

# HANDBOOK ON PROCEDURE RELATED TO CRIMINAL COURTS



## PROCESSES TO COMPEL APPEARANCE

### FORM OF SUMMONS. (S.63)

#### EVERY SUMMONS ISSUED BY A COURT UNDER THIS SANHITA

- Mandatorily be in writing
- In duplicate
- Signed by the presiding officer of the court or
- Authorized Officer
- Must bear the seal of the Court

- In an encrypted or
- Any other form of electronic communication
- Which shall bear the image of the seal of the Court or digital signature.

### SUMMONS HOW SERVED (S.64)

- Every summons has to be served
- By a police officer, or
- By the officer of the issuing Court or
- Other public servant, if rules in this regard are available.

A registered has to be maintained at the Police Station or in the Court which will contain the address, email address, phone number and such other details as the State Government may, by rules, provide.

- If practicable the summon has to be served personally
- By delivering or tendering the duplicate copy of the summons
- On the person summoned
- Summons may be served electronically

- If required by the court
- Receiving of service of summon from the person upon whom summons is served shall be taken on the back of the duplicate summon by signing the person concerned.

## SERVICE OF SUMMONS ON CORPORATE BODIES, FIRMS, AND SOCIETIES (S.65)

- Service of a summons on behalf of a company or corporation
- May be served upon the Director, Manager, Secretary or other officer of the company or corporation
- Or through registered letter addressed to the Director, Manager, Secretary or other officer of the company or corporation in India
- The service shall be deemed to have been effected when the letter would arrive in ordinary course of post.

- In the case of a firm or other association of individuals
- Summons may be served on any partner of such firm or association, or
- Through registered letter addressed to such partner
- The service shall be deemed to have been effected when the letter would arrive in ordinary course of post.

**Explanation.** In this section, "company" means a body corporate and "corporation" means an incorporated company or other body corporate registered under the Companies Act, 2013 (18 of 2013) or a society registered under the Societies Registration Act, 1860 (21 of 1860).

## SERVICE WHEN PERSONS SUMMONED CANNOT BE FOUND (S.66)

- In the case summon could not be served upon the person summoned despite of exercising of due diligence
- Summons may be served upon adult member of his family residing with him
- Such adult member, if so required shall by the serving officer, sign a receipt therefor on the back of the other duplicate.

**Explanation.** Adult member of the family does not include servant.

**PROCEDURE WHEN SERVICE CANNOT BE EFFECTED AS BEFORE PROVIDED (S.67)**

If service cannot by the exercise of due diligence be effected as provided in section 64, section 65 or section 66, the serving officer shall affix one of the duplicates of the summons to some conspicuous part of the house or homestead in which the person summoned ordinarily resides; and thereupon the Court, after making such inquiries as it thinks fit, may either declare that the summons has been duly served or order fresh service in such manner as it considers proper.

**SERVICE ON GOVERNMENT SERVANT (S.68)**

- Service of summons upon Government servant shall be effected
- By sending the summons to the head of the office, where such person is employed
- Who shall, (Head of the office) thereupon cause the summons to be served
- In the manner provided by section 64, and
- Shall return it to the Court under his signature with the endorsement required by that section.
- Such signature shall be proof of due service.

**SERVICE OF SUMMONS OUTSIDE LOCAL LIMITS (S.69)**

When a Court desires that a summons issued by it shall be served at any place outside its local jurisdiction, it shall ordinarily send such summons in duplicate to a Magistrate within whose local jurisdiction the person summoned resides, or is, to be there served.

## **PROOF OF SERVICE IN SUCH CASES AND WHEN SERVING OFFICER NOT PRESENT (S.70)**

- When a summons issued by a Court is served outside its local jurisdiction, and in any case where the officer who has served a summons is not present at the hearing of the case, an affidavit, purporting to be made before a Magistrate, that such summons has been served, and a duplicate of the summons purporting to be endorsed (in the manner provided by section 64 or section 66) by the person to whom it was delivered or tendered or with whom it was left, shall be admissible in evidence, and the statements made therein shall be deemed to be correct unless and until the contrary is proved.
- The affidavit mentioned in this section may be attached to the duplicate of the summons and returned to the Court.
- All summons served through electronic communication under sections 64 to 71 (both inclusive) shall be considered as duly served and a copy of such summons shall be attested and kept as a proof of service of summons.

## **SERVICE OF SUMMONS ON WITNESS (S.71)**

➤ Notwithstanding anything contained in the preceding sections of this Chapter, a Court issuing a summons to a witness may, in addition to and simultaneously with the issue of such summons, direct a copy of the summons to be served by electronic communication or by registered post addressed to the witness at the place where he ordinarily resides or carries on business or personally works for gain.

➤ When an acknowledgement purporting to be signed by the witness or an endorsement purporting to be made by a postal employee that the witness refused to take delivery of the summons has been received or on the proof of delivery of summons under sub-section (3) of section 70 by electronic communication to the satisfaction of the Court, the Court issuing summons may deem that the summons has been duly served.

## WARRANT OF ARREST

### FORM OF WARRANT OF ARREST AND DURATION (S.72)

➤ Every warrant of arrest must be in writing, signed by the presiding officer of issuing Court and shall bear the seal of the Court.

➤ Every such warrant shall remain in force until cancelled by the issuing Court or executed.

### POWER TO DIRECT SECURITY TO BE TAKEN (S.73)

➤ Any Court issuing a warrant for the arrest of any person may in its discretion direct by endorsement on the warrant that

➤ If such person executes a bail bond with sufficient sureties for his attendance

➤ Before the Court at a specified time and thereafter until otherwise directed by the Court

➤ The officer to whom the warrant is directed shall take such security and shall release such person from custody.

➤ The endorsement shall state-

- ❖ The number of sureties;
- ❖ The amount in which they and the person for whose arrest the warrant is issued, are to be respectively bound;
- ❖ The time at which he is to attend before the Court.

➤ Whenever security is taken under this section

➤ The officer to whom the warrant is directed shall forward the bond to the Court.

## WARRANTS TO WHOM DIRECTED (S.74)

- Ordinarily a warrant of arrest shall be directed to one or more police officers
- In the case of urgency or non availability of the Police Officer, warrant may be directed to any other or persons, and such person or persons shall execute the same.

- When a warrant is directed to more officers or persons than one
- It may be executed by all, or
- By any one or more of them.

## WARRANT MAY BE DIRECTED TO ANY PERSON (S.75)

➤ The Chief Judicial Magistrate or a Magistrate of the first class may direct a warrant to any person within his local jurisdiction for the arrest of any escaped convict, proclaimed offender or of any person who is accused of a non-bailable offence and is evading arrest.

➤ Such person shall acknowledge in writing the receipt of the warrant, and shall execute it if the person for whose arrest it was issued, is in, or enters on, any land or other property under his charge.

➤ When the person against whom such warrant is issued is arrested, he shall be made over with the warrant to the nearest police officer, who shall cause him to be taken before a Magistrate having jurisdiction in the case, unless security is taken under section 73.

## WARRANT DIRECTED TO POLICE OFFICER (S.76)

A warrant directed to any police officer may also be executed by any other police officer whose name is endorsed upon the warrant by the officer to whom it is directed or endorsed.

## **NOTIFICATION OF SUBSTANCE OF WARRANT (S.77)**

The police officer or other person executing a warrant of arrest shall notify the substance thereof to the person to be arrested, and, if so required, shall show him the warrant.

## **PERSON ARRESTED TO BE BROUGHT BEFORE COURT WITHOUT DELAY (S.78)**

- The police officer or other person executing a warrant of arrest shall (subject to the provisions of section 73 as to security) without unnecessary delay bring the person arrested before the Court before which he is required by law to produce such person.
- In any case delay shall not exceed twenty-four hours exclusive of the time necessary for the journey from the place of arrest to the Magistrate's Court.

## **WHERE WARRANT MAY BE EXECUTED (S.79)**

**A WARRANT OF ARREST MAY BE EXECUTED AT ANY PLACE IN INDIA.**

## **WARRANT FORWARDED FOR EXECUTION OUTSIDE JURISDICTION (S.80)**

- When a warrant is to be executed outside the local jurisdiction of the Court issuing it
- Court may forward it by post or otherwise to any Executive Magistrate or
- District Superintendent of Police or
- Commissioner of Police within the local limits of whose jurisdiction it is to be executed
- The Executive Magistrate or District Superintendent or Commissioner shall endorse his name thereon
- If practicable, cause it to be executed in the manner hereinbefore provided.

- The Court issuing a warrant under sub-section (1) shall forward, along with the warrant
- The substance of the information against the person to be arrested together with such documents
- If any, as may be sufficient to enable the Court acting under section 83 to decide whether bail should or should not be granted to the person.

## WARRANT DIRECTED TO POLICE OFFICER FOR EXECUTION OUTSIDE JURISDICTION (S.81)

- When a warrant directed to a police officer is to be executed beyond the local jurisdiction of the Court issuing the same
- He shall ordinarily take it for endorsement either to an Executive Magistrate or
- To a police officer not below the rank of an officer in charge of a police station
- Within the local limits of whose jurisdiction the warrant is to be executed.

- Such Magistrate or police officer shall endorse his name thereon
- Such endorsement shall be sufficient authority to the police officer to whom the warrant is directed to execute the same
- The local police shall, if so required, assist such officer in executing such warrant.

- Whenever there is reason to believe that the delay occasioned by obtaining the endorsement of the Magistrate or police officer within whose local jurisdiction the warrant is to be executed will prevent such execution
- The police officer to whom it is directed may execute the same without such endorsement in any place beyond the local jurisdiction of the Court which issued it.

## PROCEDURE ON ARREST OF PERSON AGAINST WHOM WARRANT ISSUED (S.82)

- When a warrant of arrest is executed outside the district in which it was issued, the person arrested shall
- Unless the Court which issued the warrant is within thirty kilometres of the place of arrest or
- Nearer than the Executive Magistrate or District Superintendent of Police or Commissioner of Police within the local limits of whose jurisdiction the arrest was made
- Unless security is taken under section 73, be taken before such Magistrate or District Superintendent or Commissioner.

- 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
- To such officer of another district where the arrested person normally resides.

**PROCEDURE BY MAGISTRATE BEFORE WHOM SUCH PERSON ARRESTED IS BROUGHT (S.83)**

- The Executive Magistrate or District Superintendent of Police or Commissioner of Police shall, if the person arrested appears to be the person intended by the Court which issued the warrant, direct his removal in custody to such Court:
- In the case of bailable offence, if the offence is bailable, and such person is ready and willing to give bail bond to the satisfaction of such Magistrate, District Superintendent or Commissioner, or as per the direction endorsed under section 73 on the warrant
- The Magistrate, District Superintendent or Commissioner shall take such bail bond or security, as the case may be, and forward the bond, to the Court which issued the warrant:
- In the case of non-bailable offence, it shall be lawful for the Chief Judicial Magistrate (subject to the provisions of section 480), or
- The Sessions Judge, of the district in which the arrest is made on consideration of the information and the documents referred to in sub-section (2) of section 80, to release such person on bail.

- There is no bar on taking security under section 73 by the Police Officer.

**C-PROCLAMATION AND ATTACHMENT**

**PROCLAMATION FOR PERSON ABSCONDING (S.84)**

- When the court is satisfied that any person against whom a warrant has been issued by it has absconded or concealing himself
- To evade the execution of warrant
- Such Court may publish a written proclamation
- Requiring him to appear at a specified place and at a specified time not less than thirty days from the date of publishing such proclamation.

➤ The proclamation shall be published as follows:-

- (i) (a) it shall be publicly read in some conspicuous place of the town or village in which such person ordinarily resides;
- (b) it shall be affixed to some conspicuous part of the house or homestead in which such person ordinarily resides or to some conspicuous place of such town or village;
- (c) a copy thereof shall be affixed to some conspicuous part of the Court-house;
- (ii) the Court may also, if it thinks fit, direct a copy of the proclamation to be published in a daily newspaper circulating in the place in which such person ordinarily resides.



➤ A statement in writing by the Court issuing the proclamation to the effect that the proclamation was duly published on a specified day, in the manner specified in clause (i) of sub-section (2), shall be conclusive evidence that the requirements of this section have been complied with, and that the proclamation was published on such day.



➤ Where a proclamation published under sub-section (1) is in respect of a person accused of an offence which is made punishable with imprisonment of ten years or more, or imprisonment for life or with death under the Bharatiya Nyaya Sanhita, 2023 or under any other law for the time being in force, and such person fails to appear at the specified place and time required by the proclamation, the Court may, after making such inquiry as it thinks fit, pronounce him a proclaimed offender and make a declaration to that effect.



➤ The provisions of sub-sections (2) and (3) shall apply to a declaration made by the Court under sub-section (4) as they apply to the proclamation published under sub-section (1).

## ATTACHMENT OF PROPERTY OF PERSON ABSCONDING (S.85)

➤ The Court issuing a proclamation under section 84 may, for reasons to be recorded in writing, at any time after the issue of the proclamation, order the attachment of any property, movable or immovable, or both, belonging to the proclaimed person:

After satisfaction by affidavit or otherwise, that the person in relation to whom the proclamation is to be issued.-

- ❖ Is about to dispose of the whole or any part of his property, or
- ❖ Is about to remove the whole or any part of his property from the local jurisdiction of the Court, it may order the attachment of property simultaneously with the issue of the proclamation.

➤ Such order shall authorise the attachment of any property belonging to such person within the district in which it is made; and

➤ It shall authorise the attachment of any property belonging to such person without such district when endorsed by the District Magistrate within whose district such property is situate.

➤ If the property ordered to be attached is a debt or other movable property, the attachment under this section shall be made-

- I. by seizure; or
- II. by the appointment of a receiver; or
- III. by an order in writing prohibiting the delivery of such property to the proclaimed person or to any one on his behalf, or
- IV. by all or any two of such methods, as the Court thinks fit.

➤ When immovable property has to be attached

➤ The attachment under this section shall

➤ In the case of land paying revenue to the State Government, be made through the Collector of the district in which the land is situate

➤ In all other cases-

- (a) by taking possession; or
- (b) by the appointment of a receiver; or
- (c) by an order in writing prohibiting the payment of rent on delivery of property to the proclaimed person or to any one on his behalf; or
- (d) by all or any two of such methods, as the Court thinks fit.

- If the property ordered to be attached consists of live-stock or is of a perishable nature
- the Court may, if it thinks it expedient
- Order immediate sale thereof, and in such case the proceeds of the sale shall abide the order of the Court.



- The powers, duties and liabilities of a receiver appointed under this section shall be the same as those of a receiver appointed under the Code of Civil Procedure, 1908 (5 of 1908).

### **IDENTIFICATION AND ATTACHMENT OF PROPERTY OF PROCLAIMED PERSON (S.86)**



- 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.

### **CLAIMS AND OBJECTIONS TO ATTACHMENT (87)**



- If any claim is preferred to, or objection made to the attachment of, any property attached under section 85, within six months from the date of such attachment
- By any person other than the proclaimed person, on the ground that the claimant or objector has an interest in such property,
- Where such interest is not liable to attachment under section 85, the claim or objection shall be inquired into, and may be allowed or disallowed in whole or in part:  
The death of the claimant or objector will not discontinue any claim preferred or objection made within the period allowed by this sub-section may be continued by his legal representative.



- Claims or objections under sub-section (1) may be preferred or made in the Court by which the order of attachment is issued, or
- If the claim or objection is in respect of property attached under an order endorsed under sub-section (2) of section 85
- In the Court of the Chief Judicial Magistrate of the district in which the attachment is made.



- Every such claim or objection shall be inquired into by the Court in which it is preferred or made:

Provided that, if it is preferred or made in the Court of a Chief Judicial Magistrate, he may make it over for disposal to any Magistrate subordinate to him.



- Every such claim or objection shall be inquired into by the Court in which it is preferred or made:

Provided that, if it is preferred or made in the Court of a Chief Judicial Magistrate, he may make it over for disposal to any Magistrate subordinate to him.



- Any person whose claim or objection has been disallowed in whole or in part by an order under sub-section (1) may, within a period of one year from the date of such order, institute a suit to establish the right which he claims in respect of the property in dispute; but subject to the result of such suit, if any, the order shall be conclusive.

#### **RELEASE, SALE AND RESTORATION OF ATTACHED PROPERTY (S.88)**



- If the proclaimed person appears within the time specified in the proclamation
- The Court shall make an order releasing the property from the attachment



- If the proclaimed person does not appear within the time specified in the proclamation
- The property under the attachment shall be at the disposal of the State Government
- But it shall not be sold until the expiration of six months from the date of the attachment and until any claim preferred or objection made under section 87 has been disposed of under that section
- Unless it is subject to speedy and natural decay, or the Court considers that the sale would be for the benefit of the owner
- In either of which cases the Court may cause it to be sold whenever it thinks fit.



- If, within two years from the date of the attachment, any person whose property is or has been at the disposal of the State Government, under sub-section (2), appears voluntarily or is apprehended and brought before the Court by whose order the property was attached, or
- The Court to which such Court is subordinate, and proves to the satisfaction of such Court that he did not abscond or conceal himself for the purpose of avoiding execution of the warrant, and

- He had not such notice of the proclamation as to enable him to attend within the time specified therein
- Such property, or, if the same has been sold, the net proceeds of the sale, or
- If part only thereof has been sold, the net proceeds of the sale and the residue of the property, shall, after satisfying therefrom all costs incurred in consequence of the attachment, be delivered to him

**APPEAL FROM ORDER REJECTING APPLICATION FOR  
RESTORATION OF ATTACHED PROPERTY (S.89)**

- ↓
- Any person referred to in sub-section (3) of section 88, who is aggrieved by any refusal to deliver property or the proceeds of the sale thereof may appeal to the Court to which appeals ordinarily lie from the sentences of the first-mentioned Court.

**ISSUE OF WARRANT IN LIEU OF, OR IN ADDITION  
TO, SUMMONS (S.90)**

- ↓
- Section 90 empowers a court to issue an arrest warrant instead of, or in addition to, a summon.
  - The court must record reasons in writing, believing the person has absconded or will not obey the summons.
  - It applies when the person fails to appear despite sufficient service.

## **POWER TO TAKE BOND OR BAIL BOND FOR APPEARANCE (S.91)**

- This section empowering courts to take a bond or bail bond for appearance
- If a person for whose arrest or appearance a court can issue a summons/warrant is present in the court
- The court may require him to execute a bond, with or without sureties to appear before it or another court.

## **ARREST ON BREACH OF BOND OR BAIL BOND FOR APPEARANCE (S.92)**

- This section empowers a court to issue a warrant for the arrest of any person who fails to appear after executing/furnishing a bond or bail bond for appearance.
- This provisions ensures compliance with appearance undertaking, allowing for the arrest and production of such person before the court

## **PROVISIONS OF THIS CHAPTER GENERALLY APPLICABLE TO SUMMONS AND WARRANTS OF ARREST (S.93)**

- The provisions contained in this Chapter relating to summons and warrant, and their issue, service and execution, shall, so far as may be, apply to every summons and every warrant of arrest issued under this Sanhita.

## **CASE LAWS**

**State Of Punjab v. Ajaib Singh and Another**  
**(1952) 2 SCC 421 (Para 20-21)**

Warrant of arrest issued by Civil Court or Criminal Court: Similarit

**Inder Mohan Goswami &Anr. v. State of Uttaranchal & Ors.,**  
**(2007) 12 SCC 1 (Para 53, 56)**

Issuance of NBW: Duty of Court

**Raghuvansh Dewanchand Bhasin v. State of Maharashtra,**  
**(2012) 9 SCC 791 (Para 28)**  
Guidelines for issuing NBW

**Cognizance for Extension of Limitation In Re,**  
**(2020) 9 SCC 468 (Para 8)**  
Service through Instant Massaging Services

**Srikant Upadhyay and Others vs State of Bihar and Another,**  
**2024 SCC OnLine SC 282 (Para 5, 24-25)**  
If anyone is declared as an absconder/proclaimed offender in terms of Section 82 CrPC, he is not entitled to relief of anticipatory bail.

**Lavesh v. State (NCT of Delhi),**  
**(2012) 8 SCC 730 (Para 12)**  
No Anticipatory Bail to 'Absconding Accused' and 'Proclaimed Offender'

**Jayendra Vishnu Thakur Vs. State of Maharashtra**  
**(2009) 7 SCC SCC 104 (Para 43)**  
Effective Period/Valid Duration of Proclamation u/s 82 CRPC

**Devendra Singh Negi v. State of U.P.,**  
**1994 Cri LJ 1783 (Para 14)**  
Court must record its satisfaction for proclamation

**State of Maharastra v. Dawood Ibrahim Kaskar**  
**(2000) 10 SCC 438 (Para 24)**  
Enquiry Report for Satisfaction

**Rohit Kumar @ Raju v. State of NCT Delhi,**  
**2007 SCC OnLine Del 1381 (Para 17)**  
Sine Qua Non for Sec. 82/83 CrPC

**Ajay Singh Sijwali Vs. State of Uttarakhand,**  
**2013 SCC OnLine Utt 4070 (Para 7)**  
Proclamation should be affixed at address of person absconding

**Sanjay Bhandari v. Govt of NCT of Delhi,  
2018 SCC OnLine Del 10203 (Para 30-31)**  
**‘Proclaimed Person’ and ‘Proclaimed Offender’**

**Deveshwari Devi Vs. State of Uttarakhand,  
2013 SCC OnLine Utt 3381**  
**Objection against attachment: Stage**

**Abhila v. State of Kerala,  
2020 SCC OnLine Ker 4632 (Para 6)**  
**Limitation Period of 02 years u/s Sec. 85(3) CrPC**

**VimlabenAjitbhai Patel v. VatslabenAshokbhai Patel,  
(2008) 4 SCC 649 (Para 32)**  
**Sec. 83,84,85 CrPC & O-21 R-64,66 CPC**

**Tarsem Lal vs Directorate of Enforcement Jalandhar,  
(2024) 7 SCC 61 (Para 22)**  
**Benefit of Sec. 88 CrPC: Entitlement**

**Tarsem Lal vs Directorate of Enforcement Jalandhar,  
(2024) 7 SCC 61 (Para 33.6)**  
**Order accepting bonds under S. 88 from the accused does not amount to a grant of  
bail**

**Hussain v. Union of India,  
(2017) 5 SCC 702v (Para 23-24)**  
**Recommendation of Trial in Absentia**

**Mohd. Amin vs CBI,  
(2008) 15 SCC 49 (Para 56)**  
**Transit Warrant: Valid duration of Police Custody**

**Pushpanjali Sahu vs State of Orissa,  
(2012) 11 SCC 433 (Para 1 and 2)**  
**Non execution of Warrant: Personal Appearance of Police Officer**

**Vikas v. State of Rajasthan**  
**(2014) 3 SCC 321 (Para 17)**  
Summoning u/s 319 CrPC

**Makwana Mangaldas Tulsidas v. State of Gujarat**  
**(2020) 4 SCC 695 (Para 8)**  
Summoning u/s 138 NI Act cases

**Siddharth vs The State Of Uttar Pradesh,**  
**(2022) 1 SCC 676 (Para 8-9)**  
Sec. 170 CrPC: Arrest of accused not mandatory at time of filing charge-sheet

**Sunil Tyagi vs Govt of NctOf Delhi,**  
**2021 SCC OnLine Del 3597 (Para 463-491, 512)**  
Jurisprudence on Trial in Absentia

**Thana Ram vs Jagat Singh**  
**1973 SCC OnLine Del 102 (Para 7-8)**  
Dasti Summon to Complainant

**Shashi Kumar Nayak vs Smt. Raj Laxmi**  
**1978 SCC OnLine Del 154 (Para 18-19)**  
Willfully avoiding the Service

**Arun Kumar Singh vs State (N.C.T. of Delhi)**  
**1999 SCC OnLine Del 516 (Para 7)**  
Section 78 & 81 CrPC: Territorial Jurisdiction to grant bail

**Court on its own motion v. Central Bureau of Investigation,**  
**2004 SCC OnLine Del 53 (Para 4, 21-22)**  
Section 170 & 173 CrPC: Accused not arrested during investigation

**Srikant Upadhyay and Others vs State of Bihar and Another**  
**2024 SCC OnLine SC 282 Para ( 5, 24, 25)**  
If anyone is declared as an absconder/proclaimed offender in terms of Section 82 Cr. P.C., he is not entitled to relief of anticipatory bail.

**Lavesh v. State (NCT of Delhi)**  
**(2012) 8 SCC 730 Para (12)**

No Anticipatory Bail to 'Absconding Accused' and 'Proclaimed Offender'

**Jayendra Vishnu Thakur Vs. State of Maharashtra**  
**(2009) 7 SCC SCC 104Para (43 )**

Effective Period/Valid Duration of Proclamation u/s 82 CRPC

**Devendra Singh Negi v. State of U.P.**  
**1994 Cri LJ 1783Para ( 14)**

Court must record it's satisfaction for proclamation

**State of Maharastra v. Dawood Ibrahim Kaskar**  
**(2000) 10 SCC 438Para (21, 22, 23)**

Enquiry Report for Satisfaction

**Rohit Kumar @ Raju v. State of NCT Delhi**  
**2007 SCC OnLine Del 1381Para (17 )**

Sine Qua Non for Sec. 82/83 CrPC

**Ajay Singh Sijwali Vs. State of Uttarakhand**  
**2013 SCC OnLineUtt 4070Para (7)**

Proclamation should be affixed at address of person absconding

**Sanjay Bhandari vs Govt OfNctOf Delhi**  
**2018 SCC OnLine Del 10203Para (30, 31 )**  
**'Proclaimed Person' and 'Proclaimed Offender'**

**Deveshwari Devi Vs. State of Uttarakhand**  
**2013 SCC Online Utt 3381Para ( 2, 3)**

Objection against attachment : Stage

**Abhila v. State of Kerala**  
**2020 SCC OnLine Ker 4632Para ( 6)**

Limitation Period of 02 years u/s Sec. 85(3) CrPC

**VimlabenAjitbhai Patel v. Vatslaben Ashokbhai Patel**  
**(2008) 4 SCC 649Para ( 32 , 33)**  
**Sec. 83,84,85 CrPC& O-21 R-64,66 CPC**

**Tarsem Lal vs Directorate Of Enforcement Jalandhar**  
**(2024) 7 SCC 61Para ( 33.6 )**  
**Order accepting bonds under S. 88 from the accused does not amount to a grant of  
bail**

**Hussain v. Union of India**  
**(2017) 5 SCC 702Para (23)**  
**Recommendation of Trial in Absentia**

**Sunil Tyagi vs Govt Of Nct Of Delhi**  
**2021 OnLine DEL 3597Para ( 441, 455, 462)**  
**Jurisprudence on Trial in Absentia**

## RELEVANT PROVISIONS OF GENERAL RULES (CRIMINAL) 1977

### CHAPTER - III

### PROCESSES

**R. 9. Contents of process or order.**—In every process or order is-sued or made by judicial officer the name and power of the officer issuing or making it together with the name of the district and of the court, shall be clearly set out. Every officer signing a process or order shall sign his name legibly. The practice of signing with initials only or of using a signature stamp is forbidden. **[Any process or order generated by CIS software and issued by a computer system including SMS and email shall be valid.]**

**R. 10. Contents of process or order.**—In every process requiring the appearance or attendance of any person, the day of the month and the hour fixed for such appearance or attendance shall be stated in words and in figures. The place of appearance or attendance shall also be stated.

**R. 11. Contents of process or order.**—Every process and order shall be written in Hindi in the Devanagri script or, if the court so directs, in another language.

**R. 12. Register of Processes.**—A register of processes **[either in handwritten form or in computer printed sheets through a software]** shall be maintained in the form given below in all Criminal Courts:

### PROCESSES REGISTER

Particulars of cases	Date of order for issue of process	Date of Dispatch of processes from court	Description of processes and of the person/persons to be served	Initials with date of police or other officials receiving processes	Name of Thana or district to which process sent	Date Fixed For return	Actual Date of return	Action taken for late receipt of process	Remarks
1	2	3	4	5	6	7	8	9	10

**R. 13. Summons to Government Servants.**—When under [Section 66(i)] of the Code a summon is to be served on a person in the active service of the State, the "head of the office" to whom the summons shall ordinarily be sent (in duplicate) shall in the case of a Person in the civil employ or a soldier, sailor or airman in the Defence Department, be the local head of the office or local officer in command of the corps or department in which such person may be serving at the time, and in the case of a local "head of the office", be the authority to which he is immediately subordinate.

A list of officers with their "head of offices" is given in Appendix E. In the case of officers not included in the list, summons shall be dealt with by the court in the light of the instructions contained in this rule after such enquiry, if any, as may be considered necessary.

When a gazetted officer is required to attend a court beyond the limits of the district or area in which he is serving, the court issuing the summons, unless the case is one of extreme urgency, shall allow sufficient time for arrangements to be made for the performance of the duties of such person during his absence.

**R. 14. Arrest of Government servants.**—When circumstances permit notice of the intended arrest of a Government servant shall be given to the head of the office in which the Government servant is working, and in the case of a Government servant working in the Secretariat, to the Chief Secretary to Government so as to allow proper arrangement to be made to have such person relieved, deferring arrest until he is relieved.

**R. 15. Summons to a Member of Parliament or Legislature.**—No summons shall be served upon a Member of Parliament or a Legislature while he is within the precincts of the House of Parliament or Legislature, as the case may be, nor shall it be served through the Presiding Officer or the Secretariat concerned. It shall be served direct upon the member outside the precincts of the House of Parliament or Legislature, as the case may be, at his residence or at some other place.

Rules of procedure in the Lok Sabha regarding intimation to the Speaker of the arrest, detention, conviction or release of a member of the House as well as forms for communication to the Speaker are to be found in Appendix 'J'. A similar procedure may be followed and similar forms used in respect of members of the Rajya Sabha or a State Legislature.

Where a document in the custody of the House of the People, Council of States, State Legislative Assembly or [...] is summoned from the Speaker/The Chairman or where a witness is summoned through any such authority, a letter of request in the form given below (and not a summons) shall issue.

### FORM

To The Speaker/Chairman of.....

Subject: Production of document

Sir,

In the proceedings noted on the margin, the complainant/accused propose to rely on the documents specified in the annexure, which are in the custody of the House of the People/the Council of States/the Legislative Assembly/the [.....]. I am to request you to arrange to send the documents so as to reach me on or before ..... through an officer in the Secretariat of the House, with the permission of the House.

Yours faithfully, Judge  
Signature of Magistrate

### FORM

Subject: Production of an officer of the Secretariat of the House for purposes of giving evidence

Sir,

In the proceedings noted on the margin the complainant/accused proposes to examine ..... an officer in the Secretariat of the House of the People/the Council of States/ the Legislative Assembly the [.....] as a witness. I am to request you to direct the officer to appear in my court at 10.30 a.m. on..... with the permission of the House.

Yours faithfully, Judge  
Signature of Magistrate

**R. 16. Process for execution in foreign countries.**—No legal process of any kind shall be sent for execution in a foreign country including any Commonwealth Country, except through the High Court and to the Ministry of Home Affairs, Government of India in accordance with Circular No. T4410/14/2006, dated 30.04.2010 issued by Ministry of External Affairs, Government of India.

**R. 17. Process fee.**—The fees here in after mentioned shall be chargeable for serving and executing processes issued by criminal courts in the case of offences other than offences for which police officers may arrest without a warrant.

		<b><u>Rs.ps.</u></b>
1.	Warrant of arrest	10.00
2.	Summons	5.00
3.	Proclamation for absconding person under section 82 of the Code	10.00
4.	Warrant of attachment	
	(a) in-respect of the warrant	2.00
	(b) Where it is necessary to place officers in charge of property attached, in-respect of each officer so employed, per diem	10.00
5.	In cases where an application is made by a complainant for the recovery of compensation granted under section 357 of the Code or where a person applies for the recovery of compensation awarded to him under section 250 of the Code- In-respect of the warrant for the levy of the fees, fine or compensation	

Provided that no fee shall be chargeable for any process issued upon the complaint or application of any public officer as defined in section 2 of the Code of Civil Procedure, 1908, when acting as such public officer or of any railway servant as defined in section 3 of the Indian Railway Act, 1890, when acting as such railway servant or of an officer or servant of a local authority acting in that capacity:

Provided also that the Presiding Officer of the Court may remit in whole or in part a fee chargeable under this rule, whenever he is satisfied that the person applying for the issue of the process has not the means of paying it.

**R. 18. Processes fee to be prepaid.**—A process shall not be drawn up for execution of service unless the process fee chargeable under rule 17 has been paid or has been remitted.

The fee shall be paid in court fee stamps, which shall be affixed either to the application by which the court is moved to issue the process (in addition to the court fee chargeable upon the application itself), or, if no such application be filed, to a separate sheet of paper giving particulars of the case as also a reference to the order by which the court directs the issue of the Process.

**R. 19. Certificate of pleader.**—Every application for the issue of process for the attendance of witnesses shall, if the party presenting the application is represented by a legal practitioner, contain a certificate signed by such legal practitioner that he has satisfied himself that the evidence of each one of the witnesses is material to the case.

## INITIATING THE CRIMINAL JUSTICE PROCESS

### CRIMINAL LAW CAN BE SET INTO MOTION IN THE FOLLOWING WAYS

(i) Information of cognizable offence to police under section 173 BNSS (FIR)

(ii) Information of non-cognizable offence to police under section 174 BNSS (Non Cognizable Report)

(iii) Complaint to Magistrate under section 223 BNSS (Private Complaint)

### FIRST INFORMATION REPORT (SECTION 173 BNSS)

FIR under section 173 BNSS is registered when an information regarding the commission of a cognizable offence is received.

## 2. MODES BY WHICH FIR CAN BE REGISTERED.

i. Oral : Such information has to be reduced in writing.

ii. Written.

iii. Electronic Communication: It shall be taken on record on being signed within three days by the person giving it.

## 3. TYPES OF F.I.R

**Zero F.I.R :**When a police station receives a complaint regarding an alleged offence that has been committed in the jurisdiction of another police station, as sec 173 BNSS says "irrespective of the area where the offence is committed", it registers an FIR, and then transfers it to the concerned police station for further investigation.

➤ On the receipt of any information regarding the commission of cognizable offence which has been committed outside of the territorial jurisdiction of that police station, the SHO or the officer on duty records shall register the case as Zero FIR or 'O' FIR under relevant sections of law.

➤ The FIR number is prefixed with "Zero" to indicate it is a Zero FIR. A copy of the information as recorded under subsection (1) shall be given forthwith, free of cost, to the informant or the victim (173(2) BNS).

➤ After the registration of Zero FIR, if necessary, primary investigation may be done by the Investigation officer of same police station (e.g. Medical Examination of a Rape victim). Thereafter, the officer forwards the Zero FIR to the police station having jurisdiction over the place of the incident.

➤ The concerned police station receives the Zero FIR and reregisters it as a regular FIR in their records and the SHO assigns the FIR to an investigating officer for further action.

### **ON ZERO FIR**

- State of Haryana v/s Bhajan Lal 1992.
- Lalita Kumari v/s Government of U.P. &ors, Decided on 12.11.2013.
- Kirti Vashisht v/s State of NCT of Delhi Decided 29.11.2019.
- Satvinder Kaur v/s Govt. of NCT of Delhi (1999) 8 SCC 728,
- Ramesh Kumari v/s Govt. of NCT of Delhi (2006) 2 SCC 677.
- Directions contained in order No 106. -306/P. Sec / C.P. office crime (Delhi) dated 14.03.2011.
- Ramesh Awashti v/s State of NCT of Delhi & Another Decided 13.04.2017.

### **3.2. CROSS F.I.R.**

When the parties involved in a case file case against each other, regarding the same incident.

#### 4. PRELIMINARY INQUIRY

As per 173 (3) of BSSS, “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.

#### 5. STATUS OF SECOND F.I.R. :

Hon’ble Supreme Court, in *T.T. Antony v. State of Kerala*, AIR 2001 SC 2637, held that registering a second FIR on the same set of facts is not permissible. As per Section 154 of the Cr.P.C., the FIR is the first information received regarding the commission of a cognizable offence. Any subsequent oral or written statements made after the investigation has begun—based on the facts disclosed in the original FIR—fall under Section 162 of the Cr.P.C. Such statements cannot be treated as a fresh FIR or re-entered in the station house diary, as doing so would amount to lodging a second FIR, which is not allowed.

In *Ramesh Chandra Nandlal Parikh v. State of Gujarat*, (2006) 1 SCC 732, the Supreme Court held that there is no bar on registering a second FIR if it pertains to a different cognizable offence or arises from a distinct occurrence unrelated to the facts alleged in the first FIR.

## 6. WHEN MULTIPLE FIRS/ CHARGESHEET RELATING TO THE SAME OFFENCE ARE RECEIVED BY THE COURT.

Section 243(1) BNSS provides that if in one series of acts so connected together as to form the same transaction more offence than one are committed by the same person, he may be charged with, and tried at one trial for every such offence.

This principle is further elaborated in section 246 BNSS where more than one person are accused of offence committed in the course of the same transaction they may be charged and tried together. This provision lays down that the following persons may be charged and tried together:

(a) persons accused of the same offence committed in the course of the same transaction;

(b) persons accused of an offence and persons accused of abetment of, or attempt to commit, such offence;

(c) persons accused of more than one offence of the same kind, within the meaning of section 242 committed by them jointly within the period of twelve months;

(d) persons accused of different offences committed in the course of the same transaction;

(e) persons accused of an offence which includes theft, extortion, cheating, or criminal misappropriation, and persons accused of receiving or retaining, or assisting in the disposal or concealment of, property possession of which is alleged to have been transferred by any such offence committed by the first-named persons, or of abetment of or attempting to commit any such last-named offence;

(f) persons accused of offences under sub-sections (2) and (5) of section 317 of the Bharatiya Nyaya Sanhita, 2023 or either of those sections in respect of stolen property the possession of which has been transferred by one offence;

(g) persons accused of any offence under Chapter X of the Bharatiya Nyaya Sanhita, 2023 relating to counterfeit coin and persons accused of any other offence under the said Chapter relating to the same coin, or of abetment of or attempting to commit any such offence; and the provisions contained in the former part of this Chapter shall, so far as may be, apply to all such charges:

Provided that where a number of persons are charged with separate offences and such persons do not fall within any of the categories specified in this section, the Magistrate or Court of Session may, if such persons by an application in writing, so desire, and if he or it is satisfied that such persons would not be prejudicially affected thereby, and it is expedient so to do, try all such persons together.

#### **7. INFORMATION ABOUT NON COGNIZABLE OFFENCES TO POLICE. (SEC 174 BNSS)**

In case the complaint before the police discloses a non cognizable offence the Officer In-charge of the police station will proceed according to section 174 of the BNSS and investigate the case only after obtaining the permission from the Magistrate.

#### **INFORMATION AS TO NON-COGNIZABLE CASES AND INVESTIGATION OF SUCH CASES. (S. 174)**

- 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.

➤ 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.



➤ 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.

## 8. APPLICATION UNDER SECTION 175(3)



Section 175(3) BNSs empowers a judicial magistrate to direct a police officer to investigate a cognizable matter when the police fail to register a First Information Report (FIR) or conduct a thorough investigation. The application shall be supported by an affidavit.

Magistrate to hear police officer before ordering investigation in a complaint case [Sec. 175 (3) BNSs] Magistrate may consider the submission made by the Police Officer before ordering investigation.

### 8.1 PROCESS TO BE FOLLOWED FOR APPLICATION UNDER SECTION 175(3)



i. Register the application as a miscellaneous case.

ii. Call for a report from the concerned Police Station.

iii. Upon receipt of the police report, grant an opportunity of hearing to the applicant.

iv. On consider the police report and the submissions made by the applicant, pass appropriate orders.

**9. PROCEDURE FOR ORDERING INVESTIGATION IN  
CASE OF COMPLAINT CASE AGAINST PUBLIC SERVANT  
AND OTHERS [SEC. 175 (4) BNSS]**

The Magistrate may order investigation on a complaint against a public servant, arising in the course of the discharge of his official duties subject to:

i. Receiving a report from senior officers of such officer about the fact and circumstances of the incident and

ii. Consideration of assertions made by such Public Servant.

**10. POSSIBLE OUTCOMES OF AN APPLICATION  
UNDER SEC 175(4) BNSS**

i. Order for investigation.

ii. Order for registration as complaint.

iii. Rejection of application.

## CASE LAWS

### 1. **Shailesh Kumar v. State of UP (now State of Uttarakhand) 2024**

The Supreme Court has held that information disclosing the commission of a cognizable offence needs to be recorded as an FIR in the designated FIR book, rather than being documented in the General Diary maintained by the Police under the Police Act, 1861. A General Diary entry cannot precede the registration of an FIR unless a preliminary inquiry is deemed necessary.

### 2. **Priyanka Srivastava v. State of UP (2015)**

The Court held that prior to making an application to the Magistrate under Section 156(3) of the CrPC, the applicant must necessarily make applications under Sections 154(1) and 154(3).

### 3. **Om Prakash Ambadkar v. The State of Maharashtra & Ors. (2025):**

➤ The Court observed that following safeguards have been introduced in Section 175 (3) of BNSS which were absent in Section 156 (3) of CrPC:

➤ Firstly, the requirement of making an application to the Superintendent of Police upon refusal by the officer in charge of a police station to lodge the FIR has been made mandatory, and the applicant making an application under Section 175(3) is required to furnish a copy of the application made to the Superintendent of Police under Section 173(4), supported by an affidavit, while making the application to the Magistrate under Section 175(3).

➤ Secondly, the Magistrate has been empowered to conduct such an enquiry as he deems necessary before making an order directing the registration of FIR.



➤ Thirdly, the Magistrate is required to consider the submissions of the officer in charge of the police station as regards the refusal to register an FIR before issuing any directions under Section 175(3).

#### **4. Sakiri Vasu v. State of Uttar Pradesh (2008) 2 SCC409**



The Magistrate has a power to some extent to monitor the investigation under section 175(3).

11. In this connection we would like to state that if a person has a grievance that the police station is not registering his FIR under Section 154 CrPC, then he can approach the Superintendent of Police under Section 154(3) CrPC by an application in writing. Even if that does not yield any satisfactory result in the sense that either the FIR is still not registered, or that even after registering it no proper investigation is held, it is open to the aggrieved person to file an application under Section 156(3)CrPC before the learned Magistrate concerned. If such an application under Section 156(3) is filed before the Magistrate, the Magistrate can direct the FIR to be registered and also can direct a proper investigation to be made, in a case where, according to the aggrieved person, no proper investigation was made. The Magistrate can also under the same provision monitor the investigation to ensure a proper investigation.

## REMAND

- As per Article 22(2) of the Constitution of India Read with section 58 of BNSS every person arrested and detained in custody must be produced before the nearest magistrate within 24 hours.
- No person can be detained for more than 24 hours without the permission of the Magistrate.

### 1. STAGES OF REMAND

Pre-Cognizance Remand : Remand under sec 187 BNSS.  
Post- Cognizance Remand : Remand under sec 346 BNSS/  
Remand during committal of the case under sec 232 BNSS.

### 2. TYPES OF REMANDS

#### 2.1 JUDICIAL CUSTODY REMAND :

The accused can be remanded to judicial custody either after arrest by police or on surrender before the court.

#### 2.2 CHECKLIST WHILE GRANTING JUDICIAL REMAND

- The accused must be present in person before the court.
- Peruse the case diary in order to ensure that a prima facie case exist against the accused.
- Court must ask the accused personally and satisfy that he is sound in mind and body.
- Ensure the compliance of section 41 A Cr.P.C. In case of arrest under Section 41(1)(b) of the Code, the arrest memo along with the grounds has to be in writing mandatorily.

- The distinction between offence punishable upto 7 years and more than 7 years must be kept while passing appropriate order as referred here in above in connection with the guidelines in **Arnesh Kumar v. State of Bihar AIR 2014 SC 2756.**
- Ensure that the ground of arrest has been intimated to the accused.
- Ensure that any relative of the accused has been informed about his arrest.



Accused must be asked about his counsel and if he has not engaged any counsel then free legal aid must be provided to him. The Hon'ble Supreme Court of India has held in **Mohammed Ajmal Mohammad Amir Kasab @ Abu Mujahid v. State Of Maharashtra -2012 9 SCC 1—.....** "it is the duty and obligation of the magistrate before whom a person accused of committing a cognizable offence is first produced to make him fully aware that it is his right to consult and be defended by a legal practitioner and, in case he has no means to engage a lawyer of his choice, that one would be provided to him from legal aid at the expense of the State. The right flows from Articles 21 and 22(1) of the Constitution and needs to be strictly enforced. We, accordingly, direct all the magistrates in the country to faithfully discharge the aforesaid duty and obligation and further make it clear that any failure to fully discharge the duty would amount to dereliction in duty and would make the concerned magistrate liable to departmental proceedings."



- Medical examination of the accused is mandatory when they are first presented before the Magistrate for the purpose of remand. The accused must be asked- whether the accused has any complain of torture or ill-treatment by the police and inform that he has a right to be examined by a medical practitioner under Section 53 BNSS.
- Case property presented at the time of remand to be checked and sealed again.

- In order to reflect the attendance of the accused, the signature of the accused shall be taken on the right margin of the order sheet.
- Then orders may be passed for remand of the accused to judicial custody not exceeding the statutory limit of 15 days.
- A Warrant under sec 187 BNSS shall be prepared and the accused is sent to the designated jail fixing a date of not more than 15 days for the next production of the accused before the court.



- In case the accused is already in custody in relation with some other case and his attendance is procured on the strength of a production warrant issued by the court, in such cases the accused shall be remanded in the instant case by issuing fresh custody warrant and an order of remand be drawn relating to the case in hand as the period of detention is computed from the date of remand by the Jail authorities.
- After perusal of the case diary the Magistrate can alter or add new penal sections in the remand order to be passed under Section 187 BNSS as the Magistrate is not bound by the opinion of the IO.

### **2.3 POLICE CUSTODY REMAND [SECTION 187(2) BNSS]**



In this custody the accused is sent to the remand to the lock up at the police station. The accused is under the police surveillance. Generally, police custody is requested for the purpose of investigation or questioning of the accused.

Under Section 187(2) BNSS the Police Custody Remand can be sought even after the initial 15 days of arrest of the accused. The PCR can be sought:



- Where the offence is punishable with less than 10 years imprisonment : within first 40 days of arrest.
- Where the offence is punishable for more than 10 years imprisonment. : within first 60 days of arrest.

**Note:** Under CrPC the Police Remand of accused could be sought only during the initial 15 days after arrest.

## 2.4 GROUNDS FOR GRANTING POLICE CUSTODY REMAND

**DEPENDS ON THE FACTS AND CIRCUMSTANCES OF THE CASE. SOME OF THE GROUNDS ARE :**

➤ Effective interrogation of the accused to know about other accomplices

➤ Recovery or collecting evidence.

➤ Recovery of stolen items.

➤ Ascertaining the exact place of occurrence

## 2.5 POINTS TO REMEMBER WHILE GRANTING POLICE CUSTODY REMAND

- Specify the reasons in writing for granting the Police Custody Remand.
- Before granting the remand perusal of case diary is necessary.
- The accused should not be subjected to any kind of torture in police custody.
- His lawyer should be permitted to visit the accused while he is in police custody.
- The accused must undergo a medical examination prior to being granted police custody remand, as well as after being returned to judicial custody.
- The order of remand must specifically mention the date and time from which custody begins and ends.
- The order must contain a direction to produce the accused, after the period of custody, in court.
- If a magistrate, other than the Chief Judicial Magistrate, authorizes detention in police custody, they must forward a copy of their order along with the reasons to the Chief Judicial Magistrate.

## 2.6 TRANSIT REMAND



The power of remand upto 15 days may be exercised by the Court before which the accused is produced under section 187(2) BNSS and subsequent remands can be ordered only by the court having jurisdiction for enquiry or trial. Therefore, whenever an accused arrested in connection with a case pending before any other court having territorial jurisdiction is produced the Magistrate need to remand the accused for production before the court having jurisdiction. This in normal parlance called transit remand.

Transit Remand is sought by the Police to take the accused from the place of arrest to another place, in their own custody, usually for the purpose of producing the accused before the jurisdictional Magistrate.

## 2.7 POINTS TO REMEMBER WHILE GRANTING TRANSIT REMAND



- Pre requisites for grant of transit remand it is mandatory to produce the accused before the magistrate in person.
- Copy of the case diary needs to be forwarded.
- Reasons must be recorded by the magistrate.
- Transit remand should be granted only for the duration necessary to present the arrested individual before the appropriate jurisdictional magistrate.

## CASE LAWS

**Arnesh Kumar v. State of Bihar, (2014) 8 SCC 273** -From a plain reading of Section 41 and 41A, it is evident that a person accused of an offence punishable with imprisonment for a term which may be less than seven years or which may extend to seven years with or without fine, cannot be arrested by the police officer only on his satisfaction that such person had committed the offence punishable as aforesaid.

**Guidelines for Police** -A police officer before arrest, in such cases has to be further satisfied that such arrest is necessary to prevent such person from committing any further offence; or for proper investigation of the case; or to prevent the accused from causing the evidence of the offence to disappear; or tampering with such evidence in any manner; or to prevent such person from making any inducement, threat or promise to a witness so as to dissuade him from disclosing such facts to the court or the police officer; or unless such accused person is arrested, his presence in the court whenever required cannot be ensured. These are the conclusions, which one may reach based on facts.

-The law mandates the police officer to state the facts and record the reasons in writing which led him to come to a conclusion covered by any of the provisions aforesaid, while making such arrest. The law further requires the police officers to record the reasons in writing for not making the arrest.

-In pith and core, the police officer before arrest must put a question to himself, why arrest? Is it really required? What purpose it will serve? What object it will achieve? It is only after these questions are addressed and one or the other conditions as enumerated above is satisfied, the power of arrest needs to be exercised. In fine, before arrest first the police officers should have reason to believe on the basis of information and material that the accused has committed the offence.

- Apart from this, the police officer has to be satisfied further that the arrest is necessary for one or the more purposes envisaged by sub-clauses (a) to (e) of clause (1) of Section 41 CrPC.

- An accused arrested without warrant by the police has the constitutional right under Article 22(2) of the Constitution of India and Section 57 CrPC to be produced before the Magistrate without unnecessary delay and in no circumstances beyond 24 hours excluding the time necessary for the journey.



- During the course of investigation of a case, an accused can be kept in detention beyond a period of 24 hours only when it is authorised by the Magistrate in exercise of power under Section 167 CrPC. The power to authorise detention is a very solemn function. It affects the 6 liberty and freedom of citizens and needs to be exercised with great care and caution. In many of the cases, detention is authorised in a routine, casual and cavalier manner.

-The practice of mechanically reproducing in the case diary all or most of the reasons contained in Section 41 CrPC for effecting arrest be discouraged and discontinued.

### **GUIDELINES FOR MAGISTRATE**



- Before a Magistrate authorises detention under Section 167 CrPC, he has to be first satisfied that the arrest made is legal and in accordance with law and all the constitutional rights of the person arrested are satisfied. If the arrest effected by the police officer does not satisfy the requirements of Section 41 of the Code, Magistrate is duty-bound not to authorise his further detention and release the accused.



- when an accused is produced before the Magistrate, the police officer effecting the arrest is required to furnish to the Magistrate, the facts, reasons and its conclusions for arrest and the Magistrate in turn is to be satisfied that the condition precedent for arrest under Section 41 CrPC has been satisfied and it is only thereafter that he will authorise the detention of an accused.



- The Magistrate before authorising detention will record his own satisfaction, may be in brief but the said satisfaction must reflect from his order. It shall never be based upon the ipse dixit of the police officer, for example, in case the police officer considers the arrest necessary to prevent such person from committing any further offence or for proper investigation of the case or for preventing an accused from tampering with evidence or making inducement, etc. the police officer shall furnish to the Magistrate the facts, the reasons and materials on the basis of which the police officer had reached its conclusion. Those shall be perused by the Magistrate while authorising the detention and only after recording his satisfaction in writing that the Magistrate will authorise the detention of the accused.



- when a suspect is arrested and produced before a Magistrate for authorising detention, the Magistrate has to address the question whether specific reasons have been recorded for arrest and if so, prima facie those reasons are relevant, and secondly, a reasonable conclusion could at all be reached by the police officer that one or the other conditions stated above are attracted. To this limited extent the Magistrate will make judicial scrutiny.

## **GUIDELINES LAID DOWN IN SATENDER ANTIL CASE.**

Our endeavour in this judgment is to ensure that police officers do not arrest the accused unnecessarily and Magistrate do not authorise detention casually and mechanically. In order to ensure the following directions were issued :

1. All the State Governments to instruct its police officers not to automatically arrest when a case under Section 498-A IPC is registered but to satisfy themselves about the necessity for arrest under the parameters laid down above flowing from Section 41 CrPC;

2. All police officers be provided with a check list containing specified sub-clauses under Section 41(1)(b)(ii) ;

3. The police officer shall forward the check list duly filled and furnish the reasons and materials which necessitated the arrest, while forwarding/producing the accused before the Magistrate for further detention;

4. 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;

5. 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;

6. Notice of appearance in terms of Section 41-A CrPC 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;

7. 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 the High Court having territorial jurisdiction.



8. Authorising detention without recording reasons as aforesaid by the Judicial Magistrate concerned shall be liable for departmental action by the appropriate High Court. The aforesaid directions shall not only apply to the cases under Section 498-A IPC 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.”

## BAIL

The term bail was not defined in CrPC, but, now under BNSS the term bail, bail bond and bond have been defined.

### 1. IMPORTANT DEFINITIONS RELATED TO BAIL

- i. Sec 2(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;
- ii. Sec 2(c) "bailable offence" means an offence which is shown as bailable in the First Schedule, or which is made bailable by any other law for the time being in force; and "non-bailable offence" means any other offence;
- iii. Sec 2(d) "bail bond" means an undertaking for release with surety;
- iv. Sec 2(e) "bond" means a personal bond or an undertaking for release without surety;

### 2. BAIL IN BAILABLE OFFENCE

Section 478 BNSS deals with bailable offences. In bailable offences bail is the right of the accused and such person can't be detained in custody. The Police may also grant bail to the accused at the time of arrest or detention.

Hon'ble Supreme Court in **Rasiklal V. Kishore Khanchand Wadhvani (AIR 2009 1341)** observed that: *"As soon as it appears that the accused person is prepared to give bail, the police officer or the court before whom he offers to give bail, is bound to release him on such terms as to bail as may appear to the officer or the court to be reasonable. It would even be open to the officer or the court to discharge such person on his executing a bond as provided in the Section instead of taking bail from him"*

## 2.1 MANDATORY RELEASE ON BOND IN BAILABLE OFFENCES.

The proviso of Sec. 478 BNSS provides that a person accused of a bailable offence may, and shall, if such person is indigent and is unable to furnish surety can be released on his executing a bond for his appearance.

As per the explanation to sec 478 BNSS where a person is unable to give bail within a week of his arrest, it shall be sufficient ground for the court to presume that he is an indigent person and the Court shall release such person on executing a bond.

## 3. BAIL IN NON-BAILABLE OFFENCES.

Sec 480 BNSS deals with bail in non bailable cases. When it comes to Non-bailable offences, bail is not a matter of right of the accused but it is a matter of discretion of the Court or police officer whether to grant bail or not depending on the facts and circumstances of a case.

In 2011, the Hon'ble Apex Court in *Sanjay Chandra vs. CBI, (2012) 1 SCC 40*, also opined that: *“The grant or refusal to grant bail lies within the discretion of the Court. The grant or denial is regulated, to a large extent, by the facts and circumstances of each particular case. But at the same time, right to bail is not to be denied merely because of the sentiments of the community against the accused. The primary purposes of bail in a criminal case are to relieve the accused of imprisonment, to relieve the State of the burden of keeping him, pending the trial, and at the same time, to keep the accused constructively in the custody of the Court, whether before or after conviction, to assure that he will submit to the jurisdiction of the Court and be in attendance thereon whenever his presence is required”*

#### 4. BAIL BY POLICE OFFICER



When a person accused of a non-bailable offence is arrested or detained without a warrant, the officer in-charge has also the power to release him on bail. Following provisions enables the officer in-charge to release the person on bail.

**Sec 189 BNS:** Release of accused when evidence deficient. : 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.

**Sec 480(2) BNS :** If it appears to such officer or Court at any stage of the investigation, inquiry or trial, as the case may be, that there are not reasonable grounds for believing that the accused has committed a non-bailable offence, but that there are sufficient grounds for further inquiry into his guilt, the accused shall, subject to the provisions of section 492 and pending such inquiry, be released on bail, or, at the discretion of such officer or Court, on the execution by him of a bond for his appearance as hereinafter provided.

## 5. BAIL ON FIRST APPEARANCE:

Where the accused has been granted bail during investigation, summons may be issued for appearance of accused after cognizance of the offence is taken against him. If the accused appears after due service of summons he shall be permitted to remain on the previous bail during the trial provided his bail has not been cancelled after due service of summons and issuance of NBW.

## 6. DEFAULT BAIL

Default bail falls within the ambit of Sec.187(3) BNSS. It is an indefeasible right of the accused if the charge sheet is not filed within the following statutory period:

- i. 90days: where the investigation relates to an offence punishable with death, imprisonment for life or imprisonment for a term of 10 years or more.
- ii. 60 days : when the investigation relates to any other offence.

### 6.1 POINTS TO REMEMBER WHILE CALCULATING THE ABOVEMENTIONED 60 OR 90 DAYS.

- **Chaganti Satyanarayan and Others V. State of Andhra Pradesh 1986 SCC OnLine SC 159** : The period of 90 days or 60 days shall be computed from the date of remand and not from the date of arrest.
- **Ravi Prakash Singh v. State of Bihar (2015) 8 SCC340** :While computing the period of 60 or 90 days, the day on which the accused is remanded has to be excluded, and the day on which charge sheet is filed in the court has to be included.

- The default bail granted is deemed to be a bail granted under **Chapter XXXV** of the Bharatiya Nagarik Suraksha Sanhita. Mere filing of subsequent charge sheet does not result in cancellation of default bail. Moreover, as default bail stands on the same footing as normal bail, such statutory/default bail can be cancelled only in terms of the principles contained under Section 480 (5) and Section 483 (3) of the BNSS.
- **Uday Mohanlal Acharya v. State of Maharashtra, (2001) 5 SCC 453** Default bail can be granted only on the 91st day/61st day, if no police report is filed. If On the 91st day/61st day both bail Application and Charge sheet filed- Bail can be granted if the accused has availed of the opportunity of bail prior to filing of Charge Sheet.
- In a case where the accused has been released on compulsive bail under the proviso to Sec. 187 (3) BNSS, it is not permissible for the Court to cancel the bail by examining the case on merit upon the filing of the charge sheet.

## 6.2 PROCESS TO BE FOLLOWED WHILE DEALING WITH DEFAULT BAIL :



- (i) When the court receives an application for grant of default bail it must call for a report from its office in writing mentioning date and time of calling such report regarding status of police report under section 193 BNSS.
- (i) The office must immediately report the status as to whether police report under section 193 BNSS has been submitted till the submission of report or not.
- (ii) The court should then hear the APP as well as the applicant and decide the application on the same day. No adjournment to be granted to the prosecution for hearing of the bail application.
- (iii) When an application for default bail is filed, the merits of the matter are not considered. In **Natabar Parinda v. State of Orissa, AIR 1975 SC 1465**, the Hon'ble Supreme Court observed that *“the accused has a right to be released on bail under this provision even in serious and ghastly types of crimes.”*

## KEY CONSIDERATIONS WHILE PASSING ORDER OF BAIL



- (i) Register the application as bail application.
- (i) The bail application must specify that whether it is a first bail application or whether earlier bail application of the accused has been rejected or is pending before any Court.
- (ii) In case of more than one accused, uniformity must be observed while passing bail order, if the accused has the same role.
- (iii) In an offence punishable with death, imprisonment for life or imprisonment for 7 years or more, the public Prosecutor is entitled to an opportunity of being heard.
- (iv) At the stage of granting bail, a detailed examination of all the materials and elaborate documentation of the merits of the case is not to be undertaken. While granting or refusing the bail, the reasons for prima facie concluding why the bail was granted or refused must be indicated in the order.
- (v) Bail applications should be disposed of within one week.

## **7. DIRECTIONS TO AVOID DELAY IN RELEASE OF PRISONERS AFTER GETTING BAIL.**



### *In Re Policy Strategy for Grant of Bail SMW, 2023 (2) KLT 97 –*

- 1) The Court which grants bail to an under trial prisoner/convict would be required to send a soft copy of the bail order by e-mail to the prisoner through the Jail Superintendent on the same day or the next day. The Jail Superintendent would be required to enter the date of grant of bail in the e-prisons software [or any other software which is being used by the Prison Department.
- 2) If the accused is not released within a period of 7 days from the date of grant of bail, it would be the duty of the Superintendent of Jail to inform the Secretary, DLSA who may depute para legal volunteer or jail visiting advocate to interact with the prisoner and assist the prisoner in all ways possible for his release.
- 3) NIC would make attempts to create necessary fields in the e-prison software so that the date of grant of bail and date of release are entered by the Prison Department and in case the prisoner is not released within 7 days, then an automatic email can be sent to the Secretary, DLSA.
- 4) The Secretary, DLSA with a view to find out the economic condition of the accused, may take help of the Probation Officers or the Para Legal Volunteers to prepare a report on the socio-economic conditions of the inmate which may be placed before the concerned Court with a request to relax the condition (s) of bail/surety.
- 5) In cases where the under trial or convict requests that he can furnish bail bond or sureties once released, then in an appropriate case, the Court may consider granting temporary bail for a specified period to the accused so that he can furnish bail bond or sureties.
- 6) If the bail bonds are not furnished within one month from the date of grant bail, the concerned Court may suo moto take up the case and consider whether the conditions of bail require modification/ relaxation.
- 7) One of the reasons which delays the release of the accused/ convict is the insistence upon local surety. It is suggested that in such cases, the courts may not impose the condition of local surety.

## 8. BAIL CONDITIONS

The conditions of bail cannot be so onerous that their existence itself tantamount to refusal of bail. Excessive conditions should be avoided while granting bail.

*In Munish Bhasin & Others versus State (Government of NCT of Delhi) & Another reported in (2009) 4 SCC 45 Hon'ble Supreme Court has held that while granting bail normally condition scan be imposed*

- (i) To secure the presence of the accused before the investigating officer or before the court,
- (ii) To prevent him from fleeing the course of justice,
- (iii) To prevent him from tampering with the evidence or to prevent him from inducing or intimidating the witnesses so as to dissuade them from disc losing the facts before the police or court, or restricting the movements of the accused in a particular area or locality or to maintain law and order, etc.

➤ *In Dataram Singh v. State of Uttar Pradesh AIR 2018 SC 980:* Conditions for the grant of bail ought not to be so onerous to be incapable of compliance, thereby making the grant of bail illusory.

➤ *Guddan @ Roop Narayan vs State of Rajasthan (Criminal Appeal No. 120 of 2023 @ SLP (Criminal) No. 9756 of 2022),* In the present case, the Appellant has been granted bail by the High Court. However, while granting bail, the High Court has imposed the excessive conditions of a deposit of fine amount of Rs.1,00,000/- along with a surety of another Rs.1,00,000/- and two further bail bonds of Rs.50,000/- each.

The Hon'ble Supreme Court observed that we are unable to appreciate the excessive conditions of bail imposed by the High Court. The fact that bail has been granted to the Appellant herein is proof enough to show that he is not to be languishing in jail during the pendency of the case. While bail has been granted to the Appellant, the excessive conditions imposed have, in-fact, in practical manifestation, acted as a refusal to the grant of bail. If the Appellant had paid the required amount, it would have been a different matter. However, the fact that the Appellant was not able to pay the amount, and in default thereof is still languishing in jail, is sufficient indication that he was not able to make up the amount.

## **9. CANCELLATION OF BAIL**



The Bharatiya Nagarik Suraksha Adhiniyan makes clear provisions for cancellation of bail and taking accused back in custody. Section 480(5) states that any court which has released a person on bail under sub-section (1) or (2) of Section 480, may, if it considers it necessary so to do, direct that such person be arrested and commit him to custody. Similarly, Section 483(3) BNSS confers on the High Court and the Court of Session power to cancel bail.

The power of cancellation of bail can be resorted to broadly in the following situations:

S. no.	Situations in which bail can be cancelled	By whom the bail can be cancelled
1.	On merits of a case mainly on the ground of the order granting bail being perverse, or passed without due application of mind or in violation of any substantive or procedural law.	By Superior Courts Only
2.	On the ground of misuse of liberty after the grant of bail or other supervening circumstances.	Court by which bail was granted.

**In *Raghubir Singh v. State of Bihar* 1986 SCC (Cri) 511**

Supreme Court held that bail can be cancelled where:

- (i) the accused misuses his liberty by indulging in similar criminal activity,
- (ii) interferes with the course of investigation,
- (iii) attempts to tamper with evidence or witnesses,
- (iv) threatens witnesses or indulges in similar activities which would hamper smooth investigation,
- (v) there is likelihood of his fleeing to another country,
- (vi) attempts to make himself scarce by going underground or becoming unavailable to the investigating agency,
- (vii) attempts to place himself beyond the reach of his surety, etc. The above grounds are illustrative and not exhaustive. It must also be remembered that rejection of bail stands on one footing but cancellation of bail is a harsh order because it interferes with the liberty of the individual and hence it must not be lightly resorted to..

**10. WHETHER THE GRANT OF REGULAR BAIL IS PERMISSIBLE IN A CASE WHERE ANTICIPATORY BAIL HAS ALREADY BEEN GRANTED.**



**In Rukmani Mahato vs. State of Jharkhand (03.03.2017 - SC): MANU/SC/1318/2017** Supreme Court held: When this Court or a High Court or even a Sessions Judge grants interim anticipatory bail and the matter is pending before that Court, there can be no occasion for the accused to appear and surrender before the learned Trial Court and seek regular bail. The predicament of the subordinate Judge in considering the prayer for regular bail and the impossibility of denial of such bail in the face of the pre-arrest bail granted by a higher forum is real. Surrender and a bail application in such circumstances is nothing but an abuse of the process of law by the concerned accused. Once a regular bail is granted by a subordinate Court on the strength of the interim/pre-arrest bail granted by the superior Court, even if the superior Court is to dismiss the plea of anticipatory bail upon fuller consideration of the matter, the regular bail granted by the subordinate Court would continue to hold the field, rendering the ultimate rejection of the pre-arrest bail by the Superior Court meaningless.

**11. WHETHER THE LOWER COURT IS COMPETENT TO ENTERTAIN A SUBSEQUENT BAIL APPLICATION WHEN THE HIGHER COURT HAS PREVIOUSLY DECLINED BAIL**



**In Kalyan Chandra Sarkar and Ors. vs. Rajesh Ranjan and Ors. (18.01.2005 - SC): MANU/SC/0045/2005**, the court stated that:

*“19. The principles of res judicata and such analogous principles although are not applicable in a criminal proceeding, still the courts are bound by the doctrine of judicial discipline having regard to the hierarchical system prevailing in our country. The findings of a higher court or a coordinate bench must receive serious consideration at the hands of the court entertaining a bail application at a later stage when the same had been rejected earlier. In such an event the courts must give due weight to the grounds which weighed with the former or higher court in rejecting the bail application....”*



20. The decisions given by a superior forum, undoubtedly, is binding on the subordinate for on the same issue even in bail matters unless of course, there is a material change in the fact situation calling for a different view being taken. Therefore, even though there is room for filing a subsequent bail application in cases where earlier applications have been rejected, the same can be done if there is a change in the fact situation or in law which requires the earlier view being interfered with or where the earlier finding has become obsolete. This is the limited area in which an accused who has been denied bail earlier, can move a subsequent application.”

**12. WHETHER THE BAIL EARLIER GRANTED IN RESPECT OF A LESSER OFFENCE IS LIABLE TO BE CANCELLED IF, UPON FILING OF THE CHARGE SHEET, THE OFFENCE IS MODIFIED TO A GRAVER ONE**

The Hon’ble Supreme Court in **Pradeep Ram vs. State of Jharkhand and Another, (2019) 17 SCC 326: 2019 SCC OnLine SC 825**, came to a conclusion that in respect of a circumstance where after grant of bail to an accused, further cognizable and non-bailable offences are added:

“31.1. The accused can surrender and apply for bail for newly added cognizable and non-bailable offences. In event of refusal of bail, the accused can certainly be arrested.

*31.2. The investigating agency can seek order from the court under Section 437(5) or 439(2) CrPC for arrest of the accused and his custody.*

*31.3. The court, in exercise of power under Section 437(5) or 439(2) CrPC, can direct for taking into custody the accused who has already been granted bail after cancellation of his bail. The court in exercise of power under Section 437(5) as well as Section 439(2) can direct the person who has already been granted bail to be arrested and commit him to custody on addition of graver and non- bailable offences which may not be necessary always with order of cancelling of earlier bail.*

*31.4. In a case where an accused has already been granted bail, the investigating authority on addition of an offence or offences may not proceed to arrest the accused, but for arresting the accused on such addition of offence or offences it needs to obtain an order to arrest the accused from the court which had granted the bail.”*

### 13. CIRCULAR LETTERS OF HON'BLE HIGH COURT OF UTTARAKHAND PERTAINING TO BAIL.

From,  
Registrar General,  
High Court of Uttarakhand  
Nainital.

To,  
All the District Judges,  
State Judiciary, Uttarakhand.

**C.L. No.** 09 /UHC/Admin.B/2023

Dated: 09/05/2023.

**Subject :- Implementation of Orders issued by Hon'ble Supreme Court in SLP (Crl.) No. 5191 of 2021 titled as Satender Kumar Antil vs. CBI and Anr.**

Sir/Madam,

Apropos to the subject noted above, I am directed to inform you that Hon'ble the Supreme Court has taken a serious note upon the practice of Judicial Officers of dealing in matters of custody and bail in lackadaisical manner even after clear directions issued in this regard time and again.

**2.** In terms of the Judgment & Order dated 11.07.2022 (*copy enclosed*) passed by the Hon'ble Supreme Court of India in M.A. No. 1849 of 2021 in SLP (Crl.) No. 5191 of 2021 (*Satender Kumar Antil vs. CBI & Anr.*), this Hon'ble Court has been pleased to issue the following directions:-

I. Any dereliction on the part of the investigating agencies and their officers to comply with the mandate of Section 41 and 41A of the Code of Criminal Procedure and the directions issued by the Hon'ble Supreme Court of India in **Arnesh Kumar Case** has to be brought to the notice of the higher authorities by the Court concerned followed by appropriate action.

II. All the courts will have to satisfy themselves on the compliance of Section 41 and 41A of the Code of Criminal Procedure.

III. There need not be any insistence of a bail application while considering the application under Section 88, 170, 204 and 209 of the Code of Criminal Procedure.

IV. There needs to be a strict compliance of the mandate laid down in the Judgment of the Hon'ble Supreme Court in **Siddharta v. State of UP (2021) 1 SCC 676.**

V. While insisting upon sureties the mandate of Section 440 of the Code has to be kept in mind.

VI. An exercise will have to be done in a similar manner to comply with the mandate of Section 436A of the Code at all level as directed by the Hon'ble Supreme Court of India in ***Bhim Singh v. Union of India, (2015) 13 SCC 605.***

VII. Bail applications ought to be disposed of within a period of two weeks except if the provisions mandate otherwise, with the exception being an intervening application. Applications for anticipatory bail are expected to be disposed of within a period of six weeks with the exception of any intervening application.

**3.** It is therefore requested to circulate the aforesaid directions amongst all the Judicial Officers in your respective Judgeship for information and to ensure strict compliance.

**4.** You are further requested to monitor the Strict Compliance of the same and to submit the compliance report to this Hon'ble Court, by 10<sup>th</sup> of every month positively.

Regards.

Yours sincerely,

Sd/-

(Anuj Kumar Sangal)  
Registrar General

Encl: As above.

**No.** 2191 /UHC/Admin.B/2023

Dated: 09/05/2023.

Copy for information and necessary action to:-

- (i) Principal Secretary, Home, Dehradun.
- (ii) DGP, Uttarakhand Police, Dehradun.
- (iii) Director, Uttarakhand Judicial & Legal Academy, Bhowali, Nainital.
- (iv) All the Family Court Judges, State of Uttarakhand.
- (v) Chairman, Commercial Tax Tribunal, Dehradun.
- (vi) Chairman, State Transport Appellate Tribunal, Dehradun.
- (vii) Registrar, State Consumer Redressal Commission, Dehradun.
- (viii) Member Secretary, Uttarakhand State Legal Services Authority, Nainital.
- (ix) Presiding Officer, Industrial Tribunal-cum-Labour Court, Haldwani, District Nainital.
- (x) Presiding Officer, Labour Courts, Dehradun, Haridwar & Kashipur, District Udham Singh Nagar.



From,

Registrar General  
High Court of Uttarakhand  
Nainital

To,

All the District Judges  
Subordinate to High Court of Uttarakhand

C. L. No. 4 / UHC/Admin.B/ XVII/09/2022 Dated: November 30<sup>th</sup>, 2022

**Subject: Acceptance And Verification Of Surety Bonds.**

Sir,

In supersession of all earlier Circulars and Instructions on the subject noted above, Hon'ble Court is pleased to direct that all surety bonds, submitted in support of bail applications before the court, shall be accepted by the court concerned upon its satisfaction.

Only in cases, where it appears to the court that there is a good reason to get the surety bonds verified, steps for verification shall be undertaken, and not otherwise.

In such cases, the process of verification shall be undertaken, in the first instance, by the court itself by accessing the Bhulekh Web Portals developed by the State Governments.

In any event, verification reports should be obtained from the concerned Police Station within three days at the most.

It is, therefore, requested to circulate it among all the Judicial Officers of your respective judgship for information and strict compliance.

Yours sincerely,

*em*  
30.11.22

(Vivek Bharti Sharma)  
Registrar General

**No. 5289** UHC/Admin. B/ XVII/09/2022

Dated: November 30<sup>th</sup>, 2022

Copy for information and necessary action to:-

- (i) Director, Uttarakhand Judicial & Legal Academy, Bhowali, Nainital
- (ii) All the Family Court Judges, State of Uttarakhand

C.L. No. 02/UHC/Admin.A/2022

Dated: May 27, 2022.

**Sub: Compliance and due execution of orders and other processes communicated by Hon'ble Supreme Court of India through "FASTER" system.**

Sir/Madam,

In Suo Moto Writ Petition (C) No.4/2021, IN RE: DELAY IN RELEASE OF CONVICTS AFTER GRANT OF BAIL, the Hon'ble Supreme Court of India has directed vide order dated 23.09.2021 to adopt the procedure termed as FASTER (Fast and Secure Transmission of Electronic Records) for transmission of e-authenticated copies of the interim orders, stay orders, bail orders and record of proceedings to the duty-holders for compliance and due execution, through a secured electronic communication channel.

Rule 99 of the General Rules (Criminal), 1977 provides for duty of a trial court on receipt of judgment or order of Appellate or Revisional Court, while, Rule 102 of the General Rules (Criminal), 1977 provides for issue of a judicial order or communication of the purport of a warrant or process by electronic form, service of orders of Appellate Courts and processes through email and other electronic modes. Rule 100 of General Rules (Civil), 1957 provides for sending of copy of an appellate judgment certified to the lower court for perusal to the officer against whose order or decree the appeal was preferred.

--Page 01 of 02--

Therefore, all concerned are hereby directed that the e-authenticated copy of the Order/Direction/Record of Proceedings received from the Hon'ble Supreme Court of India via secured email domain i.e., xxxxx@jcn.nic.in, shall be awarded due recognition and the directions contained therein shall be complied/executed without any delay.

Further, the District Judge shall be responsible to receive, acknowledge the receipt and to send compliance report of the orders of the Hon'ble Supreme Court, sent through the FASTER system via secured email domain i.e., xxxxx@jcn.nic.in, created by NIC.

Yours sincerely,

Sd/-

(Vivek Bharti Sharma)  
Registrar General  
27.05.2022

Copy forwarded for information to:

6. Secretary General, Supreme Court of India, New Delhi.

7. P.P.S. of the Court.

- P.S. to Hon'ble Judge(s) with the request to place it before His Lordship for kind perusal.
- P.S. to Registrar General.
- All the Registrars of the Court.
- Joint Registrars/Deputy Registrars/Librarian/Assistant Registrars/Section Officers of the Court.
- Assistant Registrar (I.T.) of the Court with request to upload it on the Official website of High Court of Uttarakhand.
- Guard File.

Registrar General  
27.05.2022

## COMPLAINTS TO MAGISTRATES

Complaint is defined under Section 2(1)(h) of Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) as follows:

Complaint means any allegation made orally or in writing to a Magistrate, with a view to his taking action under this Sanhita, that some person, whether known or unknown, has committed an offence, but does not include a police report.

***Explanation.***— A report made by a police officer in a case which discloses, after investigation, the commission of a non-cognizable offence shall be deemed to be a complaint; and the police officer by whom such report is made shall be deemed to be the complainant;

Chapter XVI sec 223 to 226 of BNSS deals with complaints to magistrates.

### 1. PROCESS IN COMPLAINT CASES

- i. On presentation of the complaint register it as criminal complaint case.
- ii. The Magistrate must examine the complainant and the witnesses present, if any, upon receiving the complaint, unless it is made by a public servant in discharge of his official duty. The recorded examination is to be signed by the complainant, witnesses and the magistrate.
- iii. The statement of the complainant should be recorded on the same day by the Magistrate.
- iv. Notice to be issued to the prospective accused in order to provide him an opportunity of being heard.

After hearing both the parties, if the Magistrate thinks there are sufficient grounds for proceeding he may issue process against the accused. If the Magistrate is of the opinion that there is no sufficient ground for proceeding he shall dismiss the complaint.

## 2. CASE LAWS RELATED TO PROCESS UNDER SEC 223 BNSS

### *Sri Basanagouda R Patil (Yatnal) vs Sri Shivananda S Patil on 27 September, 2024 Criminal Petition No.7526 OF 2024*

“10. Therefore, the procedural drill would be this way: A complaint is presented before the Magistrate under Section 223 of the BNSS; on presentation of the complaint, it would be the duty of the Magistrate / concerned Court to examine the complainant on oath, which would be his sworn statement and examine the witnesses present if any, and the substance of such examination should be reduced into writing. The question of taking of cognizance would not arise at this juncture. The magistrate has to, in terms of the proviso, issue a notice to the accused who is given an opportunity of being heard. Therefore, notice shall be issued to the accused at that stage and after hearing the accused, take cognizance and regulate its procedure thereafter.

11. The proviso indicates that an accused should have an opportunity of being heard. Opportunity of being heard would not mean an empty formality. Therefore, the notice that is sent to the accused in terms of proviso to subsection (1) of Section 223 of the BNSS shall append to it the complaint; the sworn statement; statement of witnesses if any, for the accused to appear and submit his case before taking of cognizance. In the considered view of this Court, it is the clear purport of Section 223 of BNSS 2023.”

### *SUBYANTONY v. 1 R1(DELETED), CRL.MC NO. 508 OF 2025*

“7. Indeed, a radical change in procedure is brought about by the proviso to Section 223(1) of BNSS. Pertinently, in spite of the proviso to Section 223(1) making it mandatory to provide opportunity of hearing to the accused before taking cognizance, Section 226 does not reckon the accused's objection at the stage of taking cognizance as a relevant factor for dismissing the complaint. Being guided by the precedents on Sections 200 and 202 of the Code and the plain language of the proviso to Section 223(1) of the BNSS, this Court is of the opinion that, after the complaint is filed, the Magistrate should first examine the complainant and witnesses on oath and thereafter, if the Magistrate proceeds to take cognizance of the offence/s, opportunity of hearing should be afforded to the accused.”

**Sanjabij Tari Vs. Kishore S. Borcar & Another. 2025 INSC 1158**

No need for pre cognizance summons to accused in 138 N.I. Act.

The Hon'ble Supreme Court observed that an accused need not be heard at the pre cognizance stage of complaints filed for dishonour of cheque as per Section 138 of N.I. Act.

### 3. MAGISTRATE RECEIVING COMPLAINT IS NOT COMPETENT (SECTION 224 BNSS)

If the Magistrate receiving the complaint is not competent to try the offence, he may return the complaint for presentation to the proper court.

- If Complaint is in writing: An endorsement should be made regarding it being returned for presentation in proper court.
- If Complaint is not in writing : Direct the complainant to proper court.

### 4. IS THE COURT EMPOWERED TO SUMMON DOCUMENTS DURING THE INQUIRY STAGE UNDER SECTION 225 BNSS?

**Sec. 94 BNSS- Summon 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.

The procedure prescribed under Section 225 of the BNSS qualifies as an inquiry. Consequently, the Court is vested with the authority, under Section 94 of the said Sanhita, to summon any document during the course of such inquiry.

**5. IF THE PROCEEDING IS AT THE STAGE OF INQUIRY UNDER SECTION 225 OF THE BHARATIYA NAGARIK SURAKSHA SANHITA, 2023, DOES THE COURT HAS THE POWER TO SUMMON ANY PERSON AS A WITNESS?**



**Section- 225 (2) of BNSS states-** In an inquiry under subsection (1) the Magistrate may, if he thinks fit, take evidence of witnesses on oath.

**Sec. 348 BNSS-** Power to summon material witness, or examine the person present- Any Court may, at any stage of inquiry, trial or other proceeding under this Sanhita, summon any person as a witness or examine any person in attendance, though not summoned as a witness, or re-call and re-examine any person already examined, and the court shall summon and examine and re-call and re-examine any such person if his evidence appears to it essential for the just decision of the case.

Therefore, the Court is empowered under sec 348 BNSS to summon any person as a witness at the stage of sec 225 BNSS.

**6. WHETHER, IN A COMPLAINT EXCLUSIVELY TRIABLE BY A COURT OF SESSION, IT IS MANDATORY FOR THE COMPLAINANT TO PRODUCE AND EXAMINE ALL HIS WITNESSES ON OATH BEFORE THE MAGISTRATE AT THE STAGE OF 225 BNSS?**



Proviso to section 225(2) BNSS,2023 is as follows –

—Provided that if it appears to the magistrate that the offence complained of is triable exclusively by the Court of Session, he shall call upon the complainant to produce all his witnesses and examine them on oath.

As per the above mentioned proviso, it is mandatory for the Court to call upon the complainant to produce all his witnesses and examine them on oath. But in **Shivjee Singh vs. Nagendra Tiwary and others, A.I.R. 2010 SC 2261(2010Cr.L.J. 3227 SC)** Hon'ble Supreme Court has held that-

“By its very nomenclature, Cr.P.C. is a compendium of law relating to criminal procedure. The provisions contained therein are required to be interpreted keeping in view the well recognized rule of construction that procedural prescriptions are meant for doing substantial justice. If violation of the procedural provision does not result in denial of fair hearing or causes prejudice to the parties, the same has to be treated as directory notwithstanding the use of word `shall'

12. The use of the word `shall' in proviso to Section 202(2) is prima facie indicative of mandatory character of the provision contained therein, but a close and critical analysis thereof along with other provisions **contained in Chapter XV and Sections 226 and 227** and Section 465 would clearly show that non examination on oath of any or some of the witnesses cited by the complainant is, by itself, not sufficient to denude the concerned Magistrate of the jurisdiction to pass an order for taking cognizance and issue of process provided he is satisfied that prima facie case is made out for doing so. Here it is significant to note that the word `all' appearing in proviso to Section 202(2) is qualified by the word `his'. This implies that the complainant is not bound to examine all the witnesses named in the complaint or whose names are disclosed in response to the order passed by the Magistrate. In other words, only those witnesses are required to be examined whom the complainant considers material to make out a prima facie case for issue of process. The choice being of the complainant, he may choose not to examine other witnesses. Consequence of such non-examination is to be considered at the trial and not at the stage of issuing process when the Magistrate is not required to enter into detailed discussions on the merits or demerits of the case, that is to say whether or not the allegations contained in the complaint, if proved, would ultimately end in conviction of the accused. He is only to see whether there exists sufficient ground for proceeding against the accused.”

**REMEDY AFTER DISMISSAL OF COMPLAINT.**



No appeal lies after the dismissal of complaint. The aggrieved party may prefer a revision before the Sessions Court of High Court.

## **RECORDING OF CONFESSION AND STATEMENT UNDER SEC 183 BNSS**

### **1. CLASSIFICATION OF CONFESSION**

Confession can be classified as

- i. Judicial confession.
- ii. Extra Judicial Confession.
- iii. Retracted confession.

Judicial confession are those which are made before a Magistrate or in Court in the due course of legal proceedings.

### **1.2. PERIOD FOR RECORDING**

In the course of investigation, which is under the Chapter XIII of BNSS or under any other law for the time being in force, or at any time afterwards before the commencement of the inquiry or trial.

### **1.3. WHO CAN FILE APPLICATION:**

- i. Investigating Officer or
- ii. Accused.

### **1.4. PRESENCE OF THE COUNSEL FOR THE ACCUSED:**

If at all necessary, any confession may also be recorded by audio-video electronic means in the presence of the advocate of the person accused of an offence.

### **1.5. NO OATH TO BE ADMINISTERED**

➤ Oath should not be administered to the accused before recording his confession statement.

### **1.6. ENSURING THE VOLUNTARY NATURE OF CONFESSION.**

A confession under the section should be voluntary and uninfluenced by any external factors.

### **1.7. PROCESS OF RECORDING THE CONFESSION.**

- i. The Magistrate shall ensure that during the questioning of the accused and the recording of his statement, there are no police officers in the vicinity.
- ii. Before recording confession, the Magistrate shall explain to the person making it that he is not bound to make a confession and if he do so, it may be used as evidence as against him. This is sine qua non for recording confession.
- i. The Magistrate ought to inform the accused that he is the Judicial Officer competent to record the confession and that a refusal to confess will not expose him to any risk at all.
- ii. During the preliminary examination, the question put forth by the Magistrate as well as the answer given by the accused shall be reduced to writing in his own words, as far as possible.
- iii. Magistrate is prohibited from recording confession, until he satisfied himself by questioning the person making it that it is voluntary.

The Magistrate shall not authorize the detention of the said person in police custody, whom states before the Magistrate as he is not willing to make confession.

- iv. If accused person, after being so questioned, express his desire to make a statement, the Magistrate shall give him reasonable time for reflection which shall not ordinarily be not less than 24 hours.
  - v. During the time for reflection (Cooling Time), the accused to be in the Judicial Custody.
  - vi. When the accused person is produced or appears before the Magistrate after the expiry of the period so granted for reflection, he shall again warn the accused that he is not bound to make any statement and that any statement made by him may be used against him during the trial of the case.
  - vii. If the accused still desires to make the statement and the Magistrate had reason to believe that he is doing so voluntarily, the Magistrate shall record the statement in writing, and shall be signed by the person making the confession.
  - viii. After recording the statement of the accused, the same shall be read out and explained to him in the language known to him and the fact of having read the statement to the accused and the accused having admitted its correctness shall be recorded.
  - ix. Thereafter the Magistrate shall make the memorandum at the foot of such record to the effect as stated in Sub. Sec.4 of Sec.183 of BNSS.
- A Confessing accused must invariably be sent to the Judicial lockup as soon as possible after confession, and on no account to be returned to police custody.

## 2. RECORDING OF STATEMENT UNDER SEC 183(5) BNSS.

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.

(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;

(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 Adhiniyam, 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.

## **2.1 PROCESS OF RECORDING STATEMENT UNDER SEC 183 BNSS.**

1. The person whose statement is to be recorded must be presented by the Investigating Officer.
2. The investigating officer presents an application before the jurisdictional for recording the statement of the victim/witness.
3. The jurisdictional court refers the application to the link Magistrate for the purpose of recording the statement.
4. Thereafter, the link Magistrate records the statement.
5. Oath is administered to the witness unless the witness is below 12 years of age.
6. If the witness is a victim of POCSO then in compliance with sec 26 of POCSO a relative of the victim shall be allowed to be present during the course of recording of the statement.
7. The identity of victims in offences punishable under should not be disclosed.
8. After recording the statement, the same shall be read out and explained to him in the language known to him and the fact of having read the statement to the witness and the witness having admitted its correctness shall be recorded.
9. Thereafter the Magistrate shall make the memorandum at the foot of such record to the effect that the statement has been recorded with the free consent of the witness and it has been voluntarily made by the witness.

10. A copy of the statement under Section 183 BNSS, should be handed over to the investigating officer immediately with a specific direction that the contents of such statement under Section 183 BNSS, should not be disclosed to any person.
11. The statement, in original, shall be sent in a sealed cover to the jurisdictional Court.



**In State Of Karnataka By Nonavinakere ... vs Shivanna @ Tarkari Shivanna on 25 April, 2014** the Apex Court exercising powers under Article 142 of the Constitution of India issued interim directions in the form of mandamus to all police stations across the country, which are as follows:

- i. Upon receipt of information relating to the commission of the offence of rape, the Investigating Officer shall make immediate steps to take the victim to any Metropolitan/preferably Judicial Magistrate for the purpose of recording her statement Under Section 164 Code of Criminal Procedure and a copy of the statement should be handed over to the Investigating Officer immediately with a specific direction that the contents of such statement should not be disclosed to any person till charge sheet/report is filed.
- ii. The Investigating Officer shall take the victim to the nearest Lady Metropolitan/preferably Lady Judicial Magistrate as soon as possible.
- iii. The Investigating Officer shall record specifically the date and the time at which he learned about the commission of the offence of rape and the date and time at which he took the victim to the Metropolitan/preferably Lady Judicial Magistrate as aforesaid.
- iv. If there is any delay exceeding 24 hours in taking the victim to the Magistrate, the Investigating Officer should record the reasons for the same in the case diary and hand over a copy of the same to the Magistrate.
- v. Medical Examination of the victim: Section 164A Code of Criminal Procedure imposes an obligation on the part of Investigating Officer to get the victim of the rape immediately for medical examination. A copy of the report of such medical examination should be immediately handed over to the Magistrate who records the statement of the victim Under Section 164 Code of Criminal Procedure.”

## FORMAT OF STATEMENT UNDER SECTION 183 BNSS

न्यायालय न्यायिक मजिस्ट्रेट, नैनीताल

मुकदमा अपराध संख्या .....  
अंतर्गत धारा.....  
थाना.....

दिनांक.....

थाना मल्लीताल, जिला नैनीताल में पंजीकृत मुकदमा अपराध संख्या ..... सन् 2025 अंतर्गत धारा 332, 325, 307, 506 भारतीय नागरिक सुरक्षा संहिता, 2023 में अन्वेषणकर्ता अधिकारी द्वारा प्रार्थना पत्र प्रस्तुत कर साक्षी..... के भारतीय नागरिक सुरक्षा संहिता, 2023 की धारा 183 के अंतर्गत बयान अंकित करने हेतु अनुरोध किया गया है। साक्षी..... अन्वेषणकर्ता अधिकारी के साथ न्यायालय में उपस्थित है। अन्वेषणकर्ता अधिकारी द्वारा साक्षी.....की पहचान की गयी। पहचान करने के उपरांत अन्वेषणकर्ता को न्यायालय कक्ष से बाहर भेजा गया।

बयान अंतर्गत धारा 183 भारतीय नागरिक सुरक्षा संहिता, 2023

नाम साक्षी .....

पिता/पति .....

उम्र .....

निवासी .....

पेशा .....

नोट : साक्षी द्वारा अपनी उम्र 13 वर्ष होना बताया गया है। साक्षी अवयस्क है। अतः यह सुनिश्चित करने के लिये कि साक्षी पूछे गये प्रश्नों को समझने एवं उसका युक्ति युक्त उत्तर देने में समर्थ है, निम्नवत प्रश्न पूछे जा रहे हैं:

प्रश्न1 : आप किस कक्षा में पढते हैं

प्रश्न 2 आपके कौन कौन से विषय हैं

प्रश्न 3 आपका फेवरेट विषय कौन सा है

प्रश्न 4 आप बड़े होकर क्या बनना चाहते हैं

नोट : साक्षी पूछे गये सामान्य प्रवृत्ति के प्रश्नों का उत्तर युक्ति युक्त तरीके से बता रहा है।

तदनुसार न्यायालय का निष्कर्ष है कि साक्षी अवयस्क होने के बावजूद भी पूछे गये प्रश्नों को समझने में व उनका समुचित उत्तर देने में सक्षम है। अतः भारतीय नागरिक सुरक्षा संहिता की धारा 183 के अंतर्गत साक्षी के बयान अंकित किये जा रहे हैं।

साक्षी द्वारा सशपथ कथन किये गये कि .....

.....

.....

.....

.....

सुनकर तस्दीक किया।

प्रमाणित किया जाता है कि उपरोक्त बयान साक्षी के स्वेच्छा बोलने पर मेरे द्वारा शब्द ब शब्द अंकित किये गये हैं।  
बयान साक्षी को पढकर सुनाये गये।  
साक्षी द्वारा बयान पढकर प्रत्येक पृष्ठ पर हस्ताक्षर किये गये।

## COMMITTAL PROCEEDINGS (S. 232)

### 1. CONCEPT OF COMMITTAL

- Committal refers to the process by which a Magistrate sends a criminal case, which is exclusively triable by the Court of Session, to the Sessions Court.
  - Committal is covered under sec 232 BNSS
  - Committal is neither an inquiry nor a trial. (**Hardeep Singh v State of Punjab, AIR 2014 SC 1400**, para 21)
- Where the offence is exclusively triable by the Court of Session, the Magistrate need not conduct any detailed inquiry except as required under Section 225 BNSS in private complaints.

### 2. MAGISTRATE'S DUTY ON COMMITTAL

- The Magistrate shall ensure the compliance with the provisions of section 230 or section 231 BNSS.
  - The Magistrate shall forward all the records of the matter.
  - Subject to the provisions of this Sanhita relating to bail, remand the accused to custody during, and until the conclusion of, the trial.
  - Notify the Public Prosecutor of the commitment of the case to the Court of Session:
  - The physical presence of the accused before the Magistrate, at the time of committal, is mandatory.
  - The Magistrate must ensure that the accused has a Lawyer.
  - The Magistrate is not to weigh evidence or evaluate probabilities, nor is he to conduct a detailed inquiry.
- The Magistrate has no jurisdiction to discharge an accused in cases exclusively triable by the Sessions Court.

### **3. TIMELINE IN COMMITTAL PROCEEDINGS.**

- The proceedings of committal shall be completed within a period of ninety days from the date of taking cognizance.
- The above-mentioned period may be extended by the Magistrate for a period not exceeding one hundred and eighty days. But for such extension reasons are to be recorded in writing

### **4. APPLICATION FILED BEFORE THE MAGISTRATE IN SESSION TRIABLE MATTERS.**

- Any application filed before the Magistrate by the accused or the victim or any person authorised by such person in a case triable by Court of Session, shall be forwarded to the Court of Session with the committal of the case.

## RELEVANT PROVISIONS OF GENERAL RULES (CRIMINAL) 1977

### CHAPTER V

**R. 35. Procedure on commitment.**—When an order of commitment for trial has been made, the Magistrate shall at once report the fact to the court to which the commitment is made by a letter in the prescribed form (Part IX, no. 2); shall notify the Public Prosecutor of the commitment of the case to the Court of Session and shall within eight days from making the said order, submit the entire record of the case and the documents and articles, if any, which are to be produced in evidence to the Court of Session or, when the commitment is made to the High Court, to the Clerk of the State together with a calendar in the prescribed form (Part IX, no. 3).

The entries under head 9 of the calendar shall be full and accurate, so as to give the court receiving it a clear idea of the matters to which each witness will depose. The Public Prosecutor shall submit a list of witnesses whom he would not examine out of the, witnesses mentioned in the calendar.

**R. 35-A. Certificate by Magistrate.**—The Magistrate shall record in the commitment order a certificate to the effect that the provisions of section 173(4)43 of the Code have been complied with and that either copies of all the documents required to be supplied to the accused under that section have been supplied or orders have been passed approving the withholding of issue of such copies.

**R. 38. Allowances to witnesses.**The payment of reasonable expenses to complainants and witnesses attending criminal courts for the purpose of any enquiry, trial or other proceeding is regulated by rules framed by Government under section 312 of the Code contained in notification no. 1793/VI-2234-40, dated July 11, 1941, as amended from time to time and reproduced in Appendix 'T'.

## **SUMMON TRIAL (S. 274)**

### **1. DEFINITION.**

- Sec 2(x) BNSS defines "summons-case" as a case relating to an offence, and not being a warrant-case.
- Now, in order to understand summons cases it is important to know the warrant cases.
- Sec 2(z) BNSS defines "warrant-case" as a case relating to an offence punishable with death, imprisonment for life or imprisonment for a term exceeding two years.

### **2. PROCEDURE TO BE FOLLOWED IN SUMMONS TRIAL.**

- i. When the accused appears before the Magistrate the particulars of the accusation against him shall be stated to him. (Sec 274)
- ii. On explaining the substance of the accusation to the accused If he pleads guilty the Magistrate shall record the plea. The Magistrate may (discretion of the magistrate) convict him thereon. (Sec 275 BNSS)
- iii. If there are a number of accused persons, the plea of each of the accused should be separately recorded, in his own words after the accusation is read over to him.
- iv. If the accused claims to be tried or if the court does not convict him on his plea of guilt, the file shall be fixed for prosecution evidence. (Sec 277 BNSS)
- v. The Magistrate shall then take all such evidence as may be produced in support of the prosecution. The Magistrate may, on the application of the prosecution, issue a summons to any witness directing him to attend or produce any document or thing. (Sec 277 BNSS)

- vi. The court shall after the witnesses for the prosecution have been examined and before the accused is called on for his defence conduct an examination of the accused under sec 351. However, in a summons case where the court has dispensed with the personal attendance of the accused, the court may dispense with such examination of the accused. (Sec 351 BNSS)
- vii. Thereafter, file shall be fixed for defence evidence. (Sec 277 BNSS)
- viii. Hear Arguments on behalf of Prosecution and Defence and after the conclusion of arguments the file shall be fixed for Judgment.
- ix. Pronounce the Judgment on the date fixed. If the Magistrate after considering the entire evidence finds the accused guilty, he is required to pass sentence on him according to law. (Sec. 278 BNSS)
- x. However, considering the character of the offender, the nature of the offence and the circumstances of the case, the Magistrate may instead of passing the sentence, decide to release the offender after admonition, or on probation of good conduct under Section 401 or under the Probation of Offenders Act, 1958.

## **2. PROCEDURE TO BE FOLLOWED IN SUMMON TRIAL.**



- i. The matter shall be summon trial.
- ii. It should be a complaint case.
- iii. The complainant must express his intention to withdraw the complaint voluntarily.
- iv. The magistrate has the authority to permit or deny the withdrawal.
- v. Withdrawal may be requested at any stage before the final order is passed.
- vi. The effect of withdrawal is acquittal.

## CASE LAWS ON SUMMON

S. No.	Observation	Case Law
01	No discharge of accused in summons trial cases: (Sec 251 CrPC)	Subramaniam Sethuraman vs State Of Maharashtra & Anr., 2004 (13) SCC 324
02	Substance of accusation to be stated by the Magistrate (Sec 251 CrPC)	Bharat K Gupta v Arun Kumar, (2000) 10 SCC 658
03	Terms of Sec 252 CrPC should be strictly complied with	Mahant Kaushalya v State of Madras, 1965 SCC OnLine SC 3
04	Purpose of sec 256 CrPC	Associated Cement Co. Ltd. V Keshvanand, 1998 Supreme Court Cases (Cri) 475
05	Complainant absent from the trial for a significant period : Magistrate has the authority to acquit the accused (Sec 256 CrPC)	S. Rama Krishna vs. S. Rami Reddy 2008 SCC OnLine SC 733
06	If the complaint dismisses the complaint and acquits the accused due to the non appearance of the complainant, the magistrate has no jurisdiction to restore and revive the complaint.	Maj. Genl. A.S Gouraya and another v S.N. Thakur and another 1986 SCC OnLine SC 143 (Para 9 & 10)
07	On death of the complainant in Summon trial cases instituted on private complaint : No ipso facto termination of proceeding, Magistrate may permit substitution (sec 256 CrPC)	Kushal Kumar Talukdar v Chandra Pd. Goenka 2004 SCC OnLine Gau 130 ( Para 48)

08	Order of acquittal under sec 256 CrPC will bar a fresh trial	Ansar Ali Rana v State of U.P. and others 2017 SCC OnLine All 4011 (Para 7)
09	When is the Dismissal of Complaint due to non-appearance of complainant not justified.	M/s. BLS INFRASTRUCTURE LIMITED v M/s. RAJWANT SINGH & OTHERS, 2023 SCC OnLine SC 200 (Para 14)
10	Ingredients of Sec 256 CrPC	S. Rama Krishna vs. S. Rami Reddy 2008 SCC OnLine SC 733 (Para 9)
11	Pre requisite for permitting withdrawal – There must exist a request for withdrawal	Provident Fund Inspector Tirupati v Madhusudan Chaudhary (2000) 9 Supreme Court Cases 506
12	Dismissal of complaint amounts to acquittal. Therefore no revision lies.	Vinay Kumar v State of U.P. 2007 CrLJ 3161 (All). (Para 14, 15 & 16)
13	No discharge of accused in summons trial cases: (Sec 251 CrPC)	Subramaniam Sethuraman vs State Of Maharashtra & Anr. 2004 (13) SCC 324 (Para 16 & 17)
14	Substance of accusation to be stated by the Magistrate (Sec 251 CrPC)	Bharat K Gupta v Arun Kumar (2000) 10 SCC 658 (Para 3)
15	Terms of Sec 252 CrPC should be strictly complied with	Mahant Kaushalya v State of Madras, 1965 SCC OnLine SC 3 (Para 6)
16	Purpose of sec 256 CrPC	Associated Cement Co. Ltd. V Keshvanand, 1998 Supreme Court Cases (Cri) 475 (Para 16)

17	Complainant absent from the trial for a significant period : Magistrate has the authority to acquit the accused (Sec 256 CrPC)	S. Rama Krishna vs. S. Rami Reddy 2008 SCC OnLine SC 733 (Para 13)
18	If the complaint dismisses the complaint and acquits the accused due to the non appearance of the complainant, the magistrate has no jurisdiction to restore and revive the complaint.	Maj. Genl. A.S Gouraya and another v S.N. Thakur and another, 1986 SCC OnLine SC 143 (Para 9 & 10)

# TRIAL OF WARRANT CASES

## 1. DEFINITION

Section 2(z) of the Bharatiya Nagarik Suraksha Sanhita, 2023 defines warrant-case as a case relating to an offence punishable with death, imprisonment for life or imprisonment for a term exceeding two years.

Chapter XX of BNSS provides for the procedures for trial of warrant-cases by Magistrates.

## 1. DEFINITION

Process of conducting warrant trial is further divided on the basis of cases instituted on a Police Report and cases instituted otherwise than on Police Report.

### 2.1 PROCESS TO BE FOLLOWED IN CASES INSTITUTED ON A POLICE REPORT

- i. When in a warrant case instituted on a police report, the accused appears or is brought before a Magistrate at the commencement of the trial, the Magistrate shall satisfy himself that he has supplied to the accused copies of the police report, FIR, statements of persons recorded by the police during investigations, etc., as required by Section 230 BNSS. (S.261 BNSS)
- ii. After receiving the copies of the documents, the accused may prefer an application for discharge within a period of 60 days from the date of supply of copies of documents under section 230 (S.262(1) BNSS).

- iii. Before discharge is ordered, the Magistrate must take into consideration:
- a) police report and the document referred to in Section 193 and which are furnished to the accused;
  - b) examination, if any, of the accused, either physically or through audio-video electronic means, as the Magistrate thinks necessary; and
  - c) giving prosecution and the accused an opportunity of being heard and then to consider whether the charge is groundless. If the Magistrate, thereafter, considers the accusation against the accused to be groundless, he shall discharge the accused and record his reasons for so doing. (S.262(2) BNSS).
- iv. If the accused is not discharged then the Magistrate shall frame charges in writing against the accused. The charges shall be framed within a period of sixty days from the date of first hearing on charge. (S. 263 BNSS).
- v. Arguments upon discharge application and for framing of charges can be heard simultaneously and a common order disposing off the discharge application and charge-framing can be passed for speedy disposal of the matter.
- vi. After the framing of the charge, it shall then be read and explained to the accused and he shall be asked whether he pleads guilty of the offence charged or claims to be tried.
- vii. If the accused pleads guilty, the Magistrate shall record the plea and may convict him thereon. (Sec 264 BNSS)
- viii. If the accused refuses to plead or does not plead, or claims to be tried, or the Magistrate does not convict the accused on his plea of guilt, the Magistrate shall fix a date for Prosecution evidence.

- viii. The Magistrate may, on the application of the prosecution, issue summons to any of its witnesses directing him to attend or to produce any document or thing. (S 265 BNSS)
- ix. After examination of prosecution witness and before accused is called on for his defence, the court shall question the accused generally for the purpose of enabling the accused personally to explain any circumstances appearing in the evidence against him.
- x. The accused shall then be called upon to enter his defence and produce his evidence
- xi. After the close of the evidence for defence, and upon hearing the arguments of both prosecution and defence, the Magistrate shall give judgment.
- xii. In every case where a charge has been framed, if the Magistrate finds the accused not guilty, he shall record an order of acquittal. If he finds the accused guilty, he shall hear the accused on the question of sentence and then pass sentence upon him according to law.

## **2.2 CASES INSTITUTED OTHERWISE THAN ON A POLICE REPORT.**

- i. When in a warrant case instituted otherwise than on a police report, the accused appears or is brought before the court, the Magistrate shall take all such evidences as may be produced in support of the prosecution (pre-charge evidence). Accused has a right to cross examine the complainant and witness, if any. (S 267 BNSS).
- ii. Upon taking the pre charge evidence as mentioned above, if the Magistrate considers, for reasons to be recorded, that no case against the accused has been made out which, if unrebutted, would warrant his conviction, the Magistrate shall discharge the accused person (S.268(1) BNSS).

- iii. At any previous stage if the Magistrate considers the charge to be groundless, with reason, Magistrate can discharge (Sec 268(2) BNSS).
- iv. In either case of the order of discharge, the Magistrate is required to record reasons. In every such case, the Magistrate should exercise his power to discharge the accused judiciously and not arbitrarily or capriciously. Where a prima facie case is made out against the accused, he should not be discharged.
- v. If not discharged, the Magistrate shall frame in writing a charge against the accused, read over, explain and ask the accused whether he pleads guilty or not. (Sec 269 BNSS).
- vi. If the accused pleads guilty he may be convicted. If convicted, the accused shall be heard on the question of sentence.
- vii. If the accused claims to be tried or is not convicted on pleading guilty, the Magistrate shall require the accused to state whether he wishes to cross-examine any of the prosecution witnesses whose evidence has been taken. If he indicates his desire to so cross-examine, the witnesses named by him shall be recalled. **(S.269(4),(5) BNSS).**
- viii. As mentioned in the preceding point, the witnesses of the prosecution may, at the instance of the accused, be recalled for further cross-examination. Then the evidence of the remaining witnesses for the prosecution shall be taken (S.269(6) BNSS).
- ix. The Hon'ble Supreme in **Sayeeda Farhana Shamim v. State of Bihar AIR 2008 SC 2373** has that even though the power of the Magistrate should not be fettered either under Section 244 or under Section 246(6) CrPC and full latitude should be given to the Magistrate to exercise his discretion even in entertaining a supplementary list of witnesses, the discretion should be exercised judiciously for advancement of the cause of justice and not to give a handle to the complainant to harass the accused.

- x. After examination of prosecution witness and before accused is called on for his defence, the court shall question the accused generally for the purpose of enabling the accused personally to explain any circumstances appearing in the evidence against him. (.351(1)(b) BNSS).
- xi. *After* the examination of the accused, the accused shall be called upon his defence and to produce his evidence. (*S.270 BNSS*).
- xii. After the completion of the defence evidence, hear the arguments of prosecution and defence and fix a date for Judgment.
- xiii. Deliver and pronounce the judgment. In case of Conviction the accused shall be heard on the question of punishment.
- xiv. Consider Probation of Offenders Act in appropriate cases.

**3. Hon'ble High Court vide NOTIFICATION No. 344/UHC/Admin.A/2021 Dated: October 20, 2021 has prescribed certain rules to be followed during a trial. The relevant portion of the above-mentioned notification is reproduced as under.**

## **PART IV : TRIAL**

### **CHAPTER 1**

#### **RECORDING OF EVIDENCE : PROCEDURE**

5. The depositions of witnesses shall be recorded, in typed format, if possible. The record of evidence shall be prepared on computers, if available, in the Court on the dictation of the Presiding Officer :

Provided that in case the language of deposition is to be recorded in a language other than English or the language of the State, the Presiding Officer shall simultaneously translate the deposition either himself or through a competent translator into English.

6. The deposition shall be recorded in the language of the witness and in English when translated as provided in rule 5.

7. The depositions shall without exception be read over by the Presiding Officer in Court. Hard copy of the testimony so recorded duly signed to be a true copy by the Presiding Officer or the Reader of the Court, shall be made available free of cost against receipt to the accused or the advocate representing the accused, to the witness and the prosecutor on the date of recording.

8. A translator shall be made available in each Court and Presiding Officers shall be trained in the local languages, on the request of the Presiding Officer.

9. The Presiding Officers shall not record evidence in more than one case at the same time.

## CHAPTER 2

### RECORDING OF EVIDENCE : FORMAT OF WITNESSES

10. The deposition of each witness shall be recorded dividing it into separate paragraphs assigning paragraph numbers.
11. Prosecution witnesses shall be numbered as PW-1, PW-2 etc, in seriatim. Similarly, defence witnesses shall be numbered as DW-1, DW-2, etc., in seriatim. The Court witnesses shall be numbered as CW-1, CW-2, etc, in seriatim.
12. The record of depositions shall indicate the date of the examination-in-chief, the cross examination and re-examination.
13. The Presiding Officers, shall, wherever necessary, record the deposition in question and answer format.
14. Objections by either the prosecution or the defence counsel shall be taken note of and reflected in the evidence and decided immediately, in accordance with law, or, at the discretion of the Presiding Officer, at the end of the deposition of the witness in question.
15. The name and number of the witness shall be clearly stated on any subsequent date, if the evidence is not concluded on the date on which it begins.

## CHAPTER 3

### EXHIBITING OF MATERIAL OBJECTS AND EVIDENCE

16. Prosecution exhibits shall be marked as Exhibit P-1, P-2 etc in seriatim. Similarly, defence Exhibits shall be marked as Exhibit D-1, D-2, etc in seriatim. The Court exhibit shall be marked as Exhibit C-1, C-2, etc in seriatim.
17. To easily locate the witness through whom the document was first introduced in evidence, the exhibit number shall further show the witness number of such witness after the Exhibit number. If an exhibit is marked without proper proof, the same shall be indicated by showing in brackets (subject to proof). Explanation: If Prosecution witness No. 1 (PW1) introduces a document in evidence, that document shall be marked as Exhibit P-1/PW1. If proper proof is not offered for that document at the time when it is marked, it shall be marked as Exhibit P-1/PW1 (subject to proof). The Second document introduced by PW1 will be Exhibit P-2/PW1.
18. The Material objects shall be marked in seriatim as MO-1, MO-2 etc.

## CHAPTER 4

### SUBSEQUENT REFERENCES TO ACCUSED, WITNESS, EXHIBITS AND MATERIAL OBJECTS

19. After framing of charges, the accused shall be referred to only by their ranks in the array of accused in the charge and not by their names or other references except at the stage of identification by the witness.
20. After recording the deposition of witnesses, marking of the exhibits and material objects, while recording deposition of other witnesses, the witnesses, exhibits and material objects shall be referred by their numbers and not by names or other references.
21. Where witness cited in the complaint or police report are not examined, they shall be referred to by their names and the numbers allotted to them in the complaint or police report.

## CHAPTER 5

### REFERENCES TO STATEMENTS UNDER SECTION 161 AND 164 OF THE CODE

22. During cross examination, the relevant portion of the statements recorded under Section 161 of the Code used for contradicting the respective witness shall be extracted. If it is not possible to extract the relevant part as aforesaid, the Presiding Officer, in his discretion, shall indicate specifically the opening and closing words of such relevant portion, while recording the deposition, through distinct marking.
23. In such cases, where the relevant portion is not extracted, the portions only shall be distinctly marked as prosecution or defence exhibit as the case may be, so that other inadmissible portions of the evidence are not part of the record.
24. In cases, where the relevant portion is not extracted, the admissible portion shall be distinctly marked as prosecution or defence exhibit as the case may be.
25. The aforesaid rule applicable to recording of the statements under Section 161 shall mutatis mutandis apply to statements recorded under Section 164 of the Code, whenever such portions of prior statements of living persons are used for contradiction/corroboration.
26. Omnibus marking of the entire statement Under Section 161 and 164 of the Code shall not be done.

## CHAPTER 6

### MARKING OF CONFESSIONAL STATEMENTS

27. The Presiding Officers shall ensure that only admissible portion of Section 8 or Section 27 Indian Evidence Act, 1872 is marked and such portion alone is extracted on a separate sheet and marked and given an exhibit number.

## CASE LAWS IN WARRANT CASES

S. No.	Held	Case Law
01	Difference in procedure in warrant cases instituted on Police report and warrant cases instituted otherwise.	Ajoy Kumar Ghose vs State Of Jharkhand & Anr on 18 March, 2009 2009 (14) SCC 115
02	Summons case tried as a warrant case : Curable irregularity.	Gopal das Sindhi and Others v State of Assam, 1961 SCC OnLine SC 251
03	If the Court were to think that the accused might have committed the offence it can frame the charge.	State of Maharashtra v Som Nath Thapa (1996) 4 SCC 659
04	During framing of charges it is not necessary to record reasons or to do discuss evidence in detail.	Kanti Bhadra Shah vs. State of West Bengal 2000 SCC OnLine SC 137
05	Notwithstanding the difference in the language of sec 227, 235, 249 CrPC but common approach is to be adopted by the Court.	State of Tamil Nadu v N Suresh Rajan 2014 SCC Online SC 10
06	The material sent by prosecution along with the record of the case and the documents sent along with it can be considered by the trial court at the time of framing of the charge. The accused at that stage has no right to place before the court any material.	State of Orissa v Debendra Nath Paddi 2005 (1) SCC 568

07	At the stage of framing of charge Ordinarily the court has to proceed on the basis of material produced with the charge sheet but if the court is satisfied that there is material of sterling quality which has been withheld by the investigator, the court is not debarred from relying upon the same even if such document is not part of the charge sheet.	Nitya Dharmananda and another v. Gopal Sheelum Reddy. 2017 SCC OnLine SC 1430
08	An order of discharge terminates the proceedings and therefore it is revisable order under section 397 (1) CrPC.	Municipal Corporation of Delhi vs. Girdharilal Sapuru 1981 (2) SCC 758
09	Orders framing charges or refusing discharge are neither interlocutory nor final in nature and are therefore not affected by the bar of Section 397 (2) of the Code of Criminal Procedure.	Sanjay Kumar Rai vs. State of Uttar Pradesh, AIR ONLINE 2021 SC 239
10	Significance of the words “ discharge at any previous stage of the case” occurring in sec 245 CrPC.	Ajoy Kumar Ghose v State of Jharkhand and another. 2009 SCC OnLine SC 567
11	Veracity of deposition made by the witnesses need not be determined at the stage of framing of charge.	Nallapareddy Sridhar Reddy v. State of A.P. 2020 SCC OnLine SC 60
12	The court has to see as to whether the material brought on record reasonably connect the accused with the offence. Nothing more is required to be enquired into.	Hardeep Singh v. State of Punjab 2014 SCC OnLine SC 26

13	Extent of inquiry by court and matters to be considered at the stage of framing of charge.	State of Tamil Nadu v. R. Soundirarasu and others.2022 SCC OnLine SC 1150
14	At the stage of framing of charge the court is not expected to go deep into the probative value of the material on record.	Onkar Nath Mishra and others v. State (NCT of Delhi) and another.2007 SCC OnLine SC 1558
15	If two views are possible and one of them gives rise to suspicion only, as distinguished from grave suspicion, the Trial Judge will be empowered to discharge the accused and at this stage he is not to see whether the trial will end in conviction or acquittal	P.Vijayan vs State Of Kerala &Anr. 2010 (2) SCC 398 (Para 10)
16	Court must determine as to whether the application filed by the accused in terms of sub-section (2) of Section 243 of the Code is bona fide or not or whether thereby he intends to bring on record a relevant material.	T. Nagappa v. Y.R. Muralidhar (2008) 5 SCC 633
17	Judicial discretion under S.231(2) has to be exercised in consonance with the statutory framework and context while being aware of reasonably foreseeable consequences.	State of Kerala v. Rasheed(2019) 13 SCC 297

## JUDGMENT AND SENTENCES

The Judgment must be pronounced by the Court exercising powers under BNSS in accordance with Section 392 of the BNSS.

If a judgment is written clearly and consistently, even someone without legal knowledge can understand what the law says. It is imperative that courts restrict their observations to the subject-matter of the case and the specific issues under adjudication. Judicial commentary on other matters should be made only when such observations are directly relevant to the dispute before the court.

### 1. MODES OF DELIVERING JUDGMENT (S. 392)

- Delivering the whole judgement.
- Reading out the whole judgement.
- Reading out the operative part and explaining the substance in a language understood by the accused/advocate.

### 2. LANGUAGE AND CONTENTS OF JUDGMENT (SECTION 393 BNSS)

- Language : Judgment shall be written in the language of the Court.
- Contents : A judgment shall contain
  - ❖ The point or points for determination,
  - ❖ The decision thereon and the reasons for the decision;

## 2.1 WHEN THE JUDGMENT IS OF ACQUITTAL:

It shall state the offence of which the accused is acquitted and direct that he be set at liberty.

## 2.2 WHEN THE JUDGMENT IS OF CONVICTION:

- The offence (if any) of which, and the section of which, the accused is convicted, and the punishment to which he is sentenced;
- When the conviction is under the Bharatiya Nyaya Sanhita, 2023 (45 of 2023) and it is doubtful under which of two sections, or under which of two parts of the same section, of that Sanhita the offence falls, the Court shall distinctly express the same, and pass judgment in the alternative.
- When the conviction is for an offence punishable with death or, in the alternative, with imprisonment for life or imprisonment for a term of years, the judgment shall state the reasons for the sentence awarded, and, in the case of sentence of death, the special reasons for such sentence.
- When the conviction is for an offence punishable with imprisonment for a term of one year or more, but the Court imposes a sentence of imprisonment for a term of less than three months, it shall record its reasons for awarding such sentence, unless the sentence is one of imprisonment till the rising of the Court or unless the case was tried summarily.
- When any person is sentenced to death, the sentence shall direct that he be hanged by the neck till he is dead.

The judgment should set out the particulars of the offence, the prosecution case, the plea of the accused, the evidence of the prosecution witnesses, the case of the defence, discussion of the evidence and conclusions. The judgment should show whether the evidence shows proof beyond reasonable doubt as contrasted from civil cases, where the decision is based on preponderance of probabilities.

### 3. BASIC RULES

It is worthwhile to keep the following basic rules in mind while writing a judgment:

- Reasoning should be intelligible and logical.
- Clarity and precision should be the goal.
- Use of strange and difficult words and complex sentences should be avoided.
- A Judge cannot use his personal knowledge of facts in a judgment.
- Findings of fact should be based upon legal testimony. The decision should rest upon legal grounds. Neither findings of fact nor the decision should be based on suspicions, surmises or conjectures.
- All conclusions should be supported by reasons duly recorded.
- The findings and directions should be specific and precise.
- **Presence of Accused:** The accused should generally be present during pronouncement, in person or via audio-video means if in custody. Exceptions exist if personal attendance was dispensed with and the sentence is only a fine or acquittal.
- **Validity:** Judgement is not invalid merely due to the absence of a party or advocate or defects in notice.
- **No Alteration in Judgment (Sec 403 BNSS)**

Once the Court has signed its judgment or final order disposing of a case, it shall not alter or review the same except to correct a clerical or arithmetical error.

#### 4. FURNISHING OF COPIES OF THE JUDGMENT (SEC. 404 BNSS)

➤ Copy of judgment to be given to the accused

(1) When the accused is sentenced to imprisonment, a copy of the judgment shall, immediately after the pronouncement of the judgment, be given to him free of cost.

(2) On the application of the accused, a certified copy of the judgment, or when he so desires, a translation in his own language if practicable or in the language of the Court, shall be given to him without delay, and such copy shall, in every case where the judgment is appealable by the accused, be given free of cost:

Provided that where a sentence of death is passed or confirmed by the High Court, a certified copy of the judgment shall be immediately given to the accused free of cost whether or not he applies for the same.

(3) The provisions of sub-section (2) shall apply in relation to an order under section 136 as they apply in relation to a judgment which is appealable by the accused.

(4) When the accused is sentenced to death by any Court and an appeal lies from such judgment as of right, the Court shall inform him of the period within which, if he wishes to appeal, his appeal should be preferred.

➤ When any Person Can Get a Copy of a Criminal Court Judgment or Order

❖ A copy of a judgment or order or of any deposition or other part of the record shall be given to any person affected by a judgment or order passed by a Criminal Court when :

- i. The person prefers an application.
- ii. Pays the prescribed charges
- iii. The Court may, if it thinks fit for some special reason, give it to him free of cost.

➤ The High Court may, by rules, provide for the grant of copies of any judgment or order of a Criminal Court to any person who is not affected by a judgment or order, on payment, by such person, of such fees, and subject to such conditions, as the High Court may, by such rules, provide.

➤ **Copy to Government**

❖ A certified copy of such judgment, order, deposition or record may be provided to the Government free of cost when an application is made in this behalf by the Prosecuting Officer,

**4. WHEN JUDGMENT IS TO BE TRANSLATED. (S. 405BNSS)**

**General rule:** The original judgment shall be filed with the record of the proceedings.

➤ The judgment shall be translated when the following conditions are fulfilled:

- ❖ where the original is recorded in a language different from that of the Court, and
- ❖ if either party so requires, a translation thereof into the language of the Court shall be added to such record.

**5. COURT OF SESSION TO SEND COPY OF FINDING AND SENTENCE TO DISTRICT MAGISTRATE. (S. 406)**

In cases tried by the Court of Session or a Chief Judicial Magistrate, the Court or such Magistrate, as the case may be, shall forward a copy of its or his finding and sentence (if any) to the District Magistrate within whose local jurisdiction the trial was held.

## 6. SENTENCES WHICH MAY BE PASSED BY THE COURTS

1. High Court – any sentence authorised by lawfully
2. Sessions Judge or Additional Sessions Judge- any sentence authorised by lawfully but death sentence is subject to confirmation by HC.
3. Chief Judicial Magistrate - imprisonment for a term not exceeding seven years.
4. Magistrate of the first class - may pass a sentence of imprisonment for a term not exceeding three years, or of fine not exceeding fifty thousand rupees, or of both, or of community service.

## 7. AMOUNT OF FINE, LIABILITY IN DEFAULT OF PAYMENT OF FINE ETC. (S. 8 BNS )

7.1 Unlimited fine: Where no amount is specified to which a fine may extend, the amount of fine to which the offender is liable is unlimited, but shall not be excessive.

7.2 Imprisonment in default of fine.

➤ In every case of an offence,

- i. punishable with imprisonment as well as fine, in which the offender is sentenced to a fine, whether with or without imprisonment;
- ii. punishable with imprisonment or fine, or with fine only, in which the offender is sentenced to a fine, it shall be competent to the Court which sentences such offender to direct by the sentence that, in default of payment of the fine, the offender shall suffer imprisonment for a certain term, in which imprisonment shall be in excess of any other imprisonment to which he may have been sentenced or to which he may be liable under a commutation of a sentence.

### 7.3 DESCRIPTION OF THE IMPRISONMENT IN DEFAULT :

- Description of the imprisonment in default of payment of a fine or in default of community service may be of any description to which the offender might have been sentenced for the offence.
- If the offence is punishable with fine or community service, the description of the imprisonment in default of payment of a fine or in default of community service shall be simple.

### 7.4 PERIOD OF IMPRISONMENT IN DEFAULT:

Period of imprisonment in default of payment of fine shall not exceed one-fourth of the term of imprisonment which is the maximum fixed for the offence, if the offence be punishable with imprisonment as well as fine.

If the offence is punishable with fine or community service, the Period of imprisonment in default of payment of fine or in default of community service shall not exceed for any term not exceeding,

1. two months when the amount of the fine shall not exceed five thousand rupees; and
2. four months when the amount of the fine shall not exceed ten thousand rupees,
3. and for any term not exceeding one year in any other case.

## **7.5 TERMINATION OF IMPRISONMENT IN DEFAULT**

- i. The imprisonment which is imposed in default of payment of a fine shall terminate whenever that fine is either paid or levied by process of law;
- ii. If, before the expiration of the term of imprisonment fixed in default of payment, such a proportion of the fine be paid or levied that the term of imprisonment suffered in default of payment is not less than proportional to the part of the fine still unpaid, the imprisonment shall terminate.
- iii. The fine, or any part thereof which remains unpaid, may be levied at any time within six years after the passing of the sentence, and if, under the sentence, the offender be liable to imprisonment for a longer period than six years, then at any time previous to the expiration of that period; and the death of the offender does not discharge from the liability any property which would, after his death, be legally liable for his debts.

## **8. SENTENCE OF IMPRISONMENT IN DEFAULT OF FINE.(SEC 24 BNSS)**

- (1) The Magistrate awarding imprisonment in default of payment of fine should ensure that such term-
  - (a) is not in excess of the powers of the Magistrate under section 23;
  - (b) shall not, where imprisonment has been awarded as part of the substantive sentence, exceed one-fourth of the term of imprisonment which the Magistrate is competent to inflict as punishment for the offence otherwise than as imprisonment in default of payment of the fine.
- (2) The imprisonment awarded under this section may be in addition to a substantive sentence of imprisonment for the maximum term awardable by the Magistrate under section 23.

**9. LIMIT OF PUNISHMENT OF OFFENCE MADE UP OF SEVERAL OFFENCES.(S. 9 BSA)**

- (1) Where anything which is an offence is made up of parts, any of which parts is itself an offence, the offender shall not be punished with the punishment of more than one of such his offences, unless it be so expressly provided.
- (2) Where---
- (a) anything is an offence falling within two or more separate definitions of any law in force for the time being by which offences are defined or punished; or
- (b) several acts, of which one or more than one would by itself or themselves constitute an offence, constitute, when combined, a different offence, the offender shall not be punished with a more severe punishment than the Court which tries him could award for any one of such offences.

**10. SENTENCE IN CASES OF CONVICTION OF SEVERAL OFFENCES AT ONE TRIAL. (S. 25 BNSS )**

- (1) When a person is convicted at one trial of two or more offences, the Court may, subject to the provisions of section 9 of the Bharatiya Nyaya Sanhita, 2023, sentence him for such offences, to the several punishments prescribed therefor which such Court is competent to inflict and the Court shall, considering the gravity of offences, order such punishments to run concurrently or consecutively.
- (2) In the case of consecutive sentences, it shall not be necessary for the Court by reason only of the aggregate punishment for the several offences being in excess of the punishment which it is competent to inflict on conviction of a single offence, to send the offender for trial before a higher Court:

Provided that—

- (a) in no case shall such person be sentenced to imprisonment for a longer period than twenty years;
  - (b) the aggregate punishment shall not exceed twice the amount of punishment which the Court is competent to inflict for a single offence.
- (3) For the purpose of appeal by a convicted person, the aggregate of the consecutive sentences passed against him under this section shall be deemed to be a single sentence.

**11. EXECUTION OF SENTENCE OF IMPRISONMENT.  
(S. 458 BNSS )**

- (1) Where the accused is sentenced to imprisonment for life or to imprisonment for a term in cases other than those provided for by section 453, the Court passing the sentence shall forthwith forward a warrant to the jail or other place in which he is, or is to be, confined, and, unless the accused is already confined in such jail or other place, shall forward him to such jail or other place, with the warrant:

Provided that where the accused is sentenced to imprisonment till the rising of the Court, it shall not be necessary to prepare or forward a warrant to a jail, and the accused may be confined in such place as the Court may direct.

- (2) Where the accused is not present in Court when he is sentenced to such imprisonment as is mentioned in sub-section(1), the Court shall issue a warrant for his arrest for the purpose of forwarding him to the jail or other place in which he is to be confined; and in such case, the sentence shall commence on the date of his arrest.

**12. DIRECTION OF WARRANT FOR EXECUTION.  
(S. 459 BNSS)**

Every warrant for the execution of a sentence of imprisonment shall be directed to the officer in charge of the jail or other place in which the prisoner is, or is to be, confined.

**13. WARRANT WITH WHOM TO BE  
LODGED. (S. 460 BNSS)**

When the prisoner is to be confined in a jail, the warrant shall be lodged with the jailor.

## HON'BLE HIGH COURT'S CIRCULAR LETTER REGARDING JUDGMENT

C.L. No. 17 /UHC/Admin.A/2021

Dated: December 29 , 2021.

**Subject: Formats of Judgments for Civil and Criminal Side.**

Sir/Madam,

On the subject above, I am directed to enclose herewith formats of judgments for Civil and Criminal side, which are duly approved by the Hon'ble Court for guidance of all the Judicial Officers.

2. In addition to above, I am also directed to convey following directions of the Hon'ble Court for scribing the judgments:-

(A) On Criminal side, the identity of Rape/POCSO Act victim should not be disclosed by the Courts, as mandated by Hon'ble Supreme Court in **Nipun Saxena & another vs. Union of India & others**, reported in **(2019) 2 SCC 703**.

(B) In all the judgments, Civil as well as Criminal:-

(i) Judicial Officers must follow the Rules while marking the Exhibits on every proved document;

(ii) Presiding Officer must put his/her signature on every Exhibit;

(iii) In case, it is found that the previous Presiding Officer has not put his/her signature on the Exhibit, it shall be signed by the present Presiding Officer with current date.

This fact may also be reflected in the order-sheet.

3. In MACT cases, it should be clearly mentioned on the first page of the judgment whether permission under Section 170 of the Motor Vehicles Act, 1988 has been granted or not.

4. I am further directed to say that the formats of the judgments and the aforesaid instructions, which also hold good for orders, like use of font type and size, paragraphs numbering etc., shall also be followed by all the concerned while scribing the orders.

Yours Sincerely,

Sd/-

(Dhananjay Chaturvedi)

## DRAFTFORMATOFJUDGMENTFORCRIMINALCASES

INTHECOURTOF.....

Present:-ABC,HJS(NameofPresidingOfficer),UKJS/UKHJS Criminal Case No./ST NO....

CNRNo.....

**(DetailsofFIR/CrimeandPoliceStation)**

Complainant	STATEOF..... OR NAMEOFCOMPLAINANT.
REPRESENTEDBY	NAMEOFADVOCATE
ACCUSED	<ul style="list-style-type: none"> <li>• NAMEWITHALLPARTICULARS (A1)</li> <li>• NAMEWITHALLPARTICULARS (A2)</li> </ul>
REPRESENTEDBY	NAMEOFADVOCATES

Dateof Offence	
Dateof FIR	
Dateof Chargesheet	
Dateofframingofcharges/Statementof Accused on substance of accusation under section 251 Cr.P.C.	
Dateofcommencementof evidence	
DateonwhichJudgmentisreserved	
DateoftheJudgment	
DateoftheSentencingorder,ifany	

### ACCUSEDDETAILS:

Rankof the accused	Nameof the accused	Dateof arrest	Dateof release on bail	Offence charged with	Whether acquitted or Convicted	Sentence imposed	Periodof Detention undergone duringtrialf or the purposeofsection 428,Cr.P.C

## JUDGMENT



- Brief introduction of the case....(How the case has come before the Court)
- Brief facts of the case.
- Compliance of Section 207/208 of Cr.P.C and framing of charge or Substance of accusation to be stated to the accused under Section 251 Cr.P.C.
- Brief description of oral and documentary evidence adduced by prosecution.
- Examination of accused recorded under section 313 Cr.P.C.
- Brief description of oral and documentary evidences, if any, adduced by defence.
- Points for determination with regard to each charge in a warrant case or accusation against accused in a summons case.
- Arguments/ Contention of Prosecution/Complainant.
- Arguments/ Contention of Defence.
- Findings of Court with cogent reasons on each point for determination with regard to charge/accusation against accused in light of oral and documentary evidence produced on record.
- Summary of Court's finding to arrive at Conclusion regarding each charge or accusation against accused.
- If accused is found not guilty:
  - Order of Acquittal and direction that accused be set at liberty.
  - If Accused is on bail, order of discharge of sureties.
  - If accused is in custody, order about release of accused and its communication to Jail Authorities.

## IF ACCUSED IS FOUND GUILTY:

- Order of conviction on each charge in which accused is to be convicted. In case there are multiple accused, each of them shall be
- Dealt with separately. (In case any charge is not proved, order of acquittal is to be recorded in respect of such charge).
- Hearing on quantum of Sentence and discussion for imposition of appropriate sentence.
- Separate sentence for every offence for which accused is found guilty. Also specify the nature of sentence whether rigorous or simple.
- Mention whether sentence of imprisonments are to run concurrently or consecutively. (**Sunil Kumar@ Sudhir Kumar and another vs State of Uttar Pradesh, 2021 SCC Online SC 413**)
- Mention sentence of imprisonment in default of payment of fine.( Section 30 Cr.P.C)
- Mention the period of detention already undergone by the accused to be set off against the sentence of imprisonment.( Section 428 Cr.P.C)
- Order to pay compensation. (**Ankush Shiwaji Gaikwad v. State Of Maharashtra, AIR 2013 SC 2454**)
- Intimation to convict about right of appeal.
- Copy of judgment to be given free of cost to the accused. (Section 363 of Cr.P.C)
- Order about disposal of case property.
- Mention about compliance of Section 437-A Cr.P.C.
- Mention that Judgment signed, dated and pronounced in open Court today.

**Name of**

**Presiding officer with designation**

**APPENDIX OF EVIDENCE  
LIST OF PROSECUTION/DEFENCE/COURT  
WITNESSES  
(ANNEXURE 1)**

**PROSECUTION**

<b>RANK</b>	<b>NAME</b>	<b>NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)</b>
PW1		
PW2		

**DEFENCE WITNESSES, IF ANY:**

<b>RANK</b>	<b>NAME</b>	<b>NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)</b>
DW1		
DW2		

**COURT WITNESSES, IF ANY:**

<b>RANK</b>	<b>NAME</b>	<b>NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)</b>
CW1		
CW2		

**LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS (ANNEXURE 2)**

**2. PROSECUTION:**

S.NO.	ExhibitNumber	Description
1.	ExhibitP-1/PW1	
2.	ExhibitP-2/PW2	

**3. DEFENCE:**

S.NO.	ExhibitNumber	Description
1.	ExhibitD-1/DW1	
2.	ExhibitD-2/DW2	

**6. COURT EXHIBITS:**

S.NO.	ExhibitNumber	Description
1.	ExhibitC-1/CW1	
2.	ExhibitC-2/CW2	

**4. MATERIAL OBJECTS:**

S.NO.	MaterialObject Number	Description
1.	MO1	
2.	MO2	

**Name of Presiding officer with designation**

## KEY POINTS

A judgment should be a self-contained judgment.

Where the case comes within the ambit of Section 4 or 6 of the Probation of Offenders Act or Section 360 of Cr.P.C, benefit of these provisions must be conferred. If the accused is not given benefit of probation or Section 360 Cr.P.C, special reasons must be assigned in the Judgment (*Chhanni v. State of UP, (2006)5 SCC 396*).

It is mandatory on the part of the Court to call for a report from the probation officer before proceeding under Section 4(2) of Probation of offender Act, 1958 {*M.C.D. v. State Of Delhi And Anr. (2005)4 SCC 6052*}.

Previous conviction, if any, to be noted in the Judgment.

Court of Session and Chief Judicial Magistrate to send copy of finding and sentence to District Magistrate. (Section 365 Cr.P.C).

In no case sentence less than minimum prescribed under law for that offence be awarded.

Nature of imprisonment i.e. 'simple or rigorous' must be specified.

Language of Judgment should be simple and respectful.

Period of custody of accused person or of each accused, where there are more than one, should be specifically mentioned in the judgment and also the particulars of split cases, if any.

The practice of marking x xxx for showing cross examination should be dispensed with and instead cross examination by Ld. counsel for accused no.(Name)/re-examination by - - -, should be specifically mentioned.

Abbreviation and Latin maxims are to be generally avoided and if necessary their grammatical meaning must be quoted.

Judgment shall be written in paragraphs and each paragraph shall be numbered in series. Distinct point must be discussed in distinct paragraph. (In re: To Issue certain Guidelines regarding Inadequacies and deficiencies in **Criminal Trials v. The State of Andhra Pradesh and Ors, Suo Moto Writ ( CRL) No.(S)1/2017, Date of Judgment- April 20, 2021**).

The Presiding Officers may in their discretion, organize the Judgment into different sections. (In re: To Issue certain Guidelines regarding Inadequacies and deficiencies in **Criminal Trials v. The State of Andhra Pradesh and Ors, Suo Moto Writ (Crl) No.(S)1/2017, Date of Judgment- April 20, 2021**).

Citations must be written in correct manner.

Rules of 'Précis writing' must be followed.

Designation must be cited correctly.

Judgment shall be on foolscap (legal size) paper, one quarter page being left blank. Certified copies of the Judgment must also be prepared on the same size paper.

Judgment, if scribed in Hindi, shall be in Kruti Dev 010 font variant with font size 16 with 1.5 line spacing. Judgment if scribed in English, shall be in Times New Roman Font size 15 with 1.5 line spacing.

**N.B. Exhibits and Material Objects are marked and numbered in accordance with the directions given by Hon'ble Apex Court In Suo Moto Writ (Crl.) No.(s) 1/2017 dated 20.04.2021 and Uttarakhand Criminal Courts Procedure and Practice Rules, 2021.**



From,  
Registrar General,  
High Court of Uttarakhand,  
At Nainital.

To,

1. All the District Judges, State of Uttarakhand.
2. Principal Judge/ Judges, Family Courts, State of Uttarakhand.
3. Principal Secretary, Legislative & Parliamentary Affairs, Government of Uttarakhand, Dehradun.
4. Principal Secretary, Law-cum-L.R., Government of Uttarakhand, Dehradun.
5. Chairman, Commercial Tax Tribunal, F-6, Nehru Colony, Haridwar Road, Dehradun.
6. Chairman, State Transport Appellate Tribunal, House of Doctor Poonam Gambhir, Vaidik Kaya Ayurvedic Centre, 1st Floor, House No.85/1, Laxmi Road, (Near Favvara Chauk), Dehradun.
7. Director, Uttarakhand Judicial and Legal Academy, Bhowali, District Nainital.
8. Legal Advisor to Hon'ble the Governor, Raj Bhawan, Dehradun.
9. Secretary, Lokayukt, 3/3, Industrial Area, Patel Nagar, Dehradun.
10. Registrar, State Consumer Disputes Redressal Commission, HN. 23/16, Circular Road, Dalanwala, Dehradun.
11. Member-Secretary, Uttarakhand State Legal Services Authority, Nainital.
12. Presiding Officer, Labour Courts, Dehradun, Haridwar and Kashipur, District Udham Singh Nagar.
13. Presiding Officer, Industrial Tribunal-cum-Labour Court, Haldwani, District Nainital.
14. Presiding Officer, Food Safety Appellate Tribunal, Dehradun and Haldwani, District Nainital.
15. Registrar, Public Service Tribunal, Uttarakhand, Dehradun.
16. Secretary-cum-Registrar, State Level Police Complaint Authority, Dehradun.
17. Chairman, Permanent Lok Adalat, Dehradun, Haridwar, Nainital and Udham Singh Nagar.
18. Legal Advisor to Uttarakhand Public Service Commission, Haridwar.
19. Chairman, Uttarakhand Co-operative Tribunal, Dehradun.

C.L. No. 14 /UHC/R (Judicial)/e-True Copy/2024-25

Dated: 20.12.2024

**Subject: e-True copy of Orders/Judgments.**

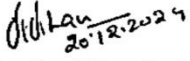
It has frequently been noticed by the Hon'ble Court that Judicial Officers are insisting on filing manually prepared Certified Copies (*Xerox copy affixing Seal of the Court along with signature of official of Copying Department*) of Orders/Judgments in judicial proceedings.

2. In furtherance of directions issued by Hon'ble Supreme Court of India in *Harsh Bhuwalka & Ors. Vs Sanjay Kumar Bajoriya* vide *Order dated 05.08.2024 in SLP (Criminal) Diary No. 30456/2024* and subsequent communication received from Secretary General, Hon'ble Supreme Court of India, all the Courts under the Jurisdiction of High Court of Uttarakhand are therefore, directed forthwith that –

*Dr. Khan*

- (a) No Court shall deny accepting e-True Copy of Orders/Judgments available on the website of Hon'ble Court and District Courts in any Judicial or Administrative proceedings and e-True Copy obtained through the Module shall be encouraged for all the stakeholders including Prisons and Enforcement Authorities.
- (b) All the Courts shall enable litigants/Advocates to apply for e-True Copy of Orders/Judgments through e-Sewa Kendra.
- (c) A QR Code is embedded therein on the *Folio* providing additional security features for its credibility.

Yours sincerely,


  
(Kahkasha Khan)  
Registrar General

क्र.सं. No. 7379 /UHC/R (Judicial)/e-True Copy/2024-25

Dated: 20.12.2024

Copy forwarded for information to:

1. P.P.S. to Hon'ble the Acting Chief Justice with the request to place it before His Lordship for kind perusal.
2. P.S. to Hon'ble Judge(s) with the request to place it before His Lordship for kind perusal.
3. Director General of Police, State of Uttarakhand.
4. Director (Prosecution), State of Uttarakhand.
5. Inspector General (Prisons), State of Uttarakhand.
6. President, Bar Council of Uttarakhand.
7. All the Registrars of the Court.
8. Secretary, High Court Legal Services Committee (HCLSC), Nainital.
9. P.S. to Registrar General.
10. Joint Registrars/Deputy Registrars/Joint P.P.S./Head P.S./Librarian/Assistant Registrars/C.P.O./Section Officers of the Court.
11. Deputy Registrar (I.T.) of the Court with request to upload it on the Official website of High Court of Uttarakhand.
12. Management Officer/Protocol Officer/Public Relation Officer of the Court.
13. Guard File.

  
20.12.24  
Registrar (Judicial)

From

Registrar General,  
High Court of Uttarakhand,  
Nainital.

To

All the District & Sessions Judges  
Principal Judge/Judge(s) Family Court  
State Judiciary, Uttarakhand.

C.L. No. 21 /U.H.C./Criminal Appeal/2023/Nainital Dated: 23.08.2023

**Sub:- Regarding issuing legible copies of the impugned order and to indicate the complete details of all parties in orders/judgments.**

Sir/Madam,

On the subject above, in compliance of directions issued by the Hon'ble Court in Criminal Appeal No. 124 of 2009, titled as *Vijay Pal Singh vs. State of Uttarakhand and another*, I am directed to issue following directions for strict compliance:

1. Copying Sections in your Judgeship be directed to issue legible copies of the orders/judgments.
2. All the Judicial Officers are directed to indicate the complete details of all parties in orders/judgments.

You are, therefore requested to circulate the aforesaid directions of the Hon'ble Court to all the Courts under your administrative control, for strict compliance.

Yours Sincerely,

--sd--

(Anuj Kumar Sangal)  
**Registrar General**

**Copy to:** All Judicial Sections of Hon'ble Court with a direction that at the time of receiving Appeal/documents/records in Registry, it should be thoroughly checked that only legible copies of the documents are filed.

--sd--

**Registrar General**

From,  
Registrar General,  
High Court of Uttarakhand,  
Nainital.

To,

1. All the District & Sessions Judges of the State Judiciary.
2. All the Principal Judges/Additional Principal Judges/Judges Family Courts of the State Judiciary.
3. Principal Secretary, Law-cum-L.R., Government of Uttarakhand, Dehradun.
4. Principal Secretary, Legislative & Parliamentary Affairs, Government of Uttarakhand, Dehradun.
5. Director, Uttarakhand Judicial & Legal Academy, Bhowali, District Nainital.
6. Chairman, Commercial Tax Tribunal, F-6, Nehru Colony, Haridwar Road, Dehradun.
7. Chairman, State Transport Appellate Tribunal, House of Dr. Poonam Gambhir, Vaidik Kaya Ayurvedic Center, 1st Floor, House No. 85/1, Laxmi Road (Near Favvara Chauk), Dehradun.
8. Legal Advisor to Hon'ble the Governor, Lok Bhavan, Uttarakhand, Dehradun.
9. Secretary, Lokayukt, 3/3, Industrial Area, Patel Nagar, Dehradun.
10. Registrar, State Consumer Redressal Commission, House No. 23/16, Circular Road, Dalanwala, Dehradun-248001.
11. Member-Secretary, Uttarakhand State Legal Services Authority, Nainital.
12. Presiding Officer, Industrial Tribunal-cum-Labour Court, Haldwani, District Nainital.
13. Presiding Officer, Labour Courts, Dehradun, Haridwar and Kashipur, District Udham Singh Nagar.
14. Presiding Officer, Food Safety Appellate Tribunal, Dehradun and Haldwani (Nainital).
15. Registrar, Public Service Tribunal, Uttarakhand, Dehradun.
16. Secretary-cum-Registrar, State Level Police Complaint Authority, Dehradun.
17. Chairman, Permanent Lok Adalat, Dehradun, Haridwar, Nainital and Udham Singh Nagar.
18. Legal Advisor to Public Service Commission, Uttarakhand, Haridwar.

C.L. No. 10/UHC/Admin.A/2026

Dated: 19 March, 2026

**Subject:- Formats of Judgments for the Trial Courts: Hon'ble Supreme Court directions.**

Sir/Madam,

On the subject above, I am directed to say that in compliance of orders dated 15.12.2025 (copy enclosed) of Hon'ble Supreme Court of India passed in **Manojbhai Jethabhai Parmar (Rohit) v. State of Gujarat (2025 INSC 1433)**, the standard formats of judgments, as prescribed for the District Courts vide the Circulars issued by the Hon'ble Court i.e. (i) C.L. No. 17/UHC/Admin.A/2021 Dated 29.12.2021 & C.L. No. 10/UHC/Admin.A/2023 Dated

Page 1 of 4

12.05.2023; are further modified with following directions of Hon'ble Supreme Court, issued in the aforesaid order dated 15.12.2025 :-

**(1). Preparation of Tabulated Charts in all the judgments:**

*All trial Courts dealing with criminal matters shall, at the conclusion of the judgment, incorporate tabulated charts summarizing: -*

- *Witnesses examined,*
- *Documents exhibited, and*
- *Material objects (muddamal) produced and exhibited.*

*These charts shall form an appendix or concluding segment of the judgment and shall be prepared in a clear, structured and easily comprehensible format.*

**(2). Chart of Witnesses:**

*Each criminal judgment shall contain the following a witness chart:*

<i>Prosecution Witness No.</i>	<i>Name of Witness</i>	<i>Brief Description / Role of Witness</i>
<i>1.</i>	<i>Mr. X</i>	<i>Eye-witness</i>
<i>2.</i>	<i>Mr. Y</i>	<i>Witness of last seen circumstance</i>
<i>3.</i>	<i>Ms. Z</i>	<i>Medical Jurist</i>
<i>4.</i>	<i>Mr. A</i>	<i>Investigating Officer</i>
<i>5.</i>	<i>Mr. B</i>	<i>Complainant / First Informant</i>

*The description should be succinct but sufficient to indicate the evidentiary character of the witness. This structured presentation will allow quick reference to the nature of testimony, assist in locating the witness in the record, and minimize ambiguity.*

**(3). Chart of Exhibited Documents:**

*A separate chart shall be prepared for all documents exhibited during trial. This chart shall as follows:*

<i>Exhibit No.</i>	<i>Description of Exhibit</i>	<i>Proved by / Attested by</i>
<i>1.</i>	<i>Inquest Panchnama / Memo</i>	<i>PW-1</i>
<i>2.</i>	<i>Recovery Panchnama / Memo</i>	<i>PW-2</i>
<i>3.</i>	<i>Arrest Memo</i>	<i>PW-3</i>
<i>4.</i>	<i>Post-mortem Report</i>	<i>PW-4</i>
<i>5.</i>	<i>FSL Report</i>	<i>PW-5</i>

*Illustratively, the description may include: FIR, Complaint, Panchnamas, Medical Certificates, FSL Reports, Seizure Memos, Site Plans, Dying Declarations, etc.*

*The requirement of specifying the witness who proved the document ensures traceability of proof and assists the Court in appreciating compliance with the Indian Evidence Act, 1872/ Bharatiya Sakshya Adhinyam, 2023.*

(4). Chart of Material Objects/Muddamals:

*Whenever material objects are produced and marked as exhibits, the trial Court shall prepare a third chart as follows:*

<i>Material Object No.</i>	<i>Description of the Exhibit</i>	<i>Proved by/Attested by</i>
<i>1.</i>	<i>Weapon of Offence</i>	<i>PW-1</i>
<i>2.</i>	<i>Clothing of Accused/Victim</i>	<i>PW-2</i>
<i>3.</i>	<i>Mobile Phone/Electronic Object</i>	<i>PW-3</i>
<i>4.</i>	<i>Vehicle</i>	<i>PW-4</i>
<i>5.</i>	<i>Purse/Earrings/Identity Card</i>	<i>PW-5</i>

(5). Special Provisions for Cases Involving Voluminous Evidence:

*In complex cases, such as Conspiracies, Economic offences or Trials involving voluminous oral or documentary evidence, the list of witnesses and exhibits may be substantially long. Where the number of witnesses or documents is unusually large, the trial Court may prepare charts only for the material, relevant, and relied-upon witnesses and documents, clearly indicating that the chart is confined to such items. This ensures that the charts remain functional reference tools rather than unwieldy compilations.*

(6). Application to Defence Witnesses and Evidence:

*The aforesaid directions shall apply, mutatis mutandis, to all witnesses examined and all evidence adduced by the defence.*

*These directions are primarily intended to streamline criminal trials, wherever appropriate, the adoption of similar tabulated formats in civil matters as well, particularly in cases involving voluminous documentary or oral evidence, can be done.”*

2. All the Judicial Officers are therefore instructed that the existing formats of the judgments as prescribed in the aforesaid circulars dated 29.12.2021 and 12.05.2023 are modified with aforesaid directions of the Hon'ble Supreme Court and they may be implemented accordingly.

Yours sincerely,

Sd/-  
(Yogesh Kumar Gupta)  
Registrar General

No. 1395 /UHC/Admin.A/TCAC/2026      Dated: 19 March, 2026

Copy to:

1. P.P.S. to Hon'ble the Chief Justice with the request to place it before His Lordship for kind perusal.
2. All the P.S./P.A.(s) of Hon'ble Judges with the request to place it before Their Lordships for kind perusal.
3. P.S./P.A. to Registrar General.
4. All Registrar(s) of the Court.
5. Secretary, H.C.L.S.C. of the Court.
6. Joint Registrar (I.T.)/C.P.C. of the Court.
7. All J.R.s/D.R.s/A.R.s/S.O.s of the Court.
8. Librarian of the Court.
9. Deputy Registrar (I.T.) with a request to upload the same in official website of the Hon'ble Court.
10. Notice Board/Guard file.

Joint Registrar

**IMPORTANT PROVISIONS OF GENERAL RULES  
(CRIMINAL) 1977**

**CHAPTER-VII**

**THE RECORDING OF EVIDENCE**

**R. 46. Record in summary trial.**—In summary trials the record shall be made in the manner and form prescribed there for (Part IX, no. 31), as provided in section 263 and 264 of the Code.

**R. 47. Record of the accused's statement in cases other than summary trials.**—In every case other than one tried summarily or tried by a Metropolitan Magistrate, the examination of accused under section 281 of the Code shall be recorded upon the printed form (Part VIII, no. 23 and if necessary, Part IX, no. 26, in continuation). Upon this record, the signature of the accused shall be taken and the certificate of the Presiding Officer shall be made as required by law. In case the Presiding Officer is unable to record the statement owing to a physical or other incapacity, he shall get it recorded by an officer of the Court appointed by him in this behalf. In any case in which the accused is examined by a Metropolitan Magistrate, the Presiding Officer shall use the prescribed form (Part VIII, no, 24) to make his memorandum. It will not be necessary to take the signature of the accused on the memorandum.

**R. 48. Memo of evidence.**—In a case in which the record is made in the manner prescribed by section 274, the memorandum shall be commenced upon the printed form IX, no. 1.

**R. 49. Forms for recording of evidence.**—In a case other than one mentioned above the evidence shall be recorded,

(1) upon the printed form Part IX, no. 1 (and if necessary, no. 26, in continuation) for the first witness in a case before a Magistrate;

(2) upon the printed form Part IX, no. 25 (and, if necessary, upon no 26, in continuation) for every other witness. In any case before a Magistrate in which the Presiding Officer does not make this record with his own hand and makes only memorandum, the memorandum of the evidence of the first witness shall be commenced upon printed form (Part IX, no. 1).

The record shall follow as closely as possible the actual words expressions used by the witness.

**R. 50. Forms for recording evidence.**—Every such record made by a Presiding Officer or an officer of the court shall be legibly written. If in making the record an officer uses a typewriter [or computer] he shall sign every page of it and shall initial every correction or alteration therein. On every statement of an accused and deposition of a witness and on the memorandum of every such statement and deposition, the person mentioned, whether examined on commission or otherwise, shall be indicated by his full name, father's name, profession or occupation, residence and age. Abbreviations and elliptical forms of expressions shall be avoided particularly abbreviations of names of persons or places.

If the court considers the age given by a witness or accused to be an underestimate or an overestimate it should form its own estimate and mention it also in the record. If the accused is charged with an offence punishable with death and the court considers the age given by him be an underestimate, or an overestimate, it may order medical examination of the accused about his age and should direct the State Counsel to produce documentary evidence of his age, if any, is available.

**R. 51. Certificate on certain depositions.**—In the case of depositions referred to in section 29152 of the Code other than those taken on commission under Chapter XXIII, a Magistrate taking the deposition of a Deputy C.M.O. (Medical) or other medical witness, shall sign at the foot of the deposition a certificate in the form indicated below or a memorandum to the same effect, namely;

"The foregoing deposition was taken in the presence of ..... Accused who had an opportunity of cross examining the witness. The deposition was explained to the accused; and was at-tested by me in the presence of the accused."

**R. 54. Note to be made about defence witnesses.**—In every case in which an accused has claimed to be tried, the court shall note in its judgment whether the accused had examined witnesses in his defence. If witnesses were summoned for the defence, and were not examined, the court shall state why they were not examined.

A Court of Session shall further record at the conclusion of its examination of an accused that he has been asked whether he means to adduce evidence, and his reply or that of his pleader, if any. If he asks that certain witnesses may be examined, it shall record whether they are present and may examine the same or else summon them for a future date unless for reasons to be recorded their examination appears to be unnecessary.

**R. 55. Previous conviction to be noted in judgment.**—In a case in which an accused is liable to enhanced punishment or to punishment of a different kind for a subsequent offence, on account of any previous conviction or convictions the court, if it convicts the accused, shall set forth in its judgment each such previous conviction proved against or admitted by, the accused, specifying the date of the conviction, the section under which he was convicted and the sentence imposed.

**R. 57. Affidavits to be stamped.**—A magistrate shall not allow an affidavit, which is not one exempted from stamp duty by Article 4 of Schedule I of the Indian Stamp Act, 1899, to be shown before him, unless it is duly stamped.

**R. 58. Warrants outside jurisdiction to be sent to police.**—Warrants to be executed outside the local limits of the jurisdiction of the court issuing the same under the provisions of section 78 of the Code, shall invariably be sent to the Superintendent of Police concerned and not to a magistrate.

**R. 59. Medical Council to be informed of medical practitioner's conviction.**—In the case of conviction of any medical practitioner by a court, and in the case of censure or comment on him in a court's judgment, the court shall forward a duly certified copy of the judgment, free of cost, to the Registrar, Medical Council, Lucknow.

**R. 60. Classification of accused.**—A convicted prisoner shall be classified according to the rules in Appendix 'F'.

**R. 61. Memo of identification proceedings.**—Identification proceedings in jail for the identification of suspects shall invariably be recorded by magistrates in Form No. 34 (Part IX No. 65) in duplicate by the use of carbon paper and ball-pointed pencils [or by use of computer]. The original" shall be sent to the court concerned and the carbon copy shall be made over to the jail authorities for record and production in court, when needed.

**R. 62. Expert opinion of Chief Medical Officer, Dehradun.**—Courts and Magistrates deciding medico-legal questions may when the evidence of the doctor is not considered sufficient, refer them for opinion to the [**Chief Medical Officer, Dehradun**] in his capacity as Government Medico-Legal Expert. No fees are charged but if X 'ray photographs are taken the usual fee for such photographs must be paid to the X-ray Department of the [**Doon Hospital, Dehradun**].

Private persons may also consult the Expert but he shall be entitled to charge fees in such cases in accordance with the pro-visions of paragraphs 738 to 740 of the Medical Manual.

Such references shall be made by Additional or Assistant Sessions Judges through the Sessions Judge and by magistrates through the District Magistrates or the Chief Metropolitan Magistrate or the Chief Judicial Magistrate as the case may be.

**R. 63. Transmission of release order to jails.**—When an order for the release of a prisoner, on bail or otherwise issued by a magistrate, he shall see that it is entered in a peon book and sent to the Nazir Sadar by the time prescribed by the District Magistrate in this be-half. The Nazir shall enter in a peon book all the release orders received by him within the prescribed time and arrange to deliver them through a peon to the officer in- charge of the jail by 4 p.m. in winter and 5 p.m. in summer at the latest. In exceptional circumstances the order of release may be sent to the jail in the manner laid down in sub-rule (b).

(b) When an order for the release of a prisoner is issued by a court other than a magistrate, it shall be entered in a peon book and may be sent through one of the court peons to the officer in-charge of the jail so as to reach the jail ordinarily not later than 4p.m. in winter and 5 p.m. in summer.

(c) A release order should in no case be made over to private persons for delivery to the jail authorities.

(d) A digitally signed release order may also be sent by electronic form

## CHAPTER -IX

### SUBMISSION OF SENTENCE FOR CONFIRMATION AND EXECUTION OF SENTENCE

**R. 70. Separate warrant to jail for each convict.**—A separate war-rant shall be directed to the officer in-charge of the jail for each prisoner in respect of whom a sentence of imprisonment is passed: the warrant shall show the Crime number, i.e., the number by which the case was registered, serial number of the case, and shall bear the same date as the sentence bears. It shall state the period (in words and figures) and description of imprisonment; and shall be drawn upon the prescribed form. It shall contain full particulars as to any sentence of imprisonment to be undergone in default of payment of fine or any period of solitary confinement order.

If the prisoner is a military officer or soldier, his rank and regiment or department shall be stated in the warrant.

If the prisoner has been previously convicted, particulars of each previous conviction showing the date and nature of each sentence, and the section and Act under which it was passed, shall be endorsed upon the warrant.

The magistrate shall also fill the form prescribed by the rules contained in Chapter XII of the U.P. Jail Manual (reproduced in Appendix-F) and attach it to the record in the cases of prisoners sentenced by him or committed to Sessions, in order that it may be filed with the prisoner's warrant and sent to the jail along with the prisoner. Entries nos. 7 to 9 shall be filled in by the Presiding Officer of the convicting court in his own handwriting.

**R. 71. All orders of fine to be registered.—**

- i. Whenever any person convicted of an offence is sentenced or ordered to pay a fine;
- ii. Whenever any person is ordered to pay into court for delivery to any other person any sum by way of compensation, or reimbursement of fines or fees paid;
- iii. Whenever any person is permitted to deposit a sum of money in lieu of executing a bond;
- iv. Whenever any person is called upon to pay the penalty of a forfeited bond; and

Whenever a criminal court orders payment of court fees; the presiding officer shall, with his own hand, at once enter the amount of the fine, compensation or other sum, deposit, penalty or fee in the prescribed register of fines, compensation; deposits, Penalties and fees (form no. 2, Part IX 78).

**R. 72. Deposit of fine etc. paid into Court.—**When the amount of any fine, compensation or other sum, deposit, penalty or fee is paid into Court, the Presiding Officer shall, as soon as may be, send the money to the Nazir through the Criminal Ahalmad, for onward trans-mission to the nearest treasury or sub-treasury. The money so sent shall be accompanied by an invoice in duplicate in Form (Part IX no. 74) signed by the Presiding Officer himself. In the case of any sum which is to be credited as a deposit the invoice shall be made out in triplicate. One copy of the invoice shall be returned by the Officer-in-charge of the treasury or sub-treasury concerned with an endorsement showing receipt of the amount.

**R. 73. Fine not paid at once may be paid into another court.—**When the amount of any fine compensation or other sum, deposit, penalty or fee is not paid at once into the court which directed the payment, the court may allow the person liable to make the payment to pay the amount required within a period which shall be fixed by the court, into any other criminal court except a Court of Session or the High Court. In such case the court shall give such person a slip in form (Part IX 76) to be presented by him when paying the amount.

When a person is undergoing imprisonment in default of any such payment, the officer in-charge of the jail may receive payment of the whole amount or of any part thereof, and shall thereupon complete the execution of the warrant or order of imprisonment as provided by law.

**R. 74. Procedure in such other court.**—When any court or officer receives a payment as described in rule 73 or when the officer conducting a sale under a warrant receives the sale proceeds, the money so received shall be sent with as little delay as possible to the nearest treasury or sub-treasury with a pass-book in form No. 3 (Part IX, 70), and a separate extract (Part IX, no. 71) there from in duplicate respecting each item entered therein.

The officer in-charge of the treasury or sub-treasury shall on receipt of the money sign the passbook and one of the extracts and return them.

The extract so returned shall be forwarded by the court or office realising the amount to the court which ordered the payment or sale.

**R. 75. Details to be noted in invoice.**—In every invoice in form (Part IX, no. 74), in every slip in form (Part, IX, no. 76), every warrant of distress and sale (Part VIII, no. 56) and in every pass-book (Part IX no. 70) or extract (Part IX, no. 71) there from there shall be made a clear entry of the number of the case, of the exact nature of the payment or to be made, of the person who is or was liable for the payment, and of the manner in which the amount paid is to be credited in the treasury, i.e., whether it is to be credited to Government or to a Municipal or Corporation or Cantonment fund as required by law or the orders of the Government, or as a Criminal Court deposit.

**R. 76. Payment into treasury to be made as early as possible.**—Every sum received by a court or officer in the immediate vicinity of a treasury or sub-treasury shall be paid into such treasury or sub-treasury on the day of receipt, or if the treasury or sub-treasury be closed on that day, then on the next day on which the treasury or sub-treasury is open. When a court or officer is at a distance from a treasury or sub-treasury, receipts shall be paid into such treasury or sub-treasury at least once every month, or as soon as the receipts exceed the sum of rupees fifty. The money should be remitted by money-order whenever it is more economical to do so.

When more than one are sent at the same time, a separate invoice in duplicate (in a case falling under rule 72) or pass-book extract in duplicate (in a case falling under rule 74) shall be sent for each sum.

When any sum received in a court is not sent to the treasury or sub-treasury on the same day, the presiding officer shall be responsible for making arrangement for its safe custody until it can be paid in.

**R. 77. Officer in-charge of jail to be informed of payment.**—Every court upon receiving a payment on behalf of a person who is in jail under a warrant directing imprisonment in default of such payment, shall if the payment is received otherwise than through the jail at once inform the officer-in-charge of the jail.

**R. 78. Cheque receipt book.**—Every court shall be furnished with two cheque receipt books in the prescribed form (Part IX, no. 72). These books shall be used one in each alternate month; at the end of each month the book in use during that month shall be transmitted to the officer-in-charge of the treasury, or in the case of an out-lying court to the sub-treasury for examination and attestation as provided in Rule 80.

Each book shall bear a printed number repeated on every form in the book, and the forms in each book shall bear printed numbers in regular series from 1 to 100.

**R. 79. Payments to be entered in register and receipt given.**—When any payment is made into court under Rule 72 or when any duly signed extract has been received by a court under Rule 74 the court shall make an entry of the receipt in the appropriate register and shall cause a cheque -receipt for the amount to be prepared in triplicate. The original receipt shall be retained by the court issuing it, the counterfoil bearing the words "For the officer in charge of the jail" shall at once be sent to the Superintendent of the jail in which the prisoner on whose behalf the payment is made, is confined, and the counterfoil bearing the words "For the payer" shall be made over to the payer, if he is present; if he is not present, it shall be sent to him by post if he is not in custody, or through the officer in-charge of the jail, if he is in jail. If the person sentenced to imprisonment is not in custody, the counterfoil of the cheque receipt meant for the jail shall be ordered by the presiding officer to be kept on the record of the case.

The words and figures denoting the sum for which the receipt is being issued shall be written on the receipt by the presiding officer of the court with his own hand and he shall sign the receipt.

Upon the counterfoil of every cheque -receipt, as it is made out or so soon thereafter as possible, shall be entered the number and date of the treasury receipt upon the invoice made under rule 75 or the pass-book extract made under rule 77 and such invoice or extract shall then be filed with the record.

**R. 80. Fly-leaf to cheques receipt book.**—To each cheque receipt book shall be prefixed as a flyleaf in the prescribed form (Part IX, no. 73). At the close of each month the presiding officer shall note or cause to be noted on the flyleaf the sum for which receipts have been issued during the month, and forward the book to the officer in-charge of the treasury or sub-treasury for comparison with the treasury accounts and for attestation. If the officer in-charge of the treasury or sub-treasury finds that the sums for which receipts were issued by the court have been paid into the treasury or sub-treasury and properly, credited there, he shall sign the flyleaf in the column provided for the purpose and return the book to the court. If there is any discrepancy, he and the court shall take steps to reconcile it. The treasury staff shall also check the total given on the flyleaf against the totals of all amounts shown on the counterfoils of the cheque receipt book.

Presiding Officers of Courts shall submit every month to the District Magistrate or the Chief Metropolitan Magistrate or the Chief Judicial Magistrate, as the case may be, certificate in the following form:

“The fine receipt book of my court was sent to the treasury/sub- treasury at the close of the previous month, that no discrepancies were found or that the following discrepancies were found and have been/are being reconciled, that the total amount levied in the previous month was that the amount actually received was and that the amount outstanding at the end of the month was”

Where there has been no fine levied in the previous month, the certificate shall state that the book is blank. This certificate shall be verified at the treasury with respect to the figures relating to the actual realizations entered in the treasury accounts.

**R. 81. Refunds.**—When an order is made for the refund of a sum that has been credited in the treasury, the order or a copy thereof shall at once be sent to the court which directed the credit, and that court shall take the necessary steps for its refund.

Special Judicial Magistrates and Special Metropolitan Magistrate, however, are not empowered to make refunds in cases where appeals against their decisions have been allowed; in such cases the refund shall be made by the court which allows the appeal or in case of a refund on revision, by the court to which appeals ordinarily lie.

**R. 82. Register of fines.**—The register of fines, compensations, deposits, penalties and fees shall be in form no. 2 (Part IX, no. 78). A fresh page shall be begun each month as provided in rule 84. A separate line shall be given to each person ordered to make any payment, even if two or more persons are subject to the same case. The entries in columns 1 to 7 shall be made as soon as the order is made. The entry in column 8 shall be made as soon as the warrant is issued. The entries in columns 9, 10, 11 and 12 shall be made as soon as payment is made or the court is informed thereof. These entries shall be checked and initialed by the presiding officer. He shall compare the amount entered in the cheque receipt book with that entered in the treasury receipt and also with the amount entered in column 6 of this register. In column 17 shall be made a note of the manner of credit of every fine that is not simply credited to Government; a note of the exact nature of every sum, other than a fine, entered in column 6; and a note of the section and the law under which every sum entered in column 7 is awarded and a clear statement whether it is intended as compensation or reimbursement or reward. When a deposit in lieu of executing a bond has been made and has been entered in this register and an order is passed for its forfeiture a fresh line shall be given to the entry of the penalty, and entries made thereon as far as column 6, as soon as the order is passed; and at the same time a note of the forfeiture and of the annual serial number of the entry of the penalty shall be made in column 17 against the entry of the deposit. On receipt of information from the treasury that the deposit has been credited to Government, columns 9 to 12 of the entry of the penalty shall be filled up.

**R. 83. Irrecoverable amounts.**—A Sessions Judge or a District Magistrate or a Chief Metropolitan Magistrate or a Chief Judicial Magistrate, and with the written permission of the District Magistrate or the Chief Metropolitan Magistrate or the Chief Judicial Magistrate, as the case may be, a magistrate subordinate to such District Magistrate or Chief Metropolitan Magistrate, or Chief Judicial Magistrate, may at any time write off as irrecoverable any amount of which payment has been ordered in his Court or in the Court of his predecessor in office, if it appears to him that the amount cannot be recovered :

Provided that the sanction of the District Magistrate or the Chief Metropolitan Magistrate or Chief Judicial Magistrate is unnecessary when the ground for remission of the fine is that the offender has undergone all imprisonment awarded by the Court in default.

**NOTE:**—*For the purposes of this rule the term “Sessions Judge” shall be deemed to include an Additional or Assistant Sessions Judge.*

**R. 84. Monthly certificate on register of fine.**—At the end of every month the presiding officer of each court shall certify on the register of fines, compensations, deposits, penalties and fees that he has examined all outstanding items that seem capable of realization and has taken proper steps in each case.

The first entries on the next page, before any entry of an order made in the next month is made, shall be of all the outstanding items in detail of the previous months, which remained unrealized or were not written off.

**R. 85. Statement of fines etc.**—A monthly return of all amounts realized by criminal courts as fines and credited as required by law to a Municipal or Corporation fund, shall be transmitted to the Municipal Board or Corporation concerned.

The return shall be made in form (Part IX no. 77).

**R. 86. Record keeper not to receive record till receipt of payment of fine is filed.**—The record-keeper shall not take delivery of the record of any case in which any payment of money has been ordered, unless there be filed therein an acknowledgement of its receipt by the officer in-charge of the treasury or sub-treasury or other person entitled to receive the money, or a report signed by the pre-siding officer of the court accounting for non-payment. Such report shall ordinarily be made and the record transmitted to the record-room, on receipt of the return of the first warrant issued for the recovery of the money.

**R. 87. Warrant to be filed after execution.**—When a warrant or an order upon which a sentence is executed is returned after execution to the court from which it was issued, the court shall send it to the record-room of the District Magistrate or the Sessions Judge as the case may be to be filed with file A of the record of the case to which it belongs.

## CHAPTER – X

### APPEAL AND REVISION

**R. 99. Duty of trial court on receipt of judgment or order of appellate or revisional court.**—The court by which the finding, sentence or order was recorded or passed shall, on receipt of a copy of the judgment or order of the appellate court or of an abstract there from, carefully peruse the same and consider whether any further steps have to be taken to carry out the finding, sentence or order of the appellate court. If any such steps have to be taken it shall pass such order as may be necessary and shall see that they have been duly complied with. After compliance has been made the papers shall be put up before him again and he shall, after satisfying himself that the orders have been duly complied, make an endorsement thereon to that effect before the papers are sent to the record-room to be filed with the record. If no further steps are required it shall make an endorsement thereon to that effect before that papers are sent to the record room to be filed with the record. A similar procedure shall be followed by the court when its finding, sentence or order has been reversed or altered in revision.

#### **R. 99-A: Duty of District Judge and Trial Court on receiving e-Authenticated copy through the FASTER SYSTEM**

(1) e-Authenticated copies of Interim Orders, Stay Orders, Bail Orders and Record of Proceedings of the Supreme Court of India, and the High Court of Uttarakhand, communicated to the duty holders through the FASTER (Fast And Secure Transmission of Electronic Records) System via the secured e-mail domain i.e. xxxx@jcn.nic.in, shall be recognized for due compliance and execution, without delay.

(2) As soon as an e-Authenticated copy of an Interim Order, Stay Order, Bail Order or Record of Proceedings of the Supreme Court of India, or the High Court of Uttarakhand is communicated to the District Judge through the FASTER SYSTEM via secured e-mail domain, i.e. xxxx@jcn.nic.in, the latter shall be responsible to receive, acknowledge the receipt and to send compliance report of such order or Record of Proceeding to the Hon'ble Supreme Court or the High Court of Uttarakhand, as the case may be.

(3) The District Judge, where such order or Record of Proceeding, relates to any other Court in the District, other than her/his own Court, shall, also forward such e- Authenticated copy received through the FASTER SYSTEM to such other Court.

**R. 100. Explanation of officer reported on to be submitted.**—When the Court of Session or the District Magistrate, on examining the record of any proceeding, thinks fit to report for the orders of the High Court the result of such examination, then, except in a case in which delay should be avoided, the explanation of the officer whose proceedings have been examined shall also be called for. Such explanation should be couched in respectful language and confined to matters which need explanation or clarification.

The report shall contain a brief analysis of the proceeding, shall indicate the portion of the finding, sentence or order recommended for revision, and shall state the grounds upon which, in the opinion of the court making the report, the finding, sentence or order should be reversed, set aside or modified. It shall be submitted to the High Court along with the record and the explanation of the Magistrate, if any.

When such report is made by the District Magistrate, he shall send it through the Court of Session. If the case be one in which an appeal lies to the Court of Session, such report shall not be made until the period of limitation for an appeal has expired. The Sessions Judge shall while forwarding the report and the record, State-

- 1) Whether an appeal has been presented, and, if so, with what result; and
- 2) Whether the period of limitation for an appeal has expired.

**R. 101. Order suspending sentence to be certified.**—When a court orders that the execution of a sentence be suspended, it shall certify its order to the court by which the sentence was passed, and, if the appellant or applicant is in jail, also to the officer in-charge of the jail for communication to the appellant or applicant, and for re-report that the direction has been complied with.

**R. 102. (1) No judicial order by telegram.**—A court [**may**] issue a judicial order or communicate the purport of a warrant or process by [**electronic form**].

(2) The communication of e-Authenticated copies of Interim Order, Stay Order, Bail Order or Record of Proceedings, through the FASTER (Fast and Secure Transmission of Electronic Records) System shall be recognized immediately for due compliance and execution by all the duty holders, without delay.

## CHAPTER – XI

### PRESERVATION OF RECORDS

**R. 105. Certificate before transmission of record.**—Whenever a record is to be sent from a court to another court or the record-room or from the record room to a court, the reader or the record-keeper, as the case may be, shall carefully examine the record before transmitting it, and shall attach and sign at the foot of the general index a certificate on printed form as prescribed in case of civil courts.

**R. 106. Examination on receipt and report, if necessary.**—When the record of a case is received in a court from another court or from the record-room, the reader shall carefully examine the record and shall at once report to the court if the record is not in all respects in order or does not correspond to the general index so as to prevent the possibility of doubt as to the offices being responsible for any missing document or for any errors or deficiencies to be found in record.

If the record is received from the High Court, the reader or the record keeper shall carefully examine the record and lay it before the court. Every copy or certificate received from the High Court shall be placed upon the general index and filed with the record.

**R. 107. Division of record into classes.**—When a record is complete, and before it is sent into the record-room, the reader shall note thereon the class to which it belongs under Chapter XII, and shall in any doubtful case take the orders of the court. Thereafter the clerk in-charge of the record shall in every record belonging to class II or class III, separate the papers belonging to file A from those belonging to file B, put the papers belonging to file A in a stiff cover in book form and paste the front part of the wrapper on the outside of the book thus formed. He shall also make up the papers belonging to file B in book form, and attach the file B book to the file A book. Every record belonging to class I shall be sent to the record-room in its own wrapper and shall not be made up into book form.

**R. 108. When records are to be sent to record room.**—The records of completed cases in the courts of magistrates shall be transmitted to the record-room of the District Magistrate on such dates and in such manner as the District Magistrate may, from time to time by written order, prescribe; provided that records shall be sent in from every court at headquarters not less than twice in every month, and from every court on tour or not at headquarters at least once in every month. For the return of records of cases under appeal or revision that have been sent for by the courts of appeal or revision, the form for transmission of record (Part IX, no. 61) shall be used. The records of completed cases in courts of Session shall be forwarded to the record-room of the Sessions Court not later than the last day of the month succeeding the month in which judgment was pronounced.

Records received back from the High Court, and papers received in a court after a record has been sent to the record-room (e.g. orders summarily rejecting appeals, warrants returned after execution, etc.) shall be sent to the record-room on the next subsequent date fixed for the sending of records of completed cases to the record-room.

## CHAPTER-XVII

### REGISTERS

**R. 163. Schedule of offences.**—For purposes of maintaining the registers and preparing the statements of regular case-work pre-scribed by these rules, the following schedule of offences shall be observed:

Sch No.	Description of offence	Chapter	Sections
	<i>I-Under the Indian Penal Code</i>		
1.	Criminal conspiracy	V-A&IV BNS	120(B)IPC&61,BNS
2.	Offences against the State	VIIIPC&VIIBNS	121to130IPC147to158BNS
3.	Offences relating to the Army, Navyand Air Force	VIIIIPC&VIIBNS	131to140IPC&159to168BNS
4.	Offences against the Public tranquility	VIII-IPC&XI-BNS	141to160IPC&189to197BNS
5.	Offences by or relating to public servants	IX-IPC XII-BNS	161to171IPC&198to205BNS
6.	Offences relating to elections	IX-A&IXBNS	177-A to 177-I,IPC&169 to177 BNS
7.	Contempts of the lawful authority of Public servants	X-IPC&XII-BNS	172to190IPC&206to226BNS
8.	False evidence and offences against public justice	XI-IPC&XIV-BNS	191to229-A,IPC&227to269BNS
9.	Offences relating to coin and Government stamps	XII-IPC&X-BNS	230to263-A,IPC&178to188BNS

10.	Offences relating to Weight and measures	XIII-IPC	264to267IPC
11.	Offences affecting the public health, safety, convenience, decency And morals	XIV&XVBNS	268to294AIPC&270to 297BNS
12.	Offences relating to religion	XV-IPC& XVI-BNS	295to298IPC&298to 302BNS
13.	Offences affecting the human body Offences affecting life	XVI-IPC&VI- BNS	299 to311, IPC & 100 to110,BNS
14.	Causing of miscarriage, injuries to unborn children, exposure of infants, and the concealment of births	XVI-IPC&V BNS	312 to 318 IPC & 88 to 94, BNS
15.	Hurt	XVI-IPC& VI BNS	319to338IPC&115(2), 117(2)&118to125,BNS
16.	Wrongful restraint and wrongful confinement	XVI-IPC&VI- BNS	339to348IPC&127(1)to 127(8),BNS
17.	Criminal force and assault	XVI-IPC&VI- BNS	351to358,IPC&74to78& 128to136,BNS
18.	Kidnapping, abduction, slavery and forced labour	XVI-IPC &VI&V-BNS	363to374,IPC&137(1)to 146,&87,96,98,99,BNS
19.	Rape	XVI-IPC& V- BNS	375&376,IPC&63&64,BNS
20.	Unnatural Offence	XVI-IPC	377IPC&Nowdeleted in BNS
21.	Theft	XVII-IPC& BNS	379to382IPC&303,305to 307,BNS
22.	Extortion	XVII-IPC& BNS	383to389IPC&308to 308(7),BNS
23.	Robbery and dacoity	XVII-IPC& BNS	392to402IPC&309to313, BNS
24.	Criminal misappropriation of property	XVII- IPC&BN S	403&404IPC&314-315, BNS
25.	Criminal breach of trust	XVII-IPC& BNS	406to409IPC&316, BNS
26.	Receiving of stolen property	XVII-IPC& BNS	410to414IPC&317,BNS

27.	Cheating	XVII-IPC&BNS	417to420IPC&318BNS
28.	Fraudulent deed and disposition of property	XVII-IPC&BNS	421 to 424 IPC & 320 to 323, BNS
29.	Mischief	XVII-IPC&BNS	425 to 440 IPC & 324 to 328, BNS <b>S.440 of IPC Now deleted In BNS.</b>
30.	Criminal trespass	XVII-IPC&BNS	441to462IPC&329to334, BNS
31.	Offences relating to documents and trade Or property marks	XVIII-IPC&BNS	463to489-E,IPC&335to350BNS
32.	Criminal breach of contracts of service	XIX-IPC&BNS	490to492,IPC&357BNS
33.	Offences relating to marriage	XX-IPC&V BNS	493to498,498IPC&80to87BNS
34.	Defamation	XXIIPC&XIX-BNS	499IPC&356,BNS
35.	Criminal intimidation, insult and annoyance	XXII-IPC&XIXBNS	503&504IPC&351&352,BNS
<b>II-Under the Code of Criminal Procedure</b>			
36.	Proceedings for security for keeping the peace.	IXBNS	106&107IPC/7125&126BNS S
37.	Proceedings for security for good behaviour.	VIII-Cr.PC & IX-BNSS	108 IPC & 127BNSS

### III - Under special and local laws, e.g.,

The Bengal Chaukidari Act, 1856. The Opium Act, 1857.

The Police Act, 1861 or **The Police Act, 2007**

The Stage Carriages Act, 1861. The Public Gambling Act, 1867.

The Press and Registration of Books Act, 1867. The Cattle Trespass Act, 1871.

The Northern India Canal and Drainage Act, 1873.

The North-Western Provinces Village and Road Police Act, 1873. The Opium Act, 1878.

The Indian Arms Act, 1878. **The Arms Act, 1959'**;

The Northern India Ferries Act, 1878. The Hackney Carriages Act, 1879.

The Legal Practitioners Act, 1879. The Vaccination Act, 1880.

The Indian Telegraph Act, 1885.

The Births, Deaths and Marriages Registration Act, 1886.

The Police Act, 1888.

The Indian Railways Act, 1890.

The Prevention of Cruelty to Animals Act, 1890. The Prisons Act, 1894 [**The prevention of cruelty to animals Act, 1960**]

The Reformatory Schools Act, 1897. The Indian Stamp Act, 1899.

The Indian Railway Board Act, 1905.

The Explosive Substances Act, 1908.

The Indian Registration Act, 1908.

The Indian Electricity Act, 1910. **The Indian Electricity Act, 2003.**

The Indian Emigration Act, 1922.

The Cantonments Act, 1924. **or The Cantonment Act, 2006**

The Indian Forests Act 1927.

The Indian Press (Emergency Powers) Act, 1931. The Indian Air Force Act, 1932.

The Children (Pledging of Labour) Act, 1933. The Factories Act, 1934.

The Employment of Children Act, 1938 The Central Excises and Salt Act, 1944.

The U.P. Water Works Act, 1891.

The U. P. Excise Act, 1910.

The U.P. Municipalities Act, 1916.

The U.P. District Board Act, 1922.

**[The Juvenile Justice (Care and Protection of Children) Act, 2015'**

**[The Protection of women from domestic violence Act, 2005]**

**[The Protection of Children from Sexual Offences Act, 2012]**

#### **IV- Abetments of any of the abovementioned or attempts to commit them**

The list under Part III is not exhaustive; only the more important Acts are mentioned. Every offence under any special or local law which creates a substantive offence should be entered in the same registers and statements in which an offence under the Indian Penal Code is entered.

**R. 164. Registers for Magistrates' courts.**—The following registers shall be maintained in the court of every Magistrate-

- (1) Register of cases in form no.9.
- (2) Register of miscellaneous criminal cases in form No.11.
- (3) Register of miscellaneous reports and proceedings in form no. 12
- (3-A) Register of bail applications in form no.12-A.

In the court of every District Magistrate shall also be maintained-

- (4) Register of decided criminal cases in form no.45.
- (5) Register of cases under section 466 of the Code (Form no.10).

**R. 165. Register of registers.**—A register of registers in the pre-scribed form (Part IX, no. 66) shall be maintained in the record rooms of the District Magistrate and Courts of Sessions.

**R. 166. Register of appeals and copies of judgments in ap-peals.**—A register of appeals in form no. 13 and a register of dispatch of copies of judgments in appeals in form no. 43 shall be maintained in every appellate court by such clerk as the Presiding Officer shall by written order direct.

**R. 167. Register of revisions.**—A register of revision cases in form no. 14 shall be maintained in the court of every District Magistrate and in every Court of Session by such clerk as the Presiding Officer shall by written order direct.

**R. 168. Registers in Sessions Courts.**—The following registers shall be maintained in every Court of Sessions by such clerk as the Presiding Judge, may, by written order, direct -

- Register of committed cases (Form no. 15).
- Register of punishments (Form no. 16).
- Register of cases submitted to the Court of Sessions (Form no. 17).
- Register of miscellaneous criminal cases (Form no.11).
- Register of miscellaneous reports & proceedings (Form no. 12).
- Register of bail applications (Form no. 12-A).
- Register of cases under section 466112 of the Code (Form no. 10).

**R. 169. Register of Witnesses.**—In every court shall be maintained a register of witnesses in form no. 18. The following instructions for the maintenance of this register must be strictly carried out—

(1) At the close of each day (or during the course of the day, if necessary or convenient) or where a case lasts more than one day, at the close of each hearing (or during the course of the hearing, if necessary or convenient) at which witnesses are examined and discharged the Presiding Officer shall direct the court reader (or any other official) immediately to make the necessary entries in register no. 18 of witnesses in regard to each witness then discharged. In the case of witnesses to whom the court does not order expenses to be paid, a line shall be drawn through columns 12 to 20.

(2) When the Presiding Officer decides to grant expenses, he shall direct the sessions clerk (or any other official) at once, in addition to filling in register no. 18 to draw up the order for payment of diet money (form no. 19). The presiding officer shall see that the entries in the register and the order form agree and then sign the order form. The signed order together with the register (form no. 18) shall be taken by the court constable or a court official to the Nazir who shall verify the total in the order against the entries in the register, and enter the amount payable on the order in column 19 of the register and initial and date each such entry in column 20. If more than one witness has to be paid he shall bracket the items in column 18 included in the order and enter the total amount of the order against this bracket in column 19 of the register and shall initial and date the entry.

The Nazir shall then pay the amount of the order to the official who brought it and take his acknowledgement on the order form and return to the official the court register duly filled up as above. The official shall take the cash and register to the Presiding Officer who shall see that the amount paid by the Nazir tallies with the amount in the register, and shall then direct each witness concerned to be called up and paid before him (or the Office Superintendent or Munsarim in the case of District Magistrates and Sessions Courts) by the court constable or the court official. As each witness is paid his acknowledgement in writing or thumb-mark shall be taken in column 21 of the register. When all the witnesses have been paid the Presiding Officer (or his Office Superintendent or Munsarim in the case of District Magistrates and Sessions Courts) shall sign and date the register in column 22.

(3) A witness to whom any expenses are due shall not be paid nor shall any entry in respect of him be made in register no. 18 of diet money until he is discharged. A witness shall not be regarded as discharged if he is allowed to leave the court under orders to attend again in the same court in the same case and he shall be regarded as in attendance on every day on which he is actually present under orders, even though a case is not called up for hearing on any such day:

Provided that the presiding officer may, if he considers that adherence to this rule would involve hardship to any witness, in his discretion pay diet money to such witness from day to day where diet money is paid to witnesses from day to day the entries in form no. 18 in respect of the diet money shall also be made from day to day.

(4) Every Magistrate shall on the first or the second working day of each month send to the officer checking the Nazir's accounts a note stating in figures as well as in words the total amount paid by him as diet money to witnesses during the preceding month to enable him to check the Nazir's contingent register.

**NOTE :—**(1)Diet money and travelling allowances paid to jurors and assessors shall be entered in this register.

(2) If in any case the payment of diet money and travelling expenses of a witness has to be made by money order, the money order acknowledgement receipts shall be pasted in register no. 18 in lieu of payee's signature against the particular entry.

## FORMATS OF THE REGISTERS



### REGISTERS TO BE MAINTAINED IN THE COURT OF JUDICIAL MAGISTRATE

#### Form No. 9

(Chapter XIV, Rule 139)

Register of Cases in the Court of Magistrate of the ..... class .....  
District ..... For the year 20.....

Serial Register number	Schedule number of offence	Police Station	Date of taking cognizance	[Date of receipt of charge sheet in a police case]	Offence of which cognizance was taken with Act and Section	If complaint is dismissed under Section 203, date of dismissal	If the case is otherwise disposed of without the Appearance in the Court of the accused, date of disposal			
1	2	3	4	4-A	5	6	7			
If complaint is not dismissed or the case otherwise disposed of without the appearance of the accused in the Court, date on which the accused				Name, parentage, residence and age of each person brought to trial	Date of decision	Acts and sections of offence regarding which a decision was given as to each accused	Died, escaped or transferred to another district	Discharged	Acquitted	
[Was brought to Court under arrest]		Appeared in Court							On withdrawal from prosecution	Otherwise
Without warrant	Under warrant	Upon summons	Voluntarily							
8	9	10	11	12	13	14	15	16	17	18
Number of persons convicted										

On regular trial					On summary trial						
Appealable sentence passed	Non-appealable sentence passed	Release on probation, [Section 4 of the First Offenders Probation Act]	Release after admission - [Section 3 of First Offenders Probation Act]	Discharge after admission	Delivered to parent or guardian	Appealable sentence passed	Non-appealable sentence passed	Release on probation - [Section 4 of the F.O.P. Act]	Release after admission - [Section 3 of F.O.P. Act]	Discharge after admission	Delivered to parent or guardian
19	20	21	22	23	24	25	26	27	28	29	30
Committed for trial	Referred under [Section 347 or 349]	Number of days case lasted	Number of persons sentenced to				Simple imprisonment	Forfeiture of property	Fine		
			Rigorous imprisonment		Without solitary confinement						
			With solitary confinement	Without solitary confinement							
31	32	33	34	35	36	37	38				
Persons ordered to find or give		Persons imprisoned in default of		Detail of punishment							
				Imprisonment							

Security or- cogni- zance to keep the peace]	Secu- rity for good be- hav- iour	Secu- rity to keep the peace	Secu- rity for good be- hav- iour	Fif- teen days and under	Six months and un- der	Two years and under	Seven years and un- der	No. of boys whose sen- tences were com- muted to de- tention in re- forma- - tory school
39	40	41	42	43	44	45	46	47
Class of rec- ord under chap- ter XII, Rule 117	Result of appeal or revision, if any						Sig- na- ture of the Pre- sid- ing Of- ficer	Re- marks
	Name of Court	Date of or- der	Judg- ment con- firmed	Judg- ment re- versed	Judg- ment modif- ied with na- - ture and extent of sentence passed	Date of compli- ance with A p- pellate Court's order		
48	49	50	51	52	53	54	55	56

This register shall be kept up in conformity with the following instructions :

- (1) Every case falling within the schedule of offences given in Rule 163 of chapter XVII of which a Court takes cognizance under Section 190125 of the Code of Criminal Procedure, 1973 except one that is at once transferred under Section 192126, and every such case which is received from another Court or district by transfer, shall be entered in this register, and no other case shall be entered therein.
- (2) Columns 1 to 5 shall be filled up when cognizance is taken of the case.
- (3) In a case received by transfer the entries in Columns 1 to 12 shall be the same as those in the register of the Court from which the case is transferred, so far as they apply, and shall be made as soon as the case is received. At the same time a note shall be made in the Column of remarks of the name of the Court and district from which the case was transferred.
- (4) A case in which Court proceeds under Section 345 shall be separately entered in this register.

- (5) In Column 5 and against each accused in Column 14 only one section shall be entered, viz., that of the principal offence, if more than one offence is charged or found applicable. But, if an accused is separately tried for two or more offences, two or more separate cases shall be registered.
- (6) If a case is dismissed under Section 203 or is otherwise disposed of without the appearance of the accused in Court, no entries shall be made in any of the [Columns 8 to 47].
- (7) In Column 8 an entry shall be made regarding every accused person arrested without a warrant by whomsoever he may be arrested. A person arrested, but released on bail or recognizance to attend the Court shall be entered in Column 8 or Column 9 as the case may require.
- (8) When a case is transferred to another Court in the same district, no entries shall be made in the [Column 13 to 59] but a note shall be made in the Column of remarks of the name of the Court to which a case is transferred.
- (9) When an entry is made in Column 15, a note shall at the same time be made in the Column of remarks, whether the person died or escaped or was transferred to another district; if he was transferred, the name of the district should be noted.
- (10) In Column 16 an entry shall be made regarding every person discharged under [Sections 118, 258, 245, 249 and 321].
- (11) In Column 17 shall be entered every person acquitted under [Sections 256, 257, 320 and 321].
- (12) In Column 18 shall be entered every person acquitted under [Section 248 and 255].
- (13) In Columns 19, 20, 25 or 26, as the case may be, shall be entered every person subjected to an order under [Section 117] (for whatsoever period), and every person convicted under [Sections 252, 255 (1) & (2) and 248].
- (14) A person convicted shall be entered in the Column Nos. 19 to 30 as the case may be, and a person committed shall be entered in Column 31, even though the case falls under [Section 318] and report has to be made to the High Court, or even though action is taken under Section 8 of the Reformatory Schools Act, 1897. In such a case, a note shall be made in the column of remarks, showing what action was taken after conviction.
- (15) A person whose case is submitted to Sessions Judge under [Section 122], shall not be entered in column 31 or 32 but in Column 19 or 20, as the case may be.

(16) A When an accused person has been found to be of unsound mind and has been dealt with under [Section 330], no entries shall be made in columns 13 to 32 and the case regarding him shall not be treated for statistical purposes as pending. A note shall be made in the column of remarks to the effect that the case has been entered in the special register prescribed for cases of this description. The cases entered in this register shall be brought up for consideration in the Court in which they are pending on the first day in January, April, July and October on which such Court is sitting. If, under the provisions of [Section 332 of the Code of Criminal Procedure, the accused has been held to be capable of making his defence and the inquiry or trial has proceeded, an entry to that effect shall be made in the register. If he has not been so held capable, the case shall continue to be brought up periodically until he has been held capable or until his death is certified to the Court. The duration of the case shall be reckoned from the date on which he is put on his trial.

B. When an accused person has absconded no entries shall be made in Columns 13 to 32 and the case regarding him shall be treated, for statistical purposes, as pending until he has been tried or dies. But otherwise the case shall be treated as completed and record shall be marked as of Class III in [Column 52] and a note of the action taken in regard to the accused shall be made in the Column of re-marks.

(17) A note shall be made in the column of remarks against every case in which - (i) a complainant or informant is ordered to pay compensation under Section 250; or (ii) the Magistrate declares that the charge is false and that the offence never occurred. It shall be the duty of the reader to ascertain such declaration.

(18) To the register shall be prefixed an index in two columns the first column shall contain the entries given in the schedule of offences (chapter XVII, Rule 163) and such other local and special laws as are mentioned in the register and in the second column shall be entered the serial numbers of the cases falling within each entry. The index shall be written up as soon as the entries in Columns 1 to 5 relating to all the cases on each page of the register are completed.

(19) In calculating the duration of a police case for the purposes of the Column 33, a case shall be held to begin on the date entered in Column 4-A and to end of the date entered in Column 13, both days inclusive. In a complaint case the case shall be held to begin on the earliest date entered in Columns 8 to 11 and to end on the date entered in Column 13, both days inclusive.

(20) For every entry in Column 34, 35, 36, [44 or 45] there must be a corresponding entry in [Columns 46 to 49]. There can be no entry in [Column 50], unless there is also an entry in Columns 34 to 36 and another entry in [Columns 46 to 49].

(21) When a person is sentenced under one conviction to more punishments than one, or is committed to prison in default of compliance with an order, an entry shall be made of every such punishment or imprisonment.

*Illustrations.* - (i) A person is sentenced to rigorous imprisonment with solitary confinement and to fine, and is ordered to execute a bond for keeping the peace. He will be shown in Column 34 and in Column 38 and in [column 42].

(ii) A person is ordered to give security for good behaviour and does not give it. He will in every case be shown in Column 43, and he will be shown also in [Column 45], except in case in which the proceedings have to be submitted to a Court of Sessions under [Section 122. In such a case the imprisonment in default will be entered in the register of the Court of Sessions.

(22) For a person shown in column 31 or 32 no entry shall be made in Columns 34 to 51.

(23) Any punishment or order passed regarding a person convicted that can-not be shown in any of [Columns 34 to 43] shall be entered in the column of remarks.

(24) When a youthful offender is dealt with under Section 8 or Section 9 of the Reformatory Schools Act, 1897, a note of the order and of the Magistrate by whom it was passed shall be made in the column of remarks of this register in the Court of the Magistrate who convicted him.

(25) Entries in [Column Nos. 53 to 59] shall be made on receipt of a copy of judgment or order or an abstract under chapter X, Rule 99.

**Form No. 10**  
**(Chapter XVI, Rules 164 and 168)**  
**Register of cases under [Section 330140] of the Code of Criminal Procedure**

No. of case	Date	Court in which	Name of prosecutor pending	Name of accused	Date where case stopped on account of accused being pronounced incapable of defending	Orders himself
1	2	3	4	5	6	7

**Form No. 11**  
(Chapter XVII, Rules 164 and 168)

Serial number	Date of institution	Police station	How instituted	Section applicable	Date of issue of first order	Nature of order	Name of each person against whom orders were issued	Whether such person complied with such orders, with date
1	2	3	4	5	6	7	8	9

Proceedings, if orders were not complied with					Result of appeal or revision, if any							Remarks
		Nature of final orders										
Date of appearance, if any, of such person in Court	Proceedings on appearance or in default of appearance	No action taken or person proceeded against discharged	Person proceeded against subjected to a final order and nature of order	Date of disposal	Name of Court	Date of order	Order confirmed	Order reversed	Order modified with nature and extent of modification	Date of compliance with appellate Court's order	Signature of Presiding Officer	
10	11	12	13	14	15	16	17	18	19	20	21	22

In regard to this register; the following instructions shall be observed :

- (1) Every case under chapter VI-C, or [Section 349], every case under Section 106, every case under [chapter X] (save an order under Section 142, which shall not be separately registered, and an order under Section 143, which shall be entered in the register in Form No. 12) every case under [chapter XII], every case under [Section 332], every case under [chapter XXXVI], every case under [chapter XLII] and every case under Section 250 of the Code of Criminal Procedure, [1898], shall be entered in this register, and no other case shall be entered therein.
- (2) The entries in the first eight columns shall be made as soon as the first order is given by the Court. The entries in the remaining columns shall be made each at the earliest opportunity.
- (3) When a case is transferred to another Court or the person concerned dies, any column which may be blank at the time shall remain blank, save the column of remarks, in which a note shall be made of the transfer or death, and of the Court, if any, to which the case is transferred.
- (4) If any doubt arises in any case as to the proper entry to be made, a reference shall be made to instructions on Form No. 24.
- (5) In the register in the Court of Session in this form shall be entered, every case under chapter VI-C or Section 349, every case, under Section 106, every case under Section 332,4 every application under [Section 408, 409, 410, 411 and 412 ] and every case under chapter XXXIII of the Code, and no other case shall be entered therein.

**Form No. 12**  
**(Chapter XVII, Rules 164 and 168)**  
**Register of miscellaneous reports and proceedings in the**  
**Court of ..... for the year 20.....**

Sl. No.	Date of first re-port or order	Police station	Description of initiatory paper with name of petitioner or person making report or reference	Intermedi-ate orders	Final order with date	Method of dispos-al of papers	Remarks
1	2	3	4	5	6	7	8

This register shall be kept up by the departmental clerk and shall contain an entry of every report or proceedings in the Court of the nature hereinafter mentioned :

- [(1) Order for issue of warrant under Section 98 or 100 of the Code of Criminal Procedure, 1898.]
- [(2) Order under Sections 122 and 143.]
- (3) Order under Section 173, upon a report under Section 169.
- [(4) Report under Sections 48, 157 and 174, if not made in a case otherwise registered.]
- (5) Inquiry under Section 159 or 176.
- [(6) Inquiry under Section 187.]
- (7) Case transferred under Section 192.
- (8) Sanction under Section 197.
- [(9) Warrant received under Section 393 and sent to the record-room.]
- [(10) Proceedings of a Sub-divisional Magistrate under Section 397.]
- [(11) Inquiry under Section 476.]
- [(12) Proceedings under Section 346.]
- [(13) Proceedings under Sections 284, 286 and 288 by a Magistrate to whom a commission is issued.]
- [(14) Proceedings of a District Magistrate under Section 287.]
- [(15) Proceedings under Section 452(3), and proceedings under Sections 457 to 459 which do not belong to a case otherwise registered.],
- [(16) Proceedings under Section 475 or 98.]
- (17) Order under Section 18 of the Vaccination Act, 1880.
- (18) Reports of unclaimed property under Section 25 of the Police Act, 1861, and other reports by the police not connected with cases before the Court; for example, reports of the deaths of friendless, unknown or destitute persons.

(19) Any other report or proceedings of a nature similar to any of those above mentioned.

(20) Translation of letters, orders or other directions as to Court or office work or copies of proceedings received from superior Courts.

(21) Proceedings received from other district Courts, and officers regarding service and execution of processes, realization of fines and the like matters.

(22) Proceedings of a District Magistrate under Section 9 and Section 31, subsection (5) of the Reformatory Schools Act, 1897.

(23) Proceedings under Section 10 of the Reformatory Schools Act, 1897.

(24) Proceedings under Sections 7 and 8 of the Lepers Act, 1898.]

In Column 7 shall be entered a note of what is done with the papers; for example, the following notes might be made according to circumstances:

(i) "sent to the Court of" in regard to numbers (6), (7), (10), (11), (12), (13), (16), (17) and (21).

(ii) "filed with record of case number" in regard to numbers (1), (2), (3), (8), (14), (16), (17) and (22).

(iii) "sent to the record-room with list, dated" in regard to numbers (3), (4), (5), (15), (17), (18), (20), (21) and (23).

(iv) "sent to the record-room separately" in regard to number (9).

(v) "pasted into file book" or "returned" in regard to number (20) or (21). In this register in a Court of Sessions shall be entered every proceeding under Section 195, or under See [Section 430], or under [Section 476], or under [Section 346], or under [Section 452(3)], if such proceedings is taken separately from the case to which it relates, or under any other similar provision of law. As regards entries in Column 7, the above instructions shall apply.

**[Form No. 12-A]**  
**(Chapter XVII, Rules 164 and 168)**  
**Register of bail applications**

Serial number of application	Date of application	Name of applicant	Name of the Court refusing or granting the bail	Case no. or Crime no.	Police Station	Offence(Act and Section) in respect of which the bail is applied for	
1	2	3	4	5	6	7	
Date of disposal	Whether the applicant was earlier allowed or refused bail by						Remarks
	Court of Session			High Court			
	Whether allowed or refused	Whether allowed or refused	Date of order	Whether allowed or refused	Date of order		
8	9	10	11	12	13	14	

## FormNo.18

(Chapter XVII, Rule169)

Register of witnesses (including complainants) and of allowance to them in the Court of  
Magistrate/Sessions Judge of.....

Serial number of witnesses discharged	Number of cases	[Name] of witness discharged	Residence of witness	Date of arrival	Date of discharge		Discharged on the-			
					After examination	Without examination	First day of attendance	Second day of attendance	Third day of attendance	After third day of attendance
1	2	3	4	5	6	7	8	9	10	11
20	28 of 1948	Hira Singh	A	10-7-48	...	...	...	...	...	...
21	28 of 1948	Phool Singh Constable	H	10-7-48	...	...	...	...	...	...
22	Ditto	Ram Bux	D	10-7-48	...	...	...	...	...	...
[21]	Ditto	Phool Singh Constable	...	11-7-48	11-7-48	...	1	...	...	...
[20]	Ditto	Hira Singh	A	11-7-48	...	...	...	...	...	...
[22]	Ditto	Ram Bux	D	11-7-48	...	...	...	...	...	...
[20]	Ditto	Hira Singh	A	12-7-48	12-7-48	...	...	...	1	...
[22]	Ditto	Ram Bux	D	12-7-48	...	...	...	...	...	...

[22]	Ditto	Ram Bux	D	25-7-48	25-7-48	...	...	...	...	1	
Details of allowances paid							Amount paid by Nazir	Signature of Nazir	Signature of		Remarks
Rate according to rules in force	Number of days allowed for journey	Number of days detained at Court	Amount of diet allowance paid	Amount of travelling expenses (if any)		Total of Columns 15, 16 and 17			Payee	Officer before Who paid	
				By rail	By road with actual distance paid for						
12	13	14	15	16	17	18	19	20	21	22	23
B	1	1	2B	X	Y [16.5 km]	2B+X+Y	...	...	(Sd.) H.S.	(Sd.) P.O.	Caseno ttaken up
...	...	...	...	...	...	...	...	...	...	...	Ditto
B	1	1	2B	E	F [33 km]	2B+E+F	...	...	(Sd.) R.B.	(Sd.) P.O.	Ditto
	Total		4B	X+E	Y+F	4B+X+Y	E+F	...	...		Entries Checked (SD.) P.O. 10-7-48
...	...	...	...	...	...	...	...	...	...	...	...
B	...	1	B	...	...	B	...	...	(Sd.) H.S.	(Sd.) P.O.	Exam. incomplete

B	...	1	B	...	...	B	...	...	(S.d.) R.B	(Sd.) P.O.	...
	Total	...	2B 2B	...	...	2B	...	...	...	..	En-tries checked (S.d.) P.O. 11.7.4 8
B	1	1	2B	X	Y [16.5 km]	2B +X+Y	...	...	(Sd.) H.S	(Sd.) P.O.	Exam. incom- plete
B	1	1	2B	E	F[33 km]	2B+E+F	...	...	(Sd.) R.B	(Sd.) P.O.	
	Total	...	4B	X + E	Y+F	4B+X+Y +E+F	...	...			En-tries Check ed (Sd.) P.O. 12- 7- 48
B	2	1	3B	2 E	2F [66 km]	3B+2E+ F	...	...	(Sd.) R.B	(Sd.) P.O.	...
	Total	...	3B	2 E	2F [66 km]	3B+2E+ F	...	...	...	..	En-tries checked (S.d.) P.O. 25- 7- 48

Note. – B denotes diet money payable per day

X denotes travelling expenses payable for the outward or inward journey to Hira-Singh (H. S.)

Y denotes travelling expenses payable for the outward or inward journey to Hira-Singh (H. S.)

E denotes travelling expenses payable for the outward or inward journey to Ram Bux (R. B.)

F denotes travelling expenses payable for the outward or inward journey to Ram Bux (R. B.)

P.O.-Abbreviation for Presiding Officer

\*Entries to be in red ink.

Entries in the form should be made according to the above specimen.

The entries relating to the witnesses who attend the Court on several dates should not be made at one and the same place irrespective of the dates on which they attend. The entries should, on the other hand be made date wise, but in order that the register may indicate at a glance whether a witness has or has not appeared in the same case on a previous date as well, subsequent entries relating to the same witness in column No. 1 only should be made in red ink.

**[Form No. 34]**  
**(Chapter VIII, Rule 64)**  
**Memorandum of identification proceedings of the following accused con-ducted**  
**on.....at.....**

Name, parentage and residence of the accused, statement if any made by him and signature or thumb impression	Offence	Any distinctive marks likely to affect identification	Step (if any) taken by the Magistrate conducting the proceedings regarding Column 3	Date of admission into the jail (or on bail)	Description of the accused prior to his admission in jail such as length of hair etc.	Description of the accused at the time of identification.	Precautions (if any) taken by the Magistrate conducting the proceedings regarding Column No. 5-B
1	2	3	4	5	5-A	5-B	5-C

The person/persons to be identified was/were mixed up with other under trial prisoners/ persons. All were made to stand in a circle. They were made to wear the clothes in which they were originally admitted to the jail (with the exception of the changes mentioned in Column 4). No fetters were on. The accused were given the option to change places at will but were not allowed either to conceal their faces or stature so as to impede recognition and to exchange their clothings. The witness were called in one by one and asked to single out the person or persons they had come to identify and to mention the action for which they identified him or them. Every precaution was taken to ensure that no succeeding witness communicated in any manner with the preceding one. The result of the proceedings was as follows :

Name, parentage and residence of the witness	Name or description of the person whom the witness came to identify with details of the part which that person played in the crime as seen by witness (in his own words)	Name of the accused correctly identified	Wrong person pointed out (if any)	Any other statement made by the witness	Magistrate's remarks about demeanour of witness	Signature or thumb impression of the witness
6	7	8	9	10	11	12

Remarks of the Magistrate who conducted the proceedings on the following points :

- (1) Was the Superintendent of Jail informed at the time of the admission of the accused to the jail lock-up that his identification would be conducted later on?
- (2) Steps taken by the jail authorities to ensure the proper conduct of the proceedings.
- (3) How the application(s), if any, moved on behalf of the accused was/were dealt with?
- (4) Name of counsel, if any, appearing for the accused, and whether his/their signatures have been taken on the memo.
- (5) Did the counsel for accused, if present, point out any other mark not noted by you?
- (6) Any other point.

*Dated.....20 .....*  
*Magistrate*

N. B. - It is very useful to note whether the witness knew the name of the person he had come to identify or he only described him in some such way as the man who was standing at the door at the time of the dacoity. The witness is not to be asked in a general way.

"Identify whomsoever you know"

### Form No. 37

(Chapter XVIII, Rule 61)

Identification of property held at.....in Crime No.....under Section.....of  
police station.....district.....in the Court of..... Class on.....20.....,  
at.....a.m./p.m.

Serial number of exhibit	I	II	III	IV	V	VI	VII	VIII	IX	X	Remarks
Name of accused from whom recovered. Name of article to be identified Number of articles mixed. Any condition of the articles which is likely to affect identification Precaution taken regarding above Names of witnesses with parentage and residence. 1. 2. 3. 4. 5. 6. 7. 8. 9. 10.											Signature or thumb impression of witnesses 1. 2. 3. 4. 5. 6. 7. 8. 9. 10.

1. The property to be identified was brought by. Court Moharrir/Police Constable No. ....of my Court/Police Station in.....sealed bundles from.....The articles to be mixed up were brought.....by.....contractor/tahsil peon in.....sealed bundles. The seals were intact and were opened before me. The witnesses were called one by one. Every precaution was taken to ensure that no succeeding witness communicated in any manner with the preceding one.
2. The articles mixed up were similar in appearance to those for identification except as to details given in remarks column.
3. ....was present on behalf of the prosecution and.....was/were pre-sent on behalf of.....accused.

Dated the.....day of.....20.....

Magistrate

**[Form No. 45]**  
**(Chapter XVIII, Rule 177)**  
**Form of Register for Criminal cases decided**

Date of decision	Particulars of the case	Enquiry case			Case in which the accused was convicted or acquitted after full trial	Case in which the accused was either discharged under Section 239 or convicted under Section 239 Cr.P.C 'B'	Case in which the accused was either discharged under Section 245 or convicted under Section 246(2) Cr.P.C
		Number of accused	Number of accused committed to Sessions	Number of accused discharged			
1	2	3	4	5	6	7	8
Warrant cases				Summons cases			
Case in which the accused was discharged under [Section 249 Cr. P. C.]	Case in which the compounding under [Section 320, Cr.P.C. took place	Case under [Section 299 Cr. P.C.	Case in which the accused was convicted under [Section 252 Cr.P.C	Case in which the accused was acquitted under [Sections 256, 257 and 258, Cr.P.C after recording some evidence	Case decided after full trial	Case dismissed under Section 203, Cr. P. C.	
9	10	11	12	13	14	15	
Summary trials		Criminal Revisions		Transfer application	Cases transferred to other Courts	Case withdrawn by the State	
Appealable cases	Non appealable cases	Contested	Dismissed at admission stage				
16	17	18	19	20	21	22	
Number of days devoted to the case	Number of days for which the case remained pending from the date of complaint or chargesheet		Prosecution witnesses	Defence witnesses	Number of accused examined	Remarks	
23	24		25	26	27	28	

**R. 187. Receipt slip.**—An applicant may, if he wishes, attach to and present with, his application a receipt slip in Form no. 46. If this is done, the slip shall be signed in acknowledgment of the receipt of the application and returned to the applicant after necessary entry has been made in column 4, care being taken that all space where any interpolation or insertion of words is possible, is crossed with a line. The Presiding Officer of the Court shall satisfy himself from time to time that receipt slips are returned to applicants duly filled in without delay.