) whether the accused has been forwarded in custody under Section 190;
- (h) whether the report of medical examination of the woman has been attached where investigation relates to an offence under Sections 64, 65, 66, 67, 68, 70 or Section 71 of the Bharatiya Nyaya Sanhita, 2023;

- (i) the sequence of custody in case of electronic device;

- **Corresponding Law: S. 173(2)(i) of Act 2 of 1974.**

- (i) the police officer shall, within a period of ninety days, inform the progress of the investigation by any means including through electronic communication to the informant or the victim;
- (ii) the officer shall also communicate, in such manner as the State Government may, by rules, provide, the action taken by him, to the person, if any, by whom the information relating to the commission of the offence was first given.

- **Corresponding Law: S. 173(2)(ii) of Act 2 of 1974.**

- (4) Where a superior officer of police has been appointed under Section 177, the report shall, in any case in which the State Government by general or special order so directs, be submitted through that officer, and he may, pending the orders of the Magistrate, direct the officer in charge of the police station to make further investigation.
- **Corresponding Law:** S. 173(3) of Act 2 of 1974.
- (5) Whenever it appears from a report forwarded under this section that the accused has been released on his bond or bail bond, the Magistrate shall make such order for the discharge of such bond or bail bond or otherwise as he thinks fit.
- **Corresponding Law:** S. 173(4) of Act 2 of 1974.
- (6) When such report is in respect of a case to which Section 190 applies, the police officer shall forward to the Magistrate along with the report—
 - (a) all documents or relevant extracts thereof on which the prosecution proposes to rely other than those already sent to the Magistrate during investigation;
 - (b) the statements recorded under Section 180 of all the persons whom the prosecution proposes to examine as its witnesses.
- **Corresponding Law:** S. 173(5) of Act 2 of 1974.
- (7) If the police officer is of opinion that any part of any such statement is not relevant to the subject matter of the proceedings or that its disclosure to the accused is not essential in the interests of justice and is inexpedient in the public interest, he shall indicate that part of the statement and append a note requesting the Magistrate to exclude that part from the copies to be granted to the accused and stating his reasons for making such request.
- **Corresponding Law:** S. 173(6) of Act 2 of 1974.

- (8) Subject to the provisions contained in sub-section (7), the police officer investigating the case shall also submit such number of copies of the police report along with other documents duly indexed to the Magistrate for supply to the accused as required under Section 230:

- Provided that supply of report and other documents by electronic communication shall be considered as duly served.

- **Corresponding Law:** S. 173(7) of Act 2 of 1974.

- (9) Nothing in this section shall be deemed to preclude further investigation in respect of an offence after a report under sub-section (3) has been forwarded to the Magistrate and, where upon such investigation, the officer in charge of the police station obtains further evidence, oral or documentary, he shall forward to the Magistrate a further report or reports regarding such evidence in the form as the State Government may, by rules, provide; and the provisions of sub-sections (3) to (8) shall, as far as may be, apply in relation to such report or reports as they apply in relation to a report forwarded under sub-section (3):

- Provided that further investigation during the trial may be conducted with the permission of the Court trying the case and the same shall be completed within a period of ninety days which may be extended with the permission of the Court.

- **Corresponding Law:** S. 173(8) of Act 2 of 1974.

194. Police to enquire and report on suicide, etc.— (P. 174)

- (1) When the officer in charge of a police station or some other police officer specially empowered by the State Government in that behalf receives information that a person has committed suicide, or has been killed by another or by an animal or by machinery or by an accident, or has died under circumstances raising a reasonable suspicion that some other person has committed an offence, he shall immediately give intimation thereof to the nearest Executive Magistrate empowered to hold inquests, and, unless otherwise directed by any rule made by the State Government, or by any general or special order of the District or Sub-divisional Magistrate, shall proceed to the place where the body of such deceased person is, and there, in the presence of two or more respectable inhabitants of the neighbourhood, shall make an investigation, and draw up a report of the apparent cause of death, describing such wounds, fractures, bruises, and other marks of injury as may be found on the body, and stating in what manner, or by what weapon or instrument (if any), such marks appear to have been inflicted.
- (2) The report shall be signed by such police officer and other persons, or by so many of them as concur therein, and shall be forwarded to the District Magistrate or the Sub-divisional Magistrate **within twenty-four hours.**⁹

- (3) When—
 - (i) the case involves suicide by a woman within seven years of her marriage; or
 - (ii) the case relates to the death of a woman within seven years of her marriage in any circumstances raising a reasonable suspicion that some other person committed an offence in relation to such woman; or
 - (iii) the case relates to the death of a woman within seven years of her marriage and any relative of the woman has made a request in this behalf; or
 - (iv) there is any doubt regarding the cause of death; or
 - (v) the police officer for any other reason considers it expedient so to do,
- he shall, subject to such rules as the State Government may prescribe in this behalf, forward the body, with a view to its being examined, to the nearest Civil Surgeon, or other qualified medical person appointed in this behalf by the State Government, if the state of the weather and the distance admit of its being so forwarded without risk of such putrefaction on the road as would render such examination useless.
- (4) The following Magistrates are empowered to hold inquests, namely, any District Magistrate or Sub-divisional Magistrate and any other Executive Magistrate specially empowered in this behalf by the State Government or the District Magistrate.
- **Corresponding Law:** S. 174 of Act 2 of 1974.

195. Power to summon persons.—(P. 175)

- (1) A police officer proceeding under Section 194 may, by order in writing, summon two or more persons as aforesaid for the purpose of the said investigation, and any other person who appears to be acquainted with the facts of the case and every person so summoned shall be bound to attend and to answer truly all questions other than questions the answers to which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture:
- **Provided that no male person under the age of fifteen years or above the age of sixty years or a woman or a mentally or physically disabled person or a person with acute illness shall be required to attend at any place other than the place where such person resides:**
- **Provided further that if such person is willing to attend and answer at the police station, such person may be permitted so to do.**
- (2) If the facts do not disclose a cognizable offence to which Section 190 applies, such persons shall not be required by the police officer to attend a Magistrate's Court.
- **Corresponding Law: S. 175 of Act 2 of 1974.**

196. Inquiry by Magistrate into cause of death.—(P. 176)

- (1) When the case is of the nature referred to in clause (i) or clause (ii) of sub-section (3) of Section 194, the nearest Magistrate empowered to hold inquests shall, and in any other case mentioned in sub-section (1) of Section 194, any Magistrate so empowered may hold an inquiry into the cause of death either instead of, or in addition to, the investigation held by the police officer; and if he does so, he shall have all the powers in conducting it which he would have in holding an inquiry into an offence.
- **Corresponding Law:** S. 176(1) of Act 2 of 1974.
- (2) Where,—
 - (a) any person dies or disappears; or
 - (b) rape is alleged to have been committed on any woman,
- while such person or woman is in the custody of the police or in any other custody authorised by the Magistrate or the Court, under this Sanhita in addition to the inquiry or investigation held by the police, an inquiry shall be held by the **Magistrate** within whose local jurisdiction the offence has been committed.
- **Corresponding Law:** S. 176(1-A) of Act 2 of 1974.

- (3) The Magistrate holding such an inquiry shall record the evidence taken by him in connection therewith in any manner hereinafter specified according to the circumstances of the case.
- **Corresponding Law:** S. 176(2) of Act 2 of 1974.
- (4) Whenever such Magistrate considers it expedient to make an examination of the dead body of any person who has been already interred, in order to discover the cause of his death, the Magistrate may cause the body to be disinterred and examined.
- **Corresponding Law:** S. 176(3) of Act 2 of 1974.
- (5) Where an inquiry is to be held under this section, the Magistrate shall, wherever practicable, inform the relatives of the deceased whose names and addresses are known, and shall allow them to remain present at the inquiry.
- **Corresponding Law:** S. 176(4) of Act 2 of 1974.
- (6) The Magistrate or the Executive Magistrate or the police officer holding an inquiry or investigation under sub-section (2) shall, within twenty-four hours of the death of a person, forward the body with a view to its being examined to the nearest Civil Surgeon or other qualified medical person appointed in this behalf by the State Government, unless it is not possible to do so for reasons to be recorded in writing.
- *Explanation.*—In this section, the expression “relative” means parents, children, brothers, sisters and spouse.
- **Corresponding Law:** S. 176(5) of Act 2 of 1974.

CHAPTER XIV

JURISDICTION OF THE CRIMINAL COURTS IN INQUIRIES AND TRIALS

BNSS 197 – 209 ; CRPC 177 - 189

- As per section 202 BNSS, in case of any offence including cheating by means of electronic communication, place of trial shall be the place where the communication is sent/received.
- Section 208 BNSS provides if offence is committed outside India, the place of trial shall be where the accused is found or where the offence is registered in India.

CHAPTER XV

CONDITIONS REQUISITE FOR INITIATION OF PROCEEDINGS

BNSS 210 – 222; CRPC 190-199

• **DEEMED SANCTION**

- As per section 218 BNSS, if prior sanction of Government is necessary for prosecution of Judges and Public servants, the appropriate Government shall take a decision within a period of 120 days from date of receipt of request for sanction and in case it fails to do so, sanction shall be deemed to have been accorded by such Government.

CHAPTER XVI & XVII

COMPLAINTS TO MAGISTRATES & COMMENCEMENT OF PROCEEDING

BNSS 223 -226; CRPC 200 – 203

BNSS 227 – 233; CRPC 204 - 210

223. Examination of complainant.— (P 200)

- (1) A Magistrate having jurisdiction while taking cognizance of an offence on complaint shall examine upon oath the complainant and the witnesses present, if any, and the substance of such examination shall be reduced to writing and shall be signed by the complainant and the witnesses, and also by the Magistrate:
 - **Provided that no cognizance of an offence shall be taken by the Magistrate without giving the accused an opportunity of being heard:**
 - **Provided further that when the complaint is made in writing, the Magistrate need not examine the complainant and the witnesses—**
 - (a) if a public servant acting or purporting to act in the discharge of his official duties or a Court has made the complaint; or
 - (b) if the Magistrate makes over the case for inquiry or trial to another Magistrate under Section 212:
 - **Provided also that if the Magistrate makes over the case to another Magistrate under Section 212 after examining the complainant and the witnesses, the latter Magistrate need not re-examine them.**
- **Corresponding Law: S. 200 of Act 2 of 1974.**
- (2) **A Magistrate shall not take cognizance on a complaint against a public servant for any offence alleged to have been committed in course of the discharge of his official functions or duties unless—**
 - (a) **such public servant is given an opportunity to make assertions as to the situation that led to the incident so alleged; and**
 - (b) **a report containing facts and circumstances of the incident from the officer superior to such public servant is received.**

CHAPTER XVIII

THE CHARGE

BNSS 234 – 247 ; CRPC 211 – 224

CHAPTER XIX

TRIAL BEFORE A COURT OF SESSION

BNSS 248 – 260; CRPC 225 – 237

- Timeline to file discharge petition (section 250 BNSS) shall be 60 days from date of commitment.
- Timeline for framing of charge (sections 251 BNSS) shall be 60 days from date of first hearing.
- Charge shall be read over to accused through physical or audio-video means. [section 251(2) BNSS].
- Examination of witness may be through audio-video means (section 254 BNSS).

CHAPTER XX

TRIAL OF WARRANT-CASES BY MAGISTRATES

BNSS 261– 273; CRPC 238 – 250

- Timeline for filing discharge petition (**section 262 BNSS**) shall be **60 days** from the date of supply of police report and other documents.
- Timeline for Framing of charge (**section 263 BNSS**) shall be **60 days** from date of first hearing.
- Both **prosecution and defence** may examine through **audiovideo electronic means** their witnesses at a designated place notified by State Government (**sections 265 and 266 BNSS**).
- As per **section 269(7) BNSS**, in warrant cases instituted otherwise than police report, if attendance of witnesses cannot be procured for cross examination, it shall be deemed such witness has not been examined and prosecution case shall be proceeded on the basis of materials on record.
- As per **section 272 BNSS**, Magistrate shall give **30 days'** time to the complainant to be present before discharging the accused.

CHAPTER XXI & XXII

TRIAL OF SUMMONS-CASES BY MAGISTRATES & SUMMARY TRIALS

BNSS 274 – 282 ; CRPC 251 – 259

BNSS 283 – 288 ; CRPC 260 – 265

Summons Case & • Summary Trial

- As per **section 274 BNSS**, Magistrate is empowered **to discharge** the accused in a summons case if accusation appears groundless.
- Examination of **witness** may be through **audio-video means (section 277 BNSS)**.
- **Section 283 BNSS** mandates **summary trial** for petty and less serious offences enumerated therein.

CHAPTER XXIII

PLEA BARGAINING

BNSS 289 – 300 ; CRPC 256-A – 265-L

Plea Bargaining

- **Section 290 BNSS** provides that application for **plea bargaining** may be filed by accused within **30 days** of **framing of charge** and within **60 days** a **mutually satisfactory disposition** is to be worked out between the public prosecutor/complainant and the accused.
- As per **section 293 BNSS**, the court may impose a sentence equal to **one-fourth** of the minimum sentence prescribed in law for **first time offender with no criminal antecedent**. This latitude was not available to the court under section 265E CrPC.

CHAPTER XXIV
ATTENDANCE OF PERSONS CONFINED
OR DETAINED IN PRISONS

BNSS 301 – 306 ; CRPC 266 - 271

CHAPTER XXV

EVIDENCE IN INQUIRIES AND TRAILS

BNSS 307 – 336 ; CRPC 272 - 299

336. Evidence of public servants, experts, police officers in certain cases.—

- Where any document or report prepared by a public servant, scientific expert or medical officer is purported to be used as evidence in any inquiry, trial or other proceeding under this Sanhita, and—
 - (i) such public servant, expert or officer is either transferred, retired, or died; or
 - (ii) such public servant, expert or officer cannot be found or is incapable of giving deposition; or
 - (iii) securing presence of such public servant, expert or officer is likely to cause delay in holding the inquiry, trial or other proceeding,
- the Court shall secure presence of successor officer of such public servant, expert, or officer who is holding that post at the time of such deposition to give deposition on such document or report:
 - Provided that no public servant, scientific expert or medical officer shall be called to appear before the Court unless the report of such public servant, scientific expert or medical officer is disputed by any of the parties of the trial or other proceedings:
 - Provided further that the deposition of such successor public servant, expert or officer may be allowed through audio-video electronic means.

CHAPTER XXVI
GENERAL PROVISIONS AS TO
INQUIRIES AND TRAIL

BNSS 337 – 366 ; CRPC 300 - 327

346. Power to postpone or adjourn proceedings.— (Previous 309)

- **Clause (2), Proviso's proviso**

- **Provided also that—**

- **(a) no adjournment shall be granted at the request of a party, except where the circumstances are beyond the control of that party;**
- **(b) where the circumstances are beyond the control of a party, not more than two adjournments may be granted by the Court after hearing the objections of the other party and for the reasons to be recorded in writing;**

356. Inquiry, trial or judgment in absentia of proclaimed offender.—

- (1) Notwithstanding anything contained in this Sanhita or in any other law for the time being in force, when a person declared as a proclaimed offender, whether or not charged jointly, has absconded to evade trial and there is no immediate prospect of arresting him, it shall be deemed to operate as a waiver of the right of such person to be present and tried in person, and the Court shall, after recording reasons in writing, in the interest of justice, proceed with the trial in the like manner and with like effect as if he was present, under this Sanhita and pronounce the judgment:
 - Provided that the Court shall not commence the trial unless a period of ninety days has lapsed from the date of framing of the charge.
- (2) The Court shall ensure that the following procedure has been complied with before proceeding under sub-section (1), namely:—
 - (i) issuance of two consecutive warrants of arrest within the interval of at least thirty days;
 - (ii) publish in a national or local daily newspaper circulating in the place of his last known address of residence, requiring the proclaimed offender to appear before the Court for trial and informing him that in case he fails to appear within thirty days from the date of such publication, the trial shall commence in his absence;
 - (iii) inform his relative or friend, if any, about the commencement of the trial; and
 - (iv) affix information about the commencement of the trial on some conspicuous part of the house or homestead in which such person ordinarily resides and display in the police station of the district of his last known address of residence.

- (3) Where the proclaimed offender is not represented by any advocate, he shall be provided with an advocate for his defence at the expense of the State.
- (4) Where the Court, competent to try the case or commit for trial, has examined any witnesses for prosecution and recorded their depositions, such depositions shall be given in evidence against such proclaimed offender on the inquiry into, or in trial for, the offence with which he is charged:
 - Provided that if the proclaimed offender is arrested and produced or appears before the Court during such trial, the Court may, in the interest of justice, allow him to examine any evidence which may have been taken in his absence.
- (5) Where a trial is related to a person under this section, the deposition and examination of the witness, may, as far as practicable, be recorded by audio-video electronic means preferably mobile phone and such recording shall be kept in such manner as the Court may direct.
- (6) In prosecution for offences under this Sanhita, voluntary absence of accused after the trial has commenced under sub-section (1) shall not prevent continuing the trial including the pronouncement of the judgment even if he is arrested and produced or appears at the conclusion of such trial.
- (7) No appeal shall lie against the judgment under this section unless the proclaimed offender presents himself before the Court of appeal:
 - Provided that no appeal against conviction shall lie after the expiry of three years from the date of the judgment.
- (8) The State may, by notification, extend the provisions of this section to any absconder mentioned in sub-section (1) of Section 84.

CHAPTER XXVII

PROVISIONS AS TO ACCUSED PERSONS OF UNSOUND MIND

BNSS 367 – 378 ; CRPC 328 - 339

CHAPTER XXVIII
PROVISIONS AS TO OFFENCES
AFFECTING THE ADMINISTRATION OF
JUSTICE

BNSS 379 – 391 ; CRPC 340 - 352

CHAPTER XXIX

THE JUDGEMENT

BNSS 392 – 406 ; CRPC 353 - 365

398. Witness protection scheme.—

- **Every State Government shall prepare and notify a Witness Protection Scheme for the State with a view to ensure protection of the witnesses.**

CHAPTER XXX
SUBMISSION OF DEATH SENTENCES FOR
CONFIRMATION

BNSS 407 – 412 ; CRPC 366 - 371

CHAPTER XXXI

APPEALS

BNSS 413 – 435 ; CRPC 372 - 394

CHAPTER XXXII

REFERENCE AND REVISION

BNSS 436 – 445 ; CRPC 395 - 405

CHAPTER XXXIII

TRANSFER OF CRIMINAL CASES

BNSS 446 – 452 ; CRPC 406 - 412

CHAPTER XXXIV
EXECUTION, SUSPENSION, REMISSION
AND COMMUTATION OF SENTENCES

BNSS 453 – 477 ; CRPC 413 - 435

472. Mercy petition in death sentence cases.—

- (1) A convict under the sentence of death or his legal heir or any other relative may, if he has not already submitted a petition for mercy, file a mercy petition before the President of India under Article 72 or the Governor of the State under Article 161 of the Constitution within a period of thirty days from the date on which the Superintendent of the jail,—
 - (i) informs him about the dismissal of the appeal, review or special leave to appeal by the Supreme Court; or
 - (ii) informs him about the date of confirmation of the sentence of death by the High Court and the time allowed to file an appeal or special leave in the Supreme Court has expired.
- (2) The petition under sub-section (1) may, initially be made to the Governor and on its rejection or disposal by the Governor, the petition shall be made to the President within a period of sixty days from the date of rejection or disposal of such petition.

- (3) The Superintendent of the jail or officer in charge of the jail shall ensure, that every convict, in case there are more than one convict in a case, also files the mercy petition within a period of sixty days and on non-receipt of such petition from the other convicts, Superintendent of the jail shall send the names, addresses, copy of the record of the case and all other details of the case to the Central Government or the State Government for consideration along with the said mercy petition.
- (4) The Central Government shall, on receipt of the mercy petition seek the comments of the State Government and consider the petition along with the records of the case and make recommendations to the President in this behalf, as expeditiously as possible, within a period of sixty days from the date of receipt of comments of the State Government and records from Superintendent of the Jail.
- (5) The President may, consider, decide and dispose of the mercy petition and, in case there are more than one convict in a case, the petitions shall be decided by the President together in the interests of justice.
- (6) Upon receipt of the order of the President on the mercy petition, the Central Government shall within forty-eight hours, communicate the same to the Home Department of the State Government and the Superintendent of the jail or officer in charge of the jail.
- (7) No appeal shall lie in any Court against the order of the President or of the Governor made under Article 72 or Article 161 of the Constitution and it shall be final, and any question as to the arriving of the decision by the President or the Governor shall not be inquired into in any Court.

CHAPTER XXXV

PROVISIONS AS TO BAIL AND

BONDS

BNSS 478 – 496 ; CRPC 436 - 450

479. Maximum period for which undertrial prisoner can be detained.— (CrPC 436A)

- **Provided that where such person is a first-time offender (who has never been convicted of any offence in the past) he shall be released on bond by the Court, if he has undergone detention for the period extending up to one-third of the maximum period of imprisonment specified for such offence under that law:**

482. Direction for grant of bail to person apprehending arrest.— (CrPC 438)

- Parts of Clause (1) indicating consideration for bail, deleted
- Clause 1A deleted
- Clause 1B deleted

CHAPTER XXXVI

DISPOSAL OF PROPERTY

BNSS 497 – 505 ; CRPC 451 - 459

CHAPTER XXXVII

IRREGULAR PROCEEDINGS

BNSS 506 – 512 ; CRPC 460 - 466

CHAPTER XXXVIII

LIMITATION FOR TAKING COGNIZANCE OF CERTAIN OFFENCES

BNSS 513 – 519 ; CRPC 467 - 473

CHAPTER XXXIX

MISCELLANEOUS

BNSS 520 – 531 ; CRPC 474 - 484

530. Trial and proceedings to be held in electronic mode.—

- All trials, inquiries and proceedings under this Sanhita, including—
 - (i) issuance, service and execution of summons and warrant;
 - (ii) examination of complainant and witnesses;
 - (iii) recording of evidence in inquiries and trials; and
 - (iv) all appellate proceedings or any other proceeding,
- may be held in electronic mode, by use of electronic communication or use of audio-video electronic means.

OTHER IMPORTANT CHANGES

1. S. 479 [Maximum period for which undertrial prisoner can be detained] – those facing multiple offences, or cases will not be released after serving 1/2 of their, sentence pending trial; first time offenders can be released on 1/3rd of max imprisonment
2. Time limits in the Court process: discharge application [s. 250 – within 60 days of committal], framing of charge [s. 251 – within 60 days of first hearing], acquittal/conviction [s. 258 – within 3–45 days of completion of arguments], trial to be held day-to-day basis and conditions for granting adjournments adjournments [s. 346(2)]
3. Accused can be present in Court electronically [S. 251(2)]
4. Recording of witness, public servant deposition by AV means [S. 254]

- Section 349 BNSS provides that voice samples can be demanded from accused without necessitating his arrest.

1. All trials, inquiries, proceedings u/BNSS may be held through electronic mode [s. 530]
2. Evidence for offences committed outside India can be received in electronic form [s. 209]
3. Evidence of public servants/experts [s. 336] – can call successor officer, use AV, expert/public servant not to be called unless report disputed
4. Inquiry, trial, judgment in absentia of proclaimed offender [s. 356]
5. State Government obligated to prepare and notify a Witness Protection Scheme [s. 398]
6. Mercy Petition in Death Sentence cases [s. 472 – timelines of 30/60 days etc.]
7. Summary trial mandatory for specified offences such as theft, breach of peace – [s.283 – “may” substituted with “shall”]; person accused of offence may file application of plea bargaining within 30 days of framing of charges [s. 290]

11.	193(9)	Completion of further investigation	Within 90 days or as extended by court
12.	194(2)	Forwarding of Inquest report to the District Magistrate or sub-divisional Magistrate	Within 24 hours
13.	218(1)	Granting of sanction in prosecution of judges and public servants	Within 120 days
14.	230	Supply of documents to accused	Within 14 days from the date of production
15.	232	Commitment to be made	Within 90 days from the date on which Magistrate takes cognizance
16.	250(1)	Time to file discharge petition in sessions case	Within 60 days from date of commitment
17.	251	Timeline for framing of charge in sessions case	Within 60 days from the date of first hearing
18.	258(1)	Delivery of judgment in a summons case	Within 30 days extendable to 45 days from conclusion of argument
19.	262	Timeline for discharge petition in warrant case	Within 60 days from date of supply of police report
20.	263(1)	Timeline for framing of charge warrant case	Within 60 days from the date of first hearing
21.	272	Time given to complainant to be present before discharging the accused	Within 30 days
22.	279	In case of non-appearance or death of complainant time given by Magistrate to him for being present before acquitting the accused	Within 30 days

Sl No.	Section	Description	Timeline
1.	19(3)	Appointment to the post of Assistant Public Prosecutor by the District Magistrate	After giving 14 days' notice to the State Government
2.	40	Production of arrestee before police in case of arrest by a private person	Within 6 hours
3.	107(2)	Show cause notice period for a person to appear before any Magistrate/Court before attachment of property alleged to be 'proceeds of crime'	14 days
4.	107(7)	Distribution of 'proceeds of crime' from attached/seized property by District Magistrate be made	Within 60 days
5.	173(1)(ii)	Lodging of e-FIR	It is to be signed by the informant within 3 days
6.	173(3)	Completion of 'Preliminary enquiry'	Within 14 days
7.	174(1)(ii)	Police to forward daily diary reports to Magistrate	Once in 14 days
8.	184(6)	Forwarding of medical report to the investigating officer	Within 7 days
9.	185(5)	In case of search by police officer copies of record to be sent to the nearest Magistrate	Not later than 48 hours
10.	193(3)(ii)	Supply of report to victim/ informant relating to progress of investigation	Within 90 days

23.	290(1)	Application for plea bargaining to be filed by accused	Within 30 days from framing of charge and within 60 days a mutually satisfactory disposition is to be worked out
24.	316	Time within which signature of an accused who is examined through electronic communication is to be obtained	Within 72 hours
25.	330(1)	Timeline to challenge genuineness of any document	Within 30 days until court relaxes the time
26.	356(1)	Commencement of in absentia trial	After 90 days have lapsed from framing of charge
27.	356(2)(i)	Execution of two consecutive arrest warrants	30 days
28.	356(2)(ii)	Publication of notice in a newspaper to proclaimed offender to appear before court	Within 30 days
29.	392(1)	Delivery of judgment in criminal trial	Within 45 days after termination of trial
30.	392(4)	Uploading the judgment	Within 7 days
31.	472(1) & (2)	Filing of mercy petition before Governor and President	Within 30 and 60 days respectively
32.	472(6)	Central Government to communicate the President's order on mercy petition to Home Department of State and Superintendent of Jail	Within 48 hours of receipt of order from the President
33.	497(2)	The court or the Magistrate shall prepare a statement of the property	Within 14 days from production of property
34.	514(2)	Bar to take cognizance after lapse of limitation period for certain offences	<ul style="list-style-type: none"> • 6 months-offences punishable with fine • 1 year for offences punishable with 1 year of imprisonment • 3 years for offences punishable for more than 1 but less than 3 years.

THANKS