

PLEA BARGAINING



Presentation by

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SERVICES AUTHORITY**



DEFINITION

- Plea Bargaining is a form of negotiations.
- It is a mode of settlement between the complainant through the prosecution.
- In other words, plea of guilt is made by an accused for a promise of reduction of the punishment.
- It refers to pre-trial or during trial negotiations between the two rivals i.e. the prosecution and the defence.
- It is effective method to lower down the huge arrears of criminal cases. Though this concept found reiteration in Justice Malimath Committee Report had given the following reasons:
 - (i) It Would facilitate early disposal of criminal cases; and,
 - (ii) It will reduce the burden of the courts.



APPLICABILITY

- The offence against the accused should carry a maximum sentence not exceeding 7 years.
- Accused against a woman or a child below the age of 14 years.
- The accused should not have earlier been convicted for the same offence.
- The accused should not have been covered under section 2(k) of the Juvenile Justice Act, 2000.
- The offence should not affect the socio-economic condition of the country.
- In case few offences carry the punishment for more than seven years or not fit, can move an application under plea bargaining which come within the ambit of plea-bargaining.



WHEN IS PLEA – BARGAINING MADE?

- The plea bargaining may be made by an accused (as per section 265-A) when :
- The report has been forwarded by the officer in charge of the police station under Section 173 Cr.P.C. alleging therein that an offence appears to have been committed by him other than an offence for which the punishment of death or of imprisonment of life or of imprisonment for a term exceeding seven years has been provided under the law for the time being in force; or
- A Magistrate taken cognizance of an offence on complaint, other than an offence for which the punishment of death or of imprisonment for life or of imprisonment for a term exceeding seven years, has been provided under the law for the time being in force, and after examining complaint and witnesses under Section 200, issued the process under Section 204.



OFFENCES AFFECT THE SOCIO-ECONOMIC CONDITION OF THE COUNTRY

No plea bargaining is permitted in respect of the following:

- The Dowry Prohibition Act, 1961.
- The Commission of Sati Prevention Act, 1987.
- The Indecent Representation of Women (Prohibition) Act, 1986.
- The Immoral Traffic (Prevention) Act, 1956
- The Protection of Women from Domestic Violence Act, 2005
- The Infant Milk Substitutes, Feeding bottles and Infant Foods (Regulation of Production, Supply and Distribution) Act, 1992.



Continue.....

No plea bargaining is permitted in respect of the following:

- **Provisions of the Fruit Products Order, 1955 (Issued under the Essential Commodities Act, 1955).**
- **Provisions of the Meat Food Products Order, 1973 (issued under the Essential Commodities Act, 1955).**
- **Offences with respect to animals that find place in Schedule I and Part II of the Schedule II as well as offences related to altering of boundaries of protected, areas under the Wildlife (Protection) Act, 1972.**
- **The SC and ST (Prevention of Atrocities) Act, 1989.**
- **Offences mentioned in the Protection of Civil Rights Act, 1955.**

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No plea bargaining is permitted in respect of the following:

- **Offences listed in Sections 23 to 28 of the Juvenile Justice (Care and Protection of Children) Act, 2000.**
- **The Army Act, 1950.**
- **The Air Force Act, 1950.**
- **The Navy Act, 1957.**
- **Offences specified Sections 59 to 81 and 83 of the Delhi Metro Railway (Operation and Maintenance) Act, 2002.**
- **The Explosive Act, 1884.**
- **Offences specified in Sections 11 to 18 of the cable Television Networks (Regulation) Act, 1955.**
- **The Cinematograph Act, 1952.**



PROCEDURE TO BE FOLLOWED IN PLEA BARGAINING CASES

- Application for Plea-Bargaining
- Procedure on filing of the application
- To provide time for mutually satisfactory settlement
- Procedure for working out mutually satisfactory disposition
- Representation by a Pleader/Advocate
- Duty of the Court while proceeding under Plea-Bargaining
- Report of mutually satisfactory disposition
- Award of compensation and hearing the parties on the quantum of punishment
- Mode of disposal of the case like minimise the punishment prescribed for such offence.



PLEA BARGAINING - VICTIMS

- The Crime is against the State and the society but main stakeholder is the victim, whose satisfaction is necessary. In fact, stand of the victim is accepted by the accused and the accused also receives the sentences though less than what is prescribed.



INCENTIVES DOES AN ACCUSED GET TO ENTER INTO A PLEA BARGAINING

- Getting out of Jail
- Resolving the Matter Quickly
- Having fewer or less serious offences on one's record
- Avoiding Hassles
- Avoiding Publicity
- Time Saving
- Compensation to victims
- Benefits for Accused



THE ADVANTAGES OF “PLEA BARGAINING”

- Timesaving
- Compensation to victims
- Benefits for Accused



TO ENSURE FAIR JUSTICE, MINIMUM REQUIREMENTS FOR PLEA BARGAINING

- The hearing must take place in court.
- The court must satisfy itself that the accused is pleading guilty knowingly and voluntarily.
- Any court order rejecting a plea bargaining application must be kept confidential to prevent prejudice to the accused.



CONCLUSION

- Plea Bargaining is a mechanism of convenience and mutual benefit than an issue of morality, legality and constitutionality.
- It has Fair Dealing.
- Speeding up caseload disposition.



Thanks

