

# 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- (1) The Code of Criminal Procedure, 1973 (2 of 1974) is hereby repealed.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;



- (d) “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 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.]**

➤ **S**cope 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.<sup>5</sup>
- (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 Adhinyam, 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.



## 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 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 1/3<sup>rd</sup> 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]

<b>11.</b>	<b>193(9)</b>	<b>Completion of further investigation</b>	<b>Within 90 days or as extended by court</b>
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



SI 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

<b>23.</b>	<b>290(1)</b>	<b>Application for plea bargaining to be filed by accused</b>	<b>Within 30 days from framing of charge and within 60 days a mutually satisfactory disposition is to be worked out</b>
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"> <li>• 6 months-offences punishable with fine</li> <li>• 1 year for offences punishable with 1 year of imprisonment</li> <li>• 3 years for offences punishable for more than 1 but less than 3 years.</li> </ul>

THANKS