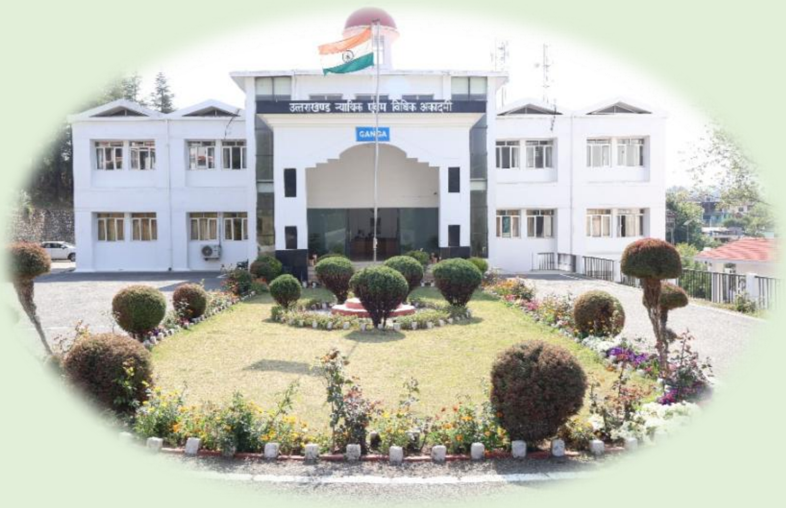

STUDY MATERIAL

FOR

JOINT WORKSHOP

ON

MEDICAL JURISPRUDENCE, BALLISTICS EVIDENCE, CYBER CRIME & HANDLING, ADMISSIBILITY & APPRECIATION OF ELECTRONIC EVIDENCE

FOR

JUDICIAL OFFICERS, POLICE OFFICERS, DOCTORS, FORENSICS & BALLISTICS EXPERTS, DGCS/ADGCS & PROSECUTION OFFICERS

FROM 26.09.2026 & 27.09.2026

PREPARED BY

UTTARAKHAND JUDICIAL AND LEGAL ACADEMY, BHOWALI

THE NEW CRIMINAL LAW FRAMEWORK OF INDIA

With effect from 1 July 2024, three new criminal law statutes replaced the colonial-era criminal law framework of India:

New Law (2023)	Replaces	Subject Matter
Bharatiya Nagarik Suraksha Sanhita (BNSS)	Code of Criminal Procedure, 1973 (CrPC)	Procedure — investigation, arrest, bail, trial, search & seizure
Bharatiya Nyaya Sanhita (BNS)	Indian Penal Code, 1860 (IPC)	Substantive offences and punishments
Bharatiya Sakshya Adhiniyam (BSA)	Indian Evidence Act, 1872	Law of evidence, including electronic evidence

A recurring feature across all three enactments is the increased emphasis on technology, electronic FIRs, videography of search and seizure, electronic service of summons, and audio-video recording of statements and proceedings along with codification of Supreme Court precedents (e.g., on arrest safeguards, proclaimed offenders, and admissibility of electronic evidence) that had earlier existed only in case law.

BHARATIYA NAGARIK SURAKSHA SANHITA (BNSS), 2023

Overview of BNSS, 2023

The BNSS, 2023 (Act No. 46 of 2023) contains 531 sections arranged in 39 chapters, compared to 484 sections in the CrPC, 1973. It came into force on 1 July 2024. Key structural changes:

- Timelines have been introduced/tightened at almost every stage — e.g., mandatory forensic visit for offences punishable with 7+ years, judgment within 45 days of completion of arguments, and defined periods for framing charge, investigation in rape cases, and disposal of mercy petitions.
- Electronic mode is now the norm, not the exception — FIR, statements, search & seizure, service of summons/warrants, and even trial in absentia can be conducted through audio-video electronic means (Section 530, BNSS).
- Witness Protection Schemes are made mandatory for every State Government (Section 398).
- New categories of offenders — 'proclaimed offender' provisions have been expanded (Section 84) and attachment of property provisions strengthened (Sections 85-88).
- Mercy petition procedure and death sentence execution timelines are now codified (Sections 472-475).

An Overview of Key Chapters

The sessions in this programme focus on the chapters of BNSS that are most relevant to a securities-market regulator exercising powers of search, seizure, arrest, investigation, and prosecution under special/economic legislation. These are summarised below before each topic is taken up in detail.

BNSS Chapter	Subject
Ch. V (Ss. 35-62)	Arrest of persons
Ch. VII (Ss. 63-71)	Processes to compel appearance — summons, warrants, proclamation & attachment
Ch. XII (Ss. 173-187)	Information to police and their powers to investigate; FIR & NCR
Ch. XIII (Ss. 188-209)	Jurisdiction of criminal courts in inquiries and trials
Ch. XVI (Ss. 232-247)	Commencement of proceedings before Magistrates; committal to Sessions Court
Ch. XXXV (Ss. 480-491)	Bail — provisions as to bail and bonds
Ch. XXI (Ss. 291-300)	Trial before Courts of Session

ARREST & REMAND

ARREST — SECTIONS 35-62, BNSS (CORRESPONDS TO SS. 41-60A, CRPC)

- Section 35 (old S.41): Police may arrest without warrant a person who has committed a cognizable offence, or against whom a reasonable complaint/credible information/reasonable suspicion exists, subject to the safeguards laid down for offences punishable with imprisonment less than 7 years (the Arnesh Kumar safeguards, now codified) the officer must record reasons and satisfy that arrest is necessary for one of the specified purposes (to prevent the person from committing further offence, for proper investigation, to prevent tampering with evidence, to prevent inducement/threat to witnesses, or to ensure presence in court).
- New safeguard (Section 35(7), BNSS): No arrest of a person ordinarily above 60 years of age shall be made for an offence punishable with imprisonment up to 3 years, without prior permission of an officer not below the rank of Deputy Superintendent of Police a provision not found in the CrPC.
- Section 36 (new): Every police officer must maintain and prominently display, in each police station and district headquarters, the designation and contact details of the officer responsible for maintaining information about arrested persons enhancing transparency.
- Section 37: Designated police officer in every district/police station to maintain information of arrested persons, to be displayed prominently, including in digital modes.
- Section 43 (old S.46): Manner of arrest physical touch/confinement of body unless there is submission to custody by word or action; use of handcuffs permitted (new) only for specified categories of habitual/repeat offenders, or those who escaped custody, or those accused of organised crime, terrorism, offences against the State, and similar serious offences and only with the permission of the court.

- Section 47 (old S.50): Arrested person to be informed of grounds of arrest and of the right to bail (if the offence is bailable).
- Section 48 (old S.50A): Information of arrest to be given to a nominated/relative person, and this must be entered in a register at the police station a mandatory obligation (D.K. Basu safeguards, now codified).
- Section 58 (old S.57): Person arrested not to be detained for more than 24 hours (excluding travel time to the Magistrate's court) without a Magistrate's order.

REMAND — SECTION 187, BNSS (CORRESPONDS TO S.167, CRPC)

- If investigation cannot be completed within 24 hours, the accused must be produced before the nearest Magistrate; the Magistrate may authorise detention in police custody (up to 15 days total, but which may now be granted in parts/intermittently over the 40/60-day period, a departure from the CrPC's continuous first-15-days rule) or judicial custody.
- Total period of detention before filing of chargesheet: 90 days for offences punishable with death/life imprisonment/imprisonment of 10 years or more, and 60 days for other offences, after which the accused is entitled to default/statutory bail if the chargesheet is not filed.
- For economic offences investigated by specialised agencies, the same default-bail timelines under Section 187 read with Section 480 apply unless a special enactment prescribes otherwise.

FIR & NCR (FIRST INFORMATION REPORT & NON-COGNIZABLE REPORT)

SECTION 173, BNSS (OLD S.154, CRPC) — FIR

- Every information relating to commission of a cognizable offence, given orally to an officer in charge of a police station, shall be reduced to writing, read over to the informant, and signed by the informant; a copy must be given free of cost.
- New: information may now be given electronically, and shall be signed within three days by the informant appearing before a police officer (Section 173(1), proviso).
- Section 173(3) (new provision): For offences punishable with 3 to 7 years' imprisonment, the police, with the prior permission of an officer not below the rank of Deputy Superintendent of Police, may conduct a preliminary enquiry within 14 days to ascertain whether a prima facie case exists, before registering an FIR, a significant departure allowing pre-FIR verification for a specified band of offences.
- Zero FIR: If the offence is committed outside the jurisdiction of the police station where the information is lodged, the officer must register a 'zero FIR' and transfer it to the appropriate police station (Section 173(1) read with settled practice, now codified in effect through Section 173 and 178).

Section 174, BNSS (old S.155, CrPC) — NCR

- Information relating to a non-cognizable offence is entered in a book (the 'NCR' or general diary) and the informant referred to a Magistrate; a police officer cannot investigate a non-cognizable offence without the Magistrate's order.

Police Report

- Section 193, BNSS (old S.173, CrPC): Investigation to be completed without unnecessary delay; report (chargesheet/final report) forwarded to the Magistrate empowered to take cognizance, in the prescribed form, containing names of parties, nature of information, names of witnesses examined, whether an offence appears to have been committed and by whom, whether the accused is in custody, etc.
- Section 193(3) requires that the progress of investigation be communicated to the victim/informant within 90 days, through any mode including electronic means.
- Supplementary report may be filed if further evidence is obtained after the first report (Section 193(9)).

COGNIZANCE ON COMPLAINT & PROCEDURE TO BE ADOPTED

- Section 210, BNSS (old S.190, CrPC): A Magistrate may take cognizance of any offence

(a) upon receiving a complaint of facts constituting an offence, (b) upon a police report of such facts, or (c) upon information from a person other than a police officer, or upon his own knowledge, that such offence has been committed.

- Section 223, BNSS (old S.200, CrPC) - examination of complainant: A Magistrate taking cognizance of an offence on complaint shall examine the complainant and witnesses present, upon oath, and the substance of the examination is reduced to writing and signed. New proviso: the Magistrate must give the public servant/authority concerned an opportunity of being heard before proceeding against them, where the complaint is against a public servant acting in discharge of official duties.

- Section 175(4), BNSS (referenced in the schedule): where a Magistrate declines to direct investigation, or on receipt of report the investigating officer finds no case, the person aggrieved (e.g., a private complainant) may apply to the Magistrate under Section 175(4) for a direction to register a case/investigate further.
- Section 175(3), BNSS: A Magistrate may order investigation, or itself conduct such investigation as he thinks fit, into an offence within his jurisdiction, subject to the safeguards of hearing the police/officer concerned.

SUPPLY OF DOCUMENTS TO ACCUSED

- Section 230, BNSS (old S.207, CrPC): The Magistrate must, without delay, furnish to the accused free of cost copies of the police report, FIR, statements of witnesses recorded under Sections 180/183, confessions/statements under Section 183, and any other document forwarded with the police report.
- New: Section 230 permits supply of such documents in electronic form, and Section 63 of BSA (discussed in Part C) governs the admissibility conditions for such electronic records.
- Section 231, BNSS: Supply of documents where the proceeding is instituted otherwise than on a police report (i.e., on a private complaint).

COMMITTAL OF CASE TO COURT OF SESSION

- Section 232, BNSS (old S.209, CrPC): Where the offence is triable exclusively by the Court of Session, the Magistrate commits the case to that court, subject to provisions as to bail, and sends records/documents and articles produced in evidence.
- The commitment must ordinarily be made within 90 days from the date of taking cognizance, extendable by the Sessions Court for reasons recorded (a new outer time-limit not found in the CrPC).

TRIAL IN ABSENTIA

- Section 356, BNSS: A new, standalone provision permitting trial and pronouncement of judgment in the absence of a proclaimed offender who has absconded to evade trial and there is no immediate prospect of arresting him provided the court is satisfied, after recording evidence, that the offender has absconded and there is no likelihood of his being arrested in the near future.
- Procedure: after recording evidence of at least one witness on affidavit (or otherwise), and giving 90 days' notice through publication/proclamation, the trial can proceed to judgment; the trial in absentia is treated as a trial as if the accused were present, and if the offender is later apprehended, the case may (subject to satisfaction of the appellate/trial court on grounds like non-service of notice) be reopened.
- This is a significant departure from the CrPC scheme, which did not permit an in-absentia trial for a proclaimed offender absent express provision (only inquiry/preparation could proceed under old S.299).

PERSON ABSCONDING & PROCLAIMED OFFENDERS

- Section 82, BNSS (old S.82, CrPC) — Proclamation for person absconding: If a court has reason to believe a person against whom a warrant has been issued has absconded or is concealing himself, it may publish a written proclamation requiring appearance within a specified time (not less than 30 days from publication).
- Section 84, BNSS (old S.84, corresponding also to new categories) — Proclaimed offender: A person who fails to appear as required may be declared a 'proclaimed offender' where the offence is one specified (punishable with death, life imprisonment, or imprisonment for 10 years or more), and the court may also declare as a proclaimed offender a person absconding to avoid trial for offences punishable under Sections 65, 70, 111, 112, 113 or 137 of BNS (organised crime, terrorism, kidnapping for ransom, etc. — cross-referenced to the substantive offences discussed in Part B).
- Section 85-88, BNSS (old Ss. 83, 85-86, CrPC) — Attachment of property: The court may order attachment of any property (movable/immovable, within or outside India) belonging to the proclaimed person, and Section 84(4) permits trial in absentia proceedings (cross-referenced to Section 356) once the person is declared a proclaimed offender.

EVIDENCE OF PUBLIC SERVANTS, EXPERTS, ETC.

- Section 336, BNSS (old S.293, CrPC): Reports of certain Government scientific experts (Chemical Examiner, Forensic Science Laboratory, etc.) may be used as evidence, though the court may summon and examine the expert if it considers it necessary.

- Section 173(1), BNSS 2nd proviso & Section 176: In offences punishable with 7 years or more, it is now mandatory for a forensic expert to visit the crime scene and collect forensic evidence, and for the process to be videographed.
- Section 138, BNSS (old S.132A analogues) & BSA provisions (Part C): Evidence given by a public servant in the discharge of official duty may, under specified conditions, be given by way of affidavit, and the court may, if it thinks fit, summon such a person for examination on the affidavit.
- Section 336(3), BNSS, allows evidence of a formal/scientific character (e.g., under the Information Technology Act's Section 79A examiner of electronic evidence) to be given by way of certificate rather than oral deposition, subject to the opposite party's right to require cross-examination.

ELECTRONIC AND DIGITAL ECOSYSTEM IN NEW CRIMINAL LAWS ON SEARCH & SEIZURE

- Section 105, BNSS (old S.100, CrPC): Search of a closed place — the occupant must be given the opportunity to attend, and the search must now be videographed (a new, mandatory requirement wherever practicable) — the recording becomes part of the case record and part of the evidence used to prove that the search was fairly conducted.
- Section 94, BNSS (old S.91, CrPC): Summons to produce documents/electronic communications — now expressly covers 'any document or electronic communication, including communication devices' held by any person, aligning search/production powers with digital evidence realities.

- Section 185, BNSS (old S.165, CrPC): Search by police officer without warrant during investigation, subject to recording grounds in writing and, where practicable, videographing the process.
- Section 176(3), BNSS: forensic and videography requirements for crime-scene visits in serious offences, discussed above, apply equally to searches of digital devices/servers where such evidence is central (as is typical in securities-fraud investigations involving trading logs, emails, and messaging app data).
- Chain of custody: while BNSS itself does not use this term, its videography and forensic-certification requirements dovetail with the BSA's certificate requirement (Section 63, Part C below) to establish an evidentiary chain of custody for electronic material from seizure to production in court.

GENERAL PROCEDURE TO CONDUCT SEARCH & SEIZURE

1. Obtain/record authorisation — a search warrant from the competent court (Sections 96-103, BNSS) or record reasons in writing where a warrantless search is permitted (e.g., Section 185 during investigation).
2. Constitute the search team and, where required, associate at least two independent and respectable witnesses of the locality.
3. Before commencing the search, offer the officers conducting the search for personal search by the occupant/witnesses, and record this offer (Section 103, BNSS, old S.103 analogue).
4. Videograph the entire search and seizure process, including the condition of the premises/devices before search, the process of search, and the seizure of articles (mandatory good practice, now codified for specified categories).

5. Prepare a seizure list/memo on the spot, describing each item seized (including hash values/serial numbers for electronic devices), obtain signatures of the occupant and witnesses, and provide a copy to the occupant free of cost.
6. For electronic devices/data: image or clone the storage media using forensically sound tools where feasible, seal the original device, and simultaneously obtain a Section 63 BSA certificate (see Part C) identifying the device, the process of production, and confirming the device was functioning properly.
7. Forward the seized property/list to the court without unnecessary delay, along with the search/seizure report and the videography recording.
8. Maintain a documented chain of custody register recording every instance the seized material/device changes hands, is analysed, or is produced, until final disposal.

VIDEOGRAPHY DURING SEARCH & SEIZURE

- While the CrPC left videography to departmental instructions/judicial discretion, BNSS makes audio-video recording of the search process (preferably on a mobile phone) a statutory expectation under Section 105, and this recording, once produced with a certificate under Section 63, BSA, becomes admissible evidence of the fairness and integrity of the search.
- Videography strengthens the evidentiary value of the search in cases (such as securities-fraud raids) where the defence frequently challenges the manner of seizure, planting of evidence, or non-association of independent witnesses.

DISPOSAL OF CASE PROPERTY

- Sections 497-501, BNSS (old Ss. 451-459, CrPC): Courts may order interim custody, sale of perishable property, or destruction of property pending trial; and on conclusion of trial, order the property to be delivered to the person entitled, confiscated, forfeited, or destroyed, as the case may be.
- Section 497, BNSS (old S.451): Order for custody and disposal of property pending trial emphasis on photographing/videographing property before disposal where physical retention is impractical (bulky goods, currency, contraband, perishables).

AN OVERVIEW OF BHARATIYA NYAYA SANHITA (BNS), 2023

Structure

- The BNS, 2023 (Act No. 45 of 2023), in force from 1 July 2024, replaces the Indian Penal Code, 1860. It has 358 sections in 20 chapters, compared to 511 sections in the IPC (many obsolete/overlapping IPC sections were consolidated or removed, and several new offences added).
- New chapter on offences against the human body retains murder, culpable homicide, hurt, kidnapping, etc., largely renumbered.
- New/expanded offences: organised crime (Section 111), petty organised crime (Section 112), terrorist acts (Section 113), acts endangering sovereignty/unity/integrity of India (Section 152 — replacing sedition under old S.124A with a differently worded provision), mob lynching addressed through murder/culpable homicide read with the group-liability provisions, and offences relating to marriage on false promise/identity concealment.

- Community service introduced as a form of punishment for the first time in Indian substantive criminal law, for specified minor offences (e.g., theft of property under Rs. 5,000 where the property is returned/restored, public servant unlawfully engaging in trade, non-attendance in obedience to a legal order, etc.).

PUNISHMENT SCHEME UNDER BNS

- Punishments retained: death, imprisonment for life, imprisonment (rigorous or simple), forfeiture of property, and fine.
- Community Service added as a sixth category of punishment (Section 4(f), BNS) — defined as work which the court may order an offender to perform as a form of punishment benefiting the community, for which the offender is not entitled to remuneration.
- Fine amounts, which were fixed/low under the century-old IPC, have been substantially revised upward across many offences to reflect current values.
- Mandatory Minimum Punishment has been introduced for several offences for the first time (previously most IPC provisions prescribed only a maximum, leaving courts free to impose even a nominal sentence) e.g., for certain offences of hurt caused by dangerous substances, mob lynching resulting in death, and organised crime, a mandatory minimum term of imprisonment is now prescribed, reducing judicial discretion to award token sentences.

B. 2.1 COMMUNITY SERVICE — ILLUSTRATIVE OFFENCES

BNS Section	Offence
Section 202	Public servant unlawfully engaging in trade
Section 209	Non-attendance in obedience to an order from a public servant
Section 226	Attempt to commit suicide to compel or restrain exercise of lawful power
Section 303(2)	Theft of property under Rs. 5,000 by first-time offender, on return of property

MANDATORY MINIMUM PUNISHMENT — ILLUSTRATIVE OFFENCES

- Section 103(2), BNS: Murder by five or more persons acting in concert on grounds of race, caste, community, sex, place of birth, language, personal belief, or similar grounds (mob lynching) — punishable with death or imprisonment for life, and a fine, with imprisonment for life or death being effectively the mandatory floor for this specific aggravated category.
- Section 111(2)-(3), BNS: Organised crime resulting in death — punishable with death or imprisonment for life, which shall not be less than life, and fine of not less than Rs. 10 lakh; other organised crime — minimum imprisonment of 5 years, extendable to life, with minimum fine of Rs. 5 lakh.
- Section 117(2), BNS: Voluntarily causing grievous hurt using acid or similar substance — minimum imprisonment of 10 years, extendable to life.

RELEVANCE OF NEW CRIMES INTRODUCED IN BNS

- **Section 111** — Organised Crime: Defined broadly to include continuing unlawful activity by a crime syndicate for financial or other gain, through violence, threat, intimidation, coercion, or other unlawful means, including economic offences such as cyber-crimes with severe consequences and financial fraud on a large scale this can, in an appropriate case, extend to organised securities-market frauds (e.g., syndicate-run pump-and-dump schemes or systematic circular trading rackets) if the continuing-activity and syndicate elements are made out.
- **Section 112** — Petty Organised Crime: Covers organised gangs engaged in theft, snatching, cheating, unauthorised sale of tickets/public examination papers, and similar offences causing general feelings of insecurity a lower threshold offence than Section 111.
- **Section 61** — Criminal Conspiracy (retained, renumbered from old S.120A/120B): frequently invoked alongside cheating (Section 318) and forgery (Sections 336-340) in securities-fraud prosecutions.
- **Section 318** — Cheating (old S.415-420, IPC): retained substantially, with the 'cheating and dishonestly inducing delivery of property' provision (old S.420) now at Section 318(4), commonly invoked in investor-fraud cases.
- **Section 316** — Criminal Breach of Trust (old S.405-409, IPC): retained with the enhanced-punishment categories for trustees, bankers, merchants, agents, clerks, servants and public servants consolidated; directly relevant to breach of fiduciary duty by market intermediaries, brokers, and portfolio managers.
- **Sections 336-340** — Forgery (old Ss. 463-477A, IPC): consolidated forgery provisions, including forgery of valuable security and forgery for the purpose of cheating relevant to fabricated financial statements, forged board resolutions, and falsified trading records.

- **Section 152 —** Act endangering sovereignty, unity and integrity of India: replaces sedition (old S.124A) with a differently framed offence targeting subversive activity, secession, armed rebellion, or endangering sovereignty/unity/integrity through excitement of secession or armed rebellion, including through electronic means or financial means of tangential relevance where economic-offence investigations intersect with allegations of large-scale illicit fund flows to subversive activity.

BHARATIYA SAKSHYA ADHINIYAM (BSA), 2023

Overview

- The BSA, 2023 (Act No. 47 of 2023), in force from 1 July 2024, replaces the Indian Evidence Act, 1872. It has 170 sections (against 167 in the 1872 Act), organised in 12 chapters.
- Section 2(1)(d), BSA: 'Document' is redefined to expressly include electronic and digital records, thereby placing electronic records on the same footing as paper documents for most evidentiary purposes, subject to the special conditions in Section 63.
- Section 2(1)(e): 'Evidence' is now defined to include all documents, including electronic records, produced for the inspection of the court statutorily blurring the old distinction between 'documentary evidence' and a separate class of 'electronic evidence' under old S.65B.
- Primary evidence (Section 57, old S.62) now expressly includes electronic/digital records where a document is executed in several parts, each part is primary evidence, and where a video/audio recording is simultaneously stored in multiple files/devices, each such recording is primary evidence.

TYPES OF ELECTRONIC EVIDENCE

- Server logs, trading platform data, and order-matching records
- Emails, instant messaging/chat transcripts (WhatsApp, Telegram, Bloomberg/Reuters terminal chats), and SMS records
- Call Data Records (CDRs) and Call Detail/tower location records
- Digital voice recordings and video recordings (including CCTV footage and search-videography recordings discussed in Part A)
- Data recovered from computers, laptops, servers, mobile phones, and cloud storage (including forensic images/clones of storage media)
- Social media posts, screenshots, and metadata associated with digital files (creation/modification timestamps, IP addresses, device identifiers).
- Blockchain/DLT-based records and digitally signed documents, increasingly relevant to securities-market surveillance.

CONDITIONS FOR ADMISSIBILITY OF ELECTRONIC EVIDENCE

Electronic records are admissible as documentary evidence without further proof of the original, subject to satisfaction of the conditions set out in Section 63, BSA (the direct successor to old Section 65B, Evidence Act, and its interpretation in Anvar P.V. v. P.K. Basheer and Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal). The conditions are commonly organised under four heads:

RELEVANCE

- Like any other evidence, the electronic record must be relevant to a fact in issue under the general relevancy provisions of Chapter II, BSA (Sections 4-46), mere technical admissibility under Section 63 does not dispense with the requirement that the content itself be legally relevant to the matter in dispute.

AUTHENTICITY

- The electronic record must be shown to be a genuine and unaltered copy/output of the original established through the certificate under Section 63(4) (below), hash-value verification, and, where challenged, through expert forensic examination.
- Authenticity is closely tied to establishing that the computer/device that produced the record was functioning properly during the relevant period, and that the information was fed into the computer in the ordinary course of its regular use.

RELIABILITY, CHAIN OF CUSTODY & FORMAT

- Reliability requires the proponent to show the record was generated by a process/system that reliably produces accurate output relevant, for instance, to establishing that an exchange's order-matching server log is a reliable systemic record rather than a manually editable file.
- Chain of custody: an unbroken, documented trail from the moment of seizure/collection of the device or data, through forensic imaging, storage, analysis, and production in court, showing that the record was not tampered with at any stage supported by seizure memos, hash-value logs, and the videography discussed in Part A.
- Format: the electronic record should be produced, so far as possible, in a format that preserves its evidentiary integrity (e.g., forensic image files, original file formats with metadata intact) rather than a converted or re-typed version, since conversion can alter metadata and raise authenticity challenges.

PROPER DOCUMENTATION, SECURE STORAGE, EXPERT TESTIMONY

- Proper documentation: seizure memos, forensic imaging reports, hash values (e.g., MD5/SHA-256) computed at the time of seizure and re-verified at the time of production, and a custody log recording every access to the original device/data.

- Secure storage: sealed evidence bags/write-protected storage, restricted access, and environment controls (for physical media) to prevent degradation or unauthorised access pending trial.
- Expert testimony: where authenticity or the process of generation/extraction is challenged, a forensic expert (e.g., a Central Forensic Science Laboratory examiner or an examiner of electronic evidence notified under Section 79A, IT Act) may be required to testify to the integrity of the extraction process and the reliability of the tools used.

ADMISSIBILITY CRITERIA — BEST EVIDENCE RULE, HEARSAY RULE, EXPERT TESTIMONY BEST EVIDENCE RULE

- The Best Evidence Rule requires that the original/primary evidence be produced wherever possible, in preference to copies (secondary evidence) Sections 57-58 (primary) and 59-61 (secondary evidence and when it may be given), BSA.
- For electronic records, Section 63 operates as a statutory exception permitting a certified copy/printout to be treated as primary-equivalent evidence without production of the original device, provided the Section 63(4) certificate accompanies it a deliberate legislative response to the practical impossibility of producing an entire server in court.

C.4.2 HEARSAY RULE

- The general rule under the BSA (as under the 1872 Act) is that hearsay a statement made out of court, offered to prove the truth of the matter asserted, where the maker is not before the court for cross-examination is inadmissible.
- Section 28, BSA (old S.34, Evidence Act) is of special significance: entries in books of account, including electronic records, regularly kept in the course of business are relevant, but such entries alone shall not be sufficient to charge a person with liability corroborative evidence is required, a point frequently litigated in cases relying solely on ledger/trading-account entries.

EXPERT TESTIMONY

- Section 39, BSA (old S.45, Evidence Act): When the court has to form an opinion on a point of foreign law, science, art, identity of handwriting, finger/palm/footprint impressions, or the genuineness of electronic evidence/digital signatures, the opinion of a person specially skilled in that field (an expert) is relevant.
- Section 39 has been amended to explicitly add 'examiner of electronic evidence' as a category of expert whose opinion is a relevant fact reflecting the increasing centrality of digital forensics in modern trials, including securities-fraud investigations turning on server logs and communication records.

- As discussed in Part A (Section 336, BNSS), such expert opinion may, in defined circumstances, be tendered by way of a certificate/report rather than oral testimony, without prejudice to the opposing party's right to seek cross-examination.

CERTIFICATE UNDER SECTION 63, BSA (OLD SECTION 65B, EVIDENCE ACT)

Section 63 is the master provision governing admissibility of electronic records as documentary evidence without production of the original device. It substantially reproduces old Section 65B with important clarifications drawn from the Supreme Court's ruling in Arjun Panditrao Khotkar (2020), now placed on a statutory footing.

WHEN A CERTIFICATE IS REQUIRED

- Any information contained in an electronic record produced by a computer (and, per the updated definition, this includes information stored, recorded, or copied in any electronic form, including semiconductor memory, communication devices, smartphones, and 'computer' broadly defined to include any communication device or electronic record generating, processing, or storing information) shall be deemed to be a 'document' and admissible without further proof of the original, if the conditions in Section 63(2)-(4) are satisfied.

- A Section 63 certificate is required whenever a party seeks to rely on a computer output (printout, copy, or extract) rather than calling a witness to produce the original device itself and prove it through direct oral testimony.

CONDITIONS UNDER SECTION 63(2)

The computer output containing the information was produced by the computer during the period the computer was regularly used to store or process information for the activities regularly carried on during that period by the person having lawful control over the computer.

During that period, information of the kind contained in the electronic record was regularly fed into the computer in the ordinary course of the said activities.

Throughout the material part of that period, the computer was operating properly, or if not, that any period of non-operation/malfunction was not such as to affect the electronic record or the accuracy of its contents.

The information contained in the electronic record reproduces or is derived from information fed into the computer in the ordinary course of those activities.

THE CERTIFICATE UNDER SECTION 63(4)

- The certificate must (a) identify the electronic record containing the statement and describe the manner in which it was produced; (b) give particulars of the device involved in production of that record, to show the record was produced by a computer; (c) deal with the matters in Section 63(2) above; and (d) be signed by a person occupying a responsible official position in relation to the operation of the relevant device, or who is otherwise in a position to give the certificate to the best of his knowledge and belief.
- Two categories of certifiers, as clarified by Arjun Panditrao Khotkar and reflected in the BSA scheme: (i) a person occupying a responsible official position in relation to the operation of the device (e.g., a system administrator/IT head of the exchange, broker, or intermediary); or (ii) an Expert, where such a responsible official is unavailable the certificate may, in that event, be furnished by an examiner of electronic evidence.
- New clarificatory Explanation under Section 63 (statutorily codifying Arjun Panditrao Khotkar): where the electronic record is produced by, or is part of, a computer system/network and it is not possible to physically bring the device to court, the applicant may seek the court's assistance for production of the requisite certificate from a person referred to in Section 63(4)(c) i.e., the requirement of a certificate is mandatory (not merely a matter of best evidence to be dispensed with when the original device itself is produced) but the mode of obtaining it has been eased for cases where the underlying device cannot practicably be produced.

HOW TO RECORD THE EVIDENCE OF WITNESSES

Sections 342-346, BNSS (old Ss. 275-279, CrPC) govern the recording of evidence, and Sections 138-148, BSA (old Ss. 137-146, Evidence Act) govern the order and mode of examination.

EXAMINATION-IN-CHIEF

- The examination of a witness by the party who calls him — Section 142, BSA (old S.138). Its purpose is to elicit facts supporting that party's case, through non-leading questions on relevant facts.
- Leading questions (questions suggesting the answer the examiner wishes to receive) are generally not permitted in examination-in-chief, except with the court's permission on introductory/undisputed matters — Section 145, BSA (old S.142).
- Section 346, BNSS: evidence must ordinarily be recorded in the presence of the accused (or his pleader, if personal attendance is dispensed with), and, where practicable, through audio-video electronic means, particularly for vulnerable witnesses.

CROSS-EXAMINATION

- The examination of a witness by the adverse party — Section 142, BSA. Its object is to test the truthfulness, accuracy, and credibility of the witness, and to elicit facts favourable to the cross-examining party.
- Leading questions are permitted in cross-examination — Section 146, BSA (old S.143).
- A witness may be cross-examined as to previous statements made in writing or reduced into writing, and relevant to matters in question, without such writing being shown to him but if it is intended to contradict him by the writing, his attention must be drawn to those parts before the writing can be used to contradict him (Section 148, BSA, old S.145).
- Impeachment of credit — Section 160, BSA (old S.155): the credit of a witness may be impeached by proof of general bad character/reputation for untruthfulness, by proof of a bribe or other corrupt inducement, or by proof of former statements inconsistent with present testimony.

RE-EXAMINATION

- The examination, after cross-examination, of a witness by the party who called him Section 142, BSA. Confined to matters that arose during cross-examination, unless the court permits examination on new matter (in which case the adverse party may further cross-examine on that new matter).

TRIAL & JUDGMENT; TYPES OF TRIALS

BNSS classifies criminal trials by the gravity/nature of the offence and the forum in which they are tried, each with a distinct, progressively simplified procedure:

Type of Trial	Forum / Applicability	Key BNSS Provisions
Warrant Trial	Offences punishable with death, life imprisonment, or imprisonment exceeding 2 years — tried by Magistrate (Ch. XX) or Court of Session (Ch. XXI)	Ss. 262-273 (Magistrate); Ss. 291-300 (Sessions)
Summons Trial	Offences punishable with imprisonment not exceeding 2 years	Ss. 274-283, BNSS (old Ss. 251-259, CrPC)
Summary Trial	Petty/specified offences (e.g., theft/receiving stolen property where value does not exceed Rs. 20,000, offences under Ss. 303, 305, 317, 320, 323, 329 BNS in specified circumstances, and offences punishable with imprisonment not exceeding 3 years); mandatory for offences punishable with imprisonment up to 3 years and stated categories	Ss. 283-290, BNSS (old Ss. 260-265, CrPC)

WARRANT TRIAL

- Procedure is elaborate: framing of charge, recording plea, prosecution evidence, statement of accused (Section 351, discussed below), defence evidence, arguments, and judgment.
- A full, detailed record of evidence is kept and a reasoned judgment recorded under Section 392, BNSS (old S.354, CrPC), stating the offence and section under which the accused is convicted, and the punishment awarded.

SUMMONS TRIAL

- No formal charge is framed; instead, the particulars of the offence are stated to the accused (Section 274, BNSS) and he is asked whether he pleads guilty.
- Simplified evidence recording — substance of evidence rather than a verbatim record, in specified circumstances (Section 280, BNSS).

SUMMONS TRIAL

- The most expedited procedure — no formal charge (only particulars are recorded), no appeal against acquittal (though appeal against conviction with sentence exceeding the specified limit lies), and a maximum sentence of imprisonment of 3 months in a summary trial (Section 283(2), BNSS, old S.262(2)).
- Judgment need only record the substance of the evidence and a brief statement of reasons (Section 290, BNSS, old S.264).

INTRICACIES OF SOME IMPORTANT PROVISIONS UNDER BNSS, 2023

Section 348, BNSS (old Section 311, CrPC) — Power to Summon Material Witness, or Examine Person Present

- Any court may, at any stage of an inquiry, trial, or other proceeding, summon any person as a witness, or examine any person in attendance though not summoned, or recall/re-examine any person already examined, if his evidence appears essential to the just decision of the case.
- The power is wide, but must be exercised judicially, to fill in gaps left by inadvertence, not to enable a party to fill a fatal lacuna in its case after the trial has substantially concluded; the touchstone remains whether the evidence is 'essential to the just decision of the case', not merely helpful to one side.
- Frequently invoked in economic-offence trials to recall a forensic/IT witness where a Section 63, BSA certificate was found deficient, or to summon an additional exchange official to clarify a surveillance record courts have held that curing a curable defect in a certificate through recall under this provision is permissible and does not offend the accused's right to a fair trial, provided the accused is given a full opportunity to cross-examine on recall.

SECTION 351, BNSS (OLD SECTION 313, CRPC) — POWER TO EXAMINE THE ACCUSED

- For the purpose of enabling the accused to personally explain any circumstances appearing in the evidence against him, the court may, at any stage of the inquiry or trial, put such questions to him as it considers necessary, and in a warrant trial must, after the prosecution witnesses have been examined and before the accused is called for his defence, question him generally on the case.
- The accused is not bound to answer, and shall not render himself liable to punishment merely by refusing to answer or by giving false answers but the court and jury (where applicable) may draw such inference from the refusal/false answer as it thinks just.
- No oath is administered to the accused for this examination, and answers given may be taken into consideration in the same inquiry/trial, and used to test the veracity of witnesses, but cannot be treated as substantive evidence to fill a gap in the prosecution's case its purpose is to give the accused a fair opportunity to explain adverse circumstances, not to obtain a confession.
- Practical significance in securities-fraud trials: the Section 351 examination is frequently where the accused is confronted with incriminating trading patterns, chat transcripts, or forensic-audit findings a failure to properly put each such circumstance to the accused (rather than a general, omnibus question) can vitiate the trial to the extent that the un-put circumstance cannot then be used against him.

SECTION 358, BNSS (OLD SECTION 319, CRPC) — POWER TO PROCEED AGAINST OTHER PERSONS APPEARING TO BE GUILTY OF OFFENCE

- Where, in the course of an inquiry or trial, it appears from the evidence that a person not already an accused has committed an offence for which he could be tried together with the accused already before the court, the court may proceed against such person.
- The threshold, as clarified by the Supreme Court in Hardeep Singh v. State of Punjab (a principle now operating under the BNSS provision), is higher than a mere 'prima facie case' as at the stage of framing of charge, but does not require proof beyond reasonable doubt the material must be such that, if unrebutted, would lead to conviction; the power can be exercised even against a person who was named in the FIR/chargesheet but not charge-sheeted, or one who was discharged, subject to safeguards.
- Once summoned under this provision, the newly added person is deemed to have been an accused from the beginning, and the trial ordinarily is required to be recommenced (at least the witnesses already examined must, if the added accused so desires, be re-examined/offered for cross-examination) qua that person, though this need not always require a de novo trial for the original accused.

Law of Bail

Bail is governed principally by Chapter XXXV, BNSS (Sections 478-496), corresponding to Chapter XXXIII, CrPC (old Ss. 436-450).

CATEGORIES OF OFFENCES AND BAIL

- Bailable offences (Section 478, BNSS, old S.436): bail is a matter of right the police officer or court is bound to release the accused on bail, on furnishing bail/bond, at any stage of the proceeding.
- Non-bailable offences (Section 480, BNSS, old S.437): bail is a matter of judicial discretion, not right; the court may refuse bail if there appear reasonable grounds for believing the accused has been guilty of an offence punishable with death or life imprisonment (subject to specified exceptions for persons under 16, women, sick/infirm persons), or where the accused is a previous convict facing certain grave offences.
- New provision — Section 479, BNSS (no direct CrPC equivalent, though drawing on the erstwhile Section 436A): where an undertrial (not being a person accused of an offence punishable with death or life imprisonment) has undergone detention for one-half of the maximum period of imprisonment prescribed for that offence, he shall be released on bail by the court; for a first-time offender, this threshold is one-third of the maximum sentence a mandatory 'default bail on long detention' provision with direct relevance to lengthy economic-offence trials where undertrials can otherwise languish for years.

- Section 481, BNSS (old S.438) — Anticipatory Bail: the High Court or Court of Session may, on application of a person apprehending arrest on accusation of a non-bailable offence, direct that in the event of arrest he shall be released on bail, subject to conditions the court may impose (e.g., availability for interrogation, not leaving India without permission).
- Section 483, BNSS (old S.439) — Special powers of High Court/Court of Session regarding bail: wider powers to grant bail or to impose conditions, and to cancel bail already granted.

CONDITIONS AND CONSIDERATIONS FOR GRANT OF BAIL

- Nature and gravity of the accusation; severity of punishment on conviction.
- Reasonable apprehension of the accused tampering with evidence, influencing/threatening witnesses (of particular concern in securities-fraud cases where the accused may still control corporate records or influence employees).
- Flight risk / possibility of the accused absconding — relevant to the proclaimed-offender discussion in Part A.10.
- Character, means, and standing of the accused; his roots in the community.

FORFEITURE OF BOND

- Section 491, BNSS (old S.446, CrPC): Where a bond (for appearance, good behaviour, or otherwise) taken under the Sanhita is proved to the satisfaction of the court by whom it was taken, or of a court to which the matter has been reported, to have been breached, the court may record the grounds and may call upon the surety/person bound to pay the penalty, or show cause why it should not be paid.
- If the penalty (or part) is not paid, it may be recovered by issuing a warrant for attachment and sale of the movable property of the person bound (or his estate, if he is dead), and if such sale is insufficient, the person bound (surety) may be sentenced to imprisonment in civil jail for a term not exceeding six months.
- Section 491(4), BNSS: the court may, in its discretion, remit any portion of the penalty and enforce payment in part only, having regard to the circumstances of the case.
- Section 493, BNSS (old S.447): a surety to a bond may at any time apply to the court to discharge the bond, either wholly or so far as it relates to the applicant, and the court shall, after requiring the presence of (or otherwise dealing with) the bound person, discharge the bond accordingly.

CASE LAWS

TITLE, CITATION	LAW POINT
FIR	
Dharma Rama Bhagare v. State of Maharashtra, (1973) 1 SCC 537	It is not meant to be a detailed document containing chronicle of all intricate and minute details. FIR is not even considered to be a substantive piece of evidence and can be only used to corroborate or contradict the informant's evidence in the court.
Amar Singh Vs. Balwinder Singh AIR 2003 SC 1164	There is no hard and fast rule that any delay in lodging the FIR would automatically render the prosecution case doubtful. It necessarily depends upon facts and circumstances of each case whether there has been any such delay in lodging the FIR which may cast doubt about the veracity of the prosecution case and for this a host of circumstances like the condition of the first informant, the nature of injuries sustained, the number of victims, the efforts made to provide medical aid to them, the distance of the hospital and the police station, etc. have to be taken into consideration.
FIR IS NOT AN ENCYCLOPEDIA	
Lalita Kumari v. Government of Uttar Pradesh (2014) 2 SCC 1	FIR is not an encyclopaedia disclosing all facts and details relating to the offence.

WHAT IS FIR	
Amish Devgan v. Union of India, 2020 SCC OnLine SC 994	The information disclosing commission of a cognizable offence only sets in motion the investigating machinery with a view to collect necessary evidence, and thereafter, taking action in accordance with law.
PRIOR TO THE REGISTRATION OF AN FIR,	
Imran Pratapgadhi vs. State of Gujarat, 2025 SCC OnLine SC 678,	"24. Under sub-Section (3) of Section 173 of the BNSS, after holding a preliminary inquiry, if the officer comes to a conclusion that a prima facie case exists to proceed, he should immediately register an FIR and proceed to investigate. But, if he is of the view that a prima facie case is not made out to proceed, he should immediately inform the first informant/complainant so that he can avail a remedy under sub-Section (4) of Section 173."
Narayan Yadav Vs. State of Chhattisgarh 2025 INSC 927	Confessional FIR is not Admissible in Evidence.
INVESTIGATION	
State of Uttar Pradesh v. Bhagwant Kishore Joshi, (1964) 3 SCR 71	"17. What is investigation is not defined in the Code of Criminal Procedure; but in H.N. Rishbud and Inder Singh v. State of Delhi [(1955) 1 SCR 1150, 1157-58] this Court has described, the procedure, for investigation as follows: "Thus, under the Code investigation consists generally of the following steps, (1) Proceeding to the spot, (2) Ascertainment of the facts and circumstances of the case, (3) Discovery and arrest of the suspected offender, (4) Collection of evidence relating to the commission of the offence which may

	consist of (a) the examination of various persons (including the accused) and the reduction of their statements into writing, if the officer thinks fit, (b) the search of places of seizure of things considered necessary for the investigation and to be produced at the trial, and (5) formation of the opinion as to whether on the material collected there is a case to place the accused before a Magistrate for trial and if so taking the necessary steps for the same by the filing of a charge-sheet under Section 173." This Court, however, has not said that if a police officer takes merely one or two of the steps indicated by it, what he has done must necessarily be regarded as investigation. Investigation, in substance, means collection of evidence relating to the commission of the offence. The Investigating Officer is, for this purpose, entitled to question persons who, in his opinion, are able to throw light on the offence which has been committed and is likewise entitled to question the suspect and is entitled to reduce the statements of persons questioned by him to writing. He is also entitled to search the place of the offence and to search other places with the object of seizing articles connected with the offence. No doubt, for this purpose he has to proceed to the spot where the offence was committed and do various other things. But the main object of investigation being to bring home the offence to the offender the essential part of the duties of an Investigating Officer in this connection is, apart from arresting the offender, to collect all material necessary for establishing the accusation against the

	offender. Merely making some preliminary enquiries upon receipt of information from an anonymous source or a source of doubtful reliability for checking up the correctness of the information does not amount to collection of evidence and so cannot be regarded as investigation. In the absence of any prohibition in the Code, express or implied, I am of opinion that it is open to a police officer to make preliminary enquiries before registering an offence and making a full scale investigation into it…"
. **Babubhai v. State of Gujarat, (2010) 12 SCC 254**	Not only fair trial but fair investigation is also part of constitutional rights guaranteed under Articles 20 and 21 of the constitution of India. Therefore, investigation must be fair, transparent and judicious as it is the minimum requirement of rule of law. The investigating agency cannot be permitted to conduct an investigation in a tainted and biased manner
Amitbhai Anilchandra Shah v. CBI, (2013) 6 SCC 348	Hon'ble Supreme Court dealt with the issue of **"further investigation" and "fresh/de novo investigation"** under Sections 173(8) and 482 of the Code of Criminal Procedure (CrPC). The Court held that once a competent court has taken cognizance of an offence based on a police report, a **fresh or re-investigation cannot be ordered by a Magistrate**; such power is vested only in the **constitutional courts (High Courts and the Supreme Court)** in exercise of their extraordinary or inherent jurisdiction. The Court clarified that while **further investigation** under Section 173(8) CrPC is permissible even after filing of charge-sheet, it must be distinguished from **re-**

	investigation or fresh investigation, which wipes out the earlier investigation and can only be directed in rare and exceptional cases to secure the ends of justice. Thus, the key legal principle is that **Magistrates cannot order re-investigation; they may only permit further investigation**, whereas higher constitutional courts alone can order fresh investigation in appropriate cases.
DNA PROFILES IMPACT ON CRIMINAL INVESTIGATIONS	
Anil v. State of Maharashtra (2014) 4 SCC 69	The Hon'ble Supreme Court observed that DNA profiles have had a tremendous impact on criminal investigations. A DNA profile is valid and reliable, but the same depends on quality control and procedures in the laboratory. We may add to this position and say, that quality control and procedures outside the laboratory matter equally as much in ensuring that the best results can be derived from the samples collected. We record with some sadness that there are quite a few cases in which DNA evidence, despite being there, has to be rejected for the reason that the manner, in which the samples were handled during and after collection by the concerned doctor, in transit to the lab, inside the lab and the results drawn therefrom, are not in accordance with the best possible practices which would focus on ensuring that throughout this process the samples remain

	in pristine, hygienic and biologically suitable conditions.
Prakash Nishad v. State of Maharashtra (2023) 16 SCC 357,	This case was related to the rape and murder of a 6-year-old child. Similar to the present case, it was a case of circumstantial evidence. Based on the disclosure statement made by the Appellant therein, the police found certain garments as also traces of semen of the Appellant on the vaginal smear of the minor victim, based on which he was sought to be convicted. DNA evidence was rejected by the Hon'ble S.C on the grounds that there was a delay in sending the samples to the FSL, which was unexplained. It was observed by the Hon'ble Court that because of the delay, the concomitant prospect of contamination could not be ruled out. The need for expediency in sending samples to the concerned laboratories was underscored.
Kattavellai@ Devakar Vs State of Tamil Nadu, 2025 INSC 845,	the Hon'ble S.C.in para 44-has issued various directions for collection, packaging, storage& examination of DNA evidence. 1. The collection of DNA samples once made after due care and compliance of all necessary procedure including swift and appropriate packaging including a) FIR number and date; b) Section and the statute involved therein; c) details of I.O., Police station; and d) requisite serial number shall be duly documented. The document recording the collection shall have the signatures and designations of the medical professional present, the investigating

	officer and independent witnesses. Here only we may clarify that the absence of independent witnesses shall not be taken to be compromising to the collection of such evidence, but the efforts made to join such witnesses and the eventual inability to do so shall be duly put down in record. 2. The Investigating Officer shall be responsible for the transportation of the DNA evidence to the concerned police station or the hospital concerned, as the case may be. He shall also be responsible for ensuring that the samples so taken reach the concerned forensic science laboratory with dispatch and in any case not later than 48-hours from the time of collection. Should any extraneous circumstance present itself and the 48-hours timeline cannot be complied with, the reason for the delay shall be duly recorded in the case diary. Throughout, the requisite efforts be made to preserve the samples as per the requirement corresponding to the nature of the sample taken. 3. In the time that the DNA samples are stored pending trial appeal etc., no package shall be opened, altered or resealed without express authorisation of the Trial Court acting upon a statement of a duly qualified and experienced medical professional to the effect that the same shall not have a negative impact on the sanctity of the evidence and with the Court being assured that such a step is necessary for proper and just outcome of the Investigation/Trial.

	4. Right from the point of collection to the logical end, i.e., conviction or acquittal of the accused, a Chain of Custody Register shall be maintained wherein each and every movement of the evidence shall be recorded with counter sign at each end thereof stating also the reason therefor. This Chain of Custody Register shall necessarily be appended as part of the Trial Court record. Failure to maintain the same shall render the I.O. responsible for explaining such lapse.
Narayan Yadav V. State of Chhattisgarh 2025 INSC 927	Applicability of Section 27 of the Evidence Act, 1872 The conditions necessary for the applicability of Section 27 of the Act of 1872 are: i. That consequent to the information given by the accused, it led to the discovery of some fact; ii. The fact discovered must be one which was not within the knowledge of the police and the knowledge of the fact for the first time was derived from the information given by the accused; iii. The discovery of a fact which is the direct outcome of such information; iv. Only such portion of the information as connected with the said discovery is admissible; v. The discovery of the fact must relate to the commission of some offence.
FURTHER INVESTIGATION	
Ram Lal Narang vs.	Where fresh materials come to light which would implicate persons not previously

State (Delhi Administration) (1979) 2 SCC 322	accused or absolve persons already accused or where it comes to the notice of the investigating agency that a person already accused of an offence has a good alibi, it may be the duty of the investigating agency to investigate the genuineness of the same and submit a report to the court.
DOCUMENTS CAN BE SUBMITTED SUBSEQUENTLY	
Central Bureau of Investigation v. R S Pai (2002) 5 SCC 82	"7. From the aforesaid sub-sections, it is apparent that normally, the investigating officer is required to produce all the relevant documents at the time of submitting the charge- sheet. At the same time, as there is no specific prohibition, it cannot be held that the additional documents cannot be produced subsequently. If some mistake is committed in not producing the relevant documents at the time of submitting the report or the charge-sheet, it is always open to the investigating officer to produce the same with the permission of the court.
Hasan Bhai Valibhai Qureshi vs. State of Gujarat & Ors., (2004) 5 SCC 347	Further investigation is not altogether ruled out merely because cognizance has been taken by the court. When defective investigation comes to light during course of trial, it may be cured by further investigation, if circumstances so permitted.
WHETHER STATEMENT OF WITNESSES U/S 161 ARE THE PART OF CASE DIARY ?	
State of NCT of Delhi v. Ravi Kant Sharma, (2007) 2 SCC 764	The gist of statements recorded under Section- 161(3) CrPC forms a part of the case diary, then such "gist" shall be provided to the accused but only after the Court is

	satisfied factually after due examination that it is not other than the "gist of statements".
Vinay Tyagi vs. Irshad Ali alias Deepak & Ors., (2013) 5 SCC 762	The power of the Magistrate to direct "further investigation" is a significant power which has to be exercised sparingly, in exceptional cases and to achieve the ends of justice. To provide fair, proper and unquestionable investigation is the obligation of the investigating agency and the court in its supervisory capacity is required to ensure the same. Further investigation conducted under the orders of the court, including that of the Magistrate or by the police of its own accord and, for valid reasons, would lead to the filing of a supplementary report. Such supplementary report shall be dealt with as part of the primary report. This is clear from the fact that the provisions of Sections 173(3) to 173(6) would be applicable to such reports in terms of Section 173(8) of the Code.
Vinubhai Haribhai Malaviya & Ors. vs. State of Gujarat & Anr. (2019) 17 SCC 1	Further investigation could at best have been ordered till the commencement of the trial.
Devendra Nath Singh vs. State of Bihar & Ors., (2023) 1 SCC 48	Whether further investigation should or should not be ordered is within the discretion of the Magistrate and the said discretion is to be exercised on the facts of each case in accordance with law.
K. Vadivel vs. K. Shanthi & Ors. 2024 INSC 746	However, the further investigation cannot be permitted to do a fishing and roving enquiry when the police had already filed a charge-

	sheet and the applicant for further investigation, has not whispered about anything new in his/her evidence in the application. There must be some reasonable basis which should trigger the application for further investigation so that the court is able to arrive at a satisfaction that ends of justice require the ordering/permitting of further investigation. Power to order further investigation is a significant power it has to be exercised sparingly and in exceptional cases and to achieve the ends of justice.
SECTION 173(5) IS DIRECTORY	
Sameer Sandhir v. CBI 2025 INSC 776	The Hon'ble Supreme Court has upheld the decision of High Court and Trial Court allowing the CBI to produce two Compact Discs (CDs) as evidence in a corruption trial, even though they were not filed with Charge Sheet or Supplementary Charge Sheet. Held that provision of Sec. 173(5) CrPC is directory not mandatory.
ARREST	
Khatri (ii) VS State of Bihar 1981 (1) SCC 627	**GROUNDS OF ARREST IN WRITING RIGHT TO BE PRODUCED BEFORE THE MAGISTRATE** The arrestee should be produced before the nearest Magistrate within 24 hours excluding the journey time. If he retained for more than 24 hours in the custody of the police, it will be a violation of his fundamental rights and the same would amount to illegal custody.

Joginder Kumar v. State of UP And Ors. (1994) 4 SCC 260	**ON ARREST OF AN ACCUSED** **NO ROUTINE ARREST** “20...No arrest can be made because it is lawful for the police officer to do so. The existence of the power to arrest is one thing. The justification for the exercise of it is quite another. The police officer must be able to justify the arrest apart from his power to do so. Arrest and detention in police lock-up of a person can cause incalculable harm to the reputation and self-esteem of a person. No arrest can be made in a routine manner on a mere allegation of commission of an offence made against a person. It would be prudent for a police officer in the interest of protection of the constitutional rights of a citizen and perhaps in his own interest that no arrest should be made without a reasonable satisfaction reached after some investigation as to the genuineness and bona fides of a complaint and a reasonable belief both as to the person's complicity and even so as to the need to effect arrest. Denying a person of his liberty is a serious matter. The recommendations of the Police Commission merely reflect the constitutional concomitants of the fundamental right to personal liberty and freedom. A person is not liable to arrest merely on the suspicion of complicity in an offence. There must be some reasonable justification in the opinion of the officer effecting the arrest that such arrest is necessary and justified. Except in heinous offences, an arrest must be avoided if a police officer issues notice to

	person to attend the Station House and not to leave the station without permission would do.”
State of Karnatakaby Nonavinakere Police vs. Shivanna alias Tarkari Shivanna (2014) 8 SCC 913	In this case, the Hon’ble Supreme Court exercising powers under Article 142 of the Constitution of India issued important directions in the form of mandamus to all police stations across the country for the police officers for investigating the case of rape and gang rape. “10.1. Upon receipt of information relating to the commission of 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 CrPC. A copy of the statement under Section 164 CrPC should be handed over to the investigating officer immediately with a specific direction that the contents of such statement under Section 164 CrPC should not be disclosed to any person till charge-sheet/report under Section 173 CrPC is filed. 10.2. The investigating officer shall as far as possible take the victim to the nearest Lady Metropolitan/preferably Lady Judicial Magistrate. 10.3. The investigating officer shall record specifically the date and the time at which he learnt 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.

	10.4. 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. 10.5. Medical examination of the victim: Section 164-A CrPC inserted by Act 25 of 2005 in CrPC imposes an obligation on the part of investigating officer to get the victim of the rape immediately medically examined. 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 CrPC."
Arnesh Kumar v. State of Bihar, (2014) 8 SCC 273,	**NO AUTOMATIC ARREST** 6. No arrest should be made only because the offence is non-bailable and cognizable and therefore, lawful for the police officers to do so. The existence of the power to arrest is one thing, the justification for the exercise of it is quite another. Apart from the power to arrest, the police officers must be able to justify the reasons thereof. No arrest can be made in a routine manner on a mere allegation of commission of an offence made against a person. 7.1. From a plain reading of the aforesaid provision, 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. 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. 9. In all cases where the arrest of a person is not required under Section 41(1) CrPC, the police officer is required to issue notice directing the accused to appear before him at a specified place and time. Law obliges such an accused to appear before the police officer and it further mandates that if such an accused complies with the terms of notice he shall not be arrested, unless for reasons to be recorded, the police officer is of the opinion that the arrest is necessary. At this stage also, the condition precedent for arrest as envisaged under Section 41 CrPC has to be complied and shall be

	subject to the same scrutiny by the Magistrate as aforesaid.
Siddharth v. State of U.P., (2022) 1 SCC 676	"10. We may note that personal liberty is an important aspect of our constitutional mandate. The occasion to arrest an accused during investigation arises when custodial investigation becomes necessary or it is a heinous crime or where there is a possibility of influencing the witnesses or accused may abscond. Merely because an arrest can be made because it is lawful does not mandate that arrest must be made. A distinction must be made between the existence of the power to arrest and the justification for exercise of it. If arrest is made routine, it can cause incalculable harm to the reputation and self-esteem of a person. If the investigating officer has no reason to believe that the accused will abscond or disobey summons and has, in fact, throughout cooperated with the investigation we fail to appreciate why there should be a compulsion on the officer to arrest the accused."
Prabir Purkayastha v. State (NCT of Delhi), (2024) 8 SCC 254 (Para 48)	**'REASONS OF ARREST' & 'GROUNDS OF ARREST'** (Para 48) The "reasons for arrest" as indicated in the arrest memo are purely formal parameters. These reasons would commonly apply to any person arrested on charge of a crime whereas the "grounds of arrest" would be required to contain all such details in hand of the investigating officer which necessitated the arrest of the accused.

	Simultaneously, the grounds of arrest informed in writing must convey to the arrested accused all basic facts on which he was being arrested so as to provide him an opportunity of defending himself against custodial remand and to seek bail. Thus, the "grounds of arrest" would invariably be personal to the accused and cannot be equated with the "reasons of arrest" which are general in nature.
Pankaj Bansal Vs. Union of India (2024) 7 SCC 576	**GROUNDS OF ARREST IN WRITING** There is no valid reason as to why a copy of such written grounds of arrest should not be furnished to the arrested person as a matter of course and without exception.
Vihaan Kumar Vs. State of Haryana,2025 INSC 162	**INFORMING A PERSON ARRESTED OF GROUNDS OF ARREST IS A MANDATORY REQUIREMENT OF ARTICLE 22(1) OF COI** a) The requirement of informing the person arrested of the grounds of arrest is not a formality but a mandatory constitutional condition. b) Once a person is arrested, his right to liberty under Article 21 is curtailed. When such an important fundamental right is curtailed, it is necessary that the person concerned must understand on what grounds he has been arrested. c) The mode of conveying the information of the grounds of arrest must be meaningful so as to serve the true object underlying Article 22(1).

	d) If the grounds of arrest are not informed as soon as may be after the arrest, it 0would amount to a violation of the fundamental right of the arrestee guaranteed 0under Article 22(1). e) On the failure to comply with the requirement of informing the grounds of arrest as soon as may be after the arrest, the arrest would stand vitiated. Once the arrest is held to be vitiated, the person arrested cannot remain in custody even for a second. f) If the police want to prove communication of the grounds of arrest only based on a diary entry, it is necessary to incorporate those grounds of arrest in the diary entry or any other document. The grounds of arrest must exist before the same are informed. g) When an arrestee pleads before a court that the grounds of arrest were not communicated, the burden to prove the compliance of Article 22(1) is on the police authorities. h) The grounds of arrest should not only be provided to the arrestee but also to his family members and relatives so that necessary arrangements are made to secure the release of the person arrested at the earliest possible opportunity so as to make the mandate of Article 22(1) meaningful and effective, failing which, such arrest may be rendered illegal.

Kasireddy Upender Reddy v. State of Andhra Pradesh 2025 SCC OnLine SC 1228	**GROUNDS OF ARREST TO FAMILY MEMBERS OR RELATIVES** The grounds of arrest should not only be provided to the arrestee but also to his family members and relatives so that necessary arrangements are made to secure the release of the person arrested at the earliest possible opportunity so as to make the mandate of Article 22(1) meaningful and effective, failing which, such arrest may be rendered illegal.
Mihir Rajesh Shah Versus State of Maharashtra & Anr, 2025 INSC1288	**THE GROUND OF ARREST MUST BE COMMUNICATED IN WRITING TO THE ARRESTEE IN THE LANGUAGE HE/SHE UNDERSTANDS….** The said grounds be communicated in writing within a reasonable time and in any case at least two hours prior to production of the arrestee for remand proceedings before the magistrate. In case of non compliance with the mandate, the arrest and subsequent remand would become illegal and entitle the person to be set free.
Arshad Neyaz Khan V. State of Jharkhand 2025 INSC 1151	**OFFENCES OF 'CHEATING' & 'CRIMINAL BREACH OF TRUST' CANNOT CO-EXIST ON SAME ALLEGATIONS** The Hon'ble Court held that the offence of cheating (S.420 IPC/S.318 BNS) involves criminal intention from inception; however, for criminal breach of trust (S.406 IPC/S.316 BNS), there is lawful entrustment at the beginning, which is later misappropriated. So, both these offences cannot exist simultaneously on same facts.

Delhi Race Club (1940) Ltd. v. State of U.P. (2024) 10 SCC 690	**OFFENCES OF 'CHEATING' & 'CRIMINAL BREACH OF TRUST' ARE ANTITHETICAL TO EACH OTHER** There is a distinction between criminal breach of trust and cheating. For cheating, criminal intention is necessary at the time of making false or misleading representation i.e. since inception. In criminal breach of trust, mere proof of entrustment is sufficient. Thus, in case of criminal breach of trust, the offender is lawfully entrusted with the property, and he dishonestly misappropriates the same. Whereas, in case of cheating, the offender fraudulently or dishonestly induces a person by deceiving him to deliver a property. In such a situation, both offences cannot co-exist simultaneously.
Jit Vinayak Arolkar v. State of Goa, 2025 SCC OnLine SC 31	**CRIMINAL COMPLAINT IN CIVIL DISPUTE** In a dispute between co-owner of disputed property/sale deed and appointed power of attorney, criminal complaint against appointed power of attorney for the offence of cheating under S. 415 of IPC, 1860 filed after a time gap of two years from date of institution of civil suits. Held, when there was a dispute over the title, setting in motion criminal proceedings two years after the date of filing of the suits amounts to nothing but abuse of the process of law- FIR quashed.
Satendra Kumar Antil Vs Central Bureau of Investigation, 2026 Live Law (SC)114	32. The power of arrest under Section 35(6) read with Section 35(1)(b) of the BNSS, 2023 must be interpreted as a strict objective necessity, and not a subjective convenience for the police officer. It does not mean the police officer can arrest to simply ask questions. However, it means that the police officer must satisfy himself that the

investigation, qua an offence punishable with imprisonment up to 7 years, cannot proceed effectively without taking the concerned individual into custody. Any interpretation to the contrary would clearly frustrate the purpose and legislative intent of Sections 35(1)(b) and Sections 35(3) to 35(6) of the BNSS, 2023.

33. On the basis of the interpretation given by us, we conclude as follows:

a. An arrest by a police officer is a mere statutory discretion which facilitates him to conduct proper investigation, in the form of collection of evidence and, therefore, shall not be termed as mandatory.

b. Consequently, the police officer shall ask himself the question as to whether an arrest is a necessity or not, before undertaking the said exercise.

c. For effecting an arrest, qua an offence punishable with imprisonment up to 7 years, the mandate of Section 35(1)(b)(i) of the BNSS, 2023 along with any one of the conditions mentioned in Section 35(1)(b)(ii) of the BNSS, 2023 must be in existence.

d. A notice under Section 35(3) of the BNSS, 2023 to an accused or any individual concerned, qua offences punishable with imprisonment up to 7 years, is the rule.

e. Even if the circumstances warranting an arrest of a person are

	available in terms of the conditions mentioned under Section 35(1)(b) of the BNSS, 2023, the arrest shall not be undertaken, unless it absolutely warranted. f. Power of arrest under Section 35(6) read with Section 35(1)(b) of the BNSS, 2023, pursuant to a notice issued under Section 35(3) of the BNSS, 2023 is not a matter of routine, but an exception, and the police officer is expected to be circumspect and slow in exercising the said power.
Siddharth v. State of U.P., (2022) 1 SCC 676	"10. We may note that personal liberty is an important aspect of our constitutional mandate. The occasion to arrest an accused during investigation arises when custodial investigation becomes necessary or it is a heinous crime or where there is a possibility of influencing the witnesses or accused may abscond. Merely because an arrest can be made because it is lawful does not mandate that arrest must be made. A distinction must be made between the existence of the power to arrest and the justification for exercise of it. If arrest is made routine, it can cause incalculable harm to the reputation and self-esteem of a person. If the investigating officer has no reason to believe that the accused will abscond or disobey summons and has, in fact, throughout cooperated with the investigation we fail to appreciate why there should be a compulsion on the officer to arrest the accused."
BAIL	

State of Rajasthan vs. Balchand, (1977) 4 SCC 308	Hon’ble Supreme Court has observed that the basic rule of our criminal justice system is 'bail, not jail'.
Hitendra Vishnu Thakur vs. State of Maharashtra, (1994) 4 SCC 602	**DEFAULT BAIL** Default bail cannot be granted automatically an accused is required to make an application if he wishes to be released on bail on account of the ‘default’ of the investigating/prosecuting agency and such bail shall be dealt under Chapter XXXIII of the Criminal Procedure Code.
Kartar Singh vs. State of Punjab (1994) 3 SCC 569	**ACCUSED OF SERIOUS OFFENCES** The Hon’ble Supreme Court upheld the validity of the Terrorist and Disruptive Activities (Prevention) Act (TADA) but also laid down guidelines to prevent the misuse of the Act. The Court insisted on the protection of fundamental rights, even for those accused of serious offenses under TADA.
Babua Tazmul Hossain vs. State of Orissa, **Appeal (Crl.) 593 of 2002,**	The Hon'ble Supreme Court observed that “pre-trial detention should not be reinstated as a punishment measure. The accused should also be granted the privilege of bail to better defend his case.”
Gautam Navlakha Vs. NIA (2022) 13 SCC 542	**RIGHT TO DEFAULT BAIL** Right to default bail is fundamental right subject to fulfilment of conditions in Section 167 CrPC
Dinesh Dalmia vs. C.B.I., **AIR 2008 SC 78**	The Hon’ble Supreme Court laid down that investigating agency is required to complete investigation within reasonable time…….If the investigation is not completed within stipulated period the same would not be detrimental to right of accused to bail. On expiry of stipulated period he would be

	entitled for bail, but Right to bail does not revive only because a further investigation remains pending. When a charge sheet is not filed and investigation is kept pending, the accused will have right to bail u/s 167(2). Once, a charge sheet is filed, the said right ceases. Such a right does not revive only because a further investigation remains pending within the meaning of Sub-section (8) of Section 173 of the Code of Criminal procedure.
Rasiklal V/s Kishore Khanchand Wadhwani (AIR 2009 1341)	"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".
Atul Tripathi Vs. State of UP Crl. Appeal No.NO.1516/2014 Dated.22-07-2014	Hon'ble Supreme Court has discussed the scope and ambit of Section 389 ofCr.P.C and issued the following Guidelines regarding the suspension of Sentence during the pendency of Criminal Appeal. I. The appellate court, if inclined to consider the release of a convict sentenced to punishment for death or imprisonment for life or for a period of ten years or more, shall first give an opportunity to the public prosecutor to show cause in writing against such release.

	II. On such opportunity being given, the State is required to file its objections, if any, in writing. III. In case the public prosecutor does not file the objections in writing, the appellate court shall, in its order, specify that no objection had been filed despite the opportunity granted by the court. IV. The court shall judiciously consider all the relevant factors whether specified in the objections or not, like gravity of offence, nature of the crime, age, criminal antecedents of the convict, impact on public confidence in court, etc. before passing an order for release.
S. Kasi v. State Through The Inspector of Police Samaynallur Police Station Madurai District,2020 SCC OnLine SC 529,	Hon'ble Supreme Court has observed that the indefeasible right to default bail under Section 167(2) is an integral part of the right to personal liberty under Article 21, and the said right to bail cannot be suspended even during a pandemic situation as is prevailing currently. It was emphasized that the right of the accused to be set at liberty takes precedence over the right of the State to carry on the investigation and submit a chargesheet.
Prabhakar Tewari vs St of U.P& Another (2020)11SCC,648,	"The pendency of several criminal cases against an accused by itself cannot be a basis for refusal of bail."
Satender Kumar Antil v. CBI, (2022) 10 SCC 51	Hon'ble Supreme Court of India laid down comprehensive guidelines regarding grant of bail and arrest procedures, reinforcing the principle that "bail is the rule and jail is the exception." The Court emphasized that unnecessary arrests and prolonged

	incarceration violate Article 21 of the Constitution. 1. Categorisation of Offences: The Court classified offences into categories (A to D) based on severity and punishment to guide courts in granting bail. 2. Mandatory Compliance with Sections 41 & 41A CrPC: Police must justify arrest and issue notice of appearance in offences punishable up to 7 years, as per Arnesh Kumar v. State of Bihar. 3. Default Bail & Charge Sheet Filing: Filing of charge sheet does not automatically justify custody if the accused cooperated during investigation. 4. Undertrial Detention: Courts must prevent prolonged incarceration of undertrial prisoners. 5. Special Acts: Even under special statutes (e.g., PMLA, NDPS), procedural safeguards must be respected unless specific statutory restrictions apply.
Arvind Kumar v. State of Rajasthan, (2022) 16 SCC 732	6. The petitioner, Arvind Kumar, was in judicial custody in connection with FIR No. 185/2022 at Bichiwara Police Station, Dungarpur, involving offences under Sections 341, 323, 326 and 308 read with Section 34 of the IPC. His earlier bail application was dismissed, and after the charge-sheet was filed the present second bail plea was moved. The Court noted the prolonged trial and that the injured had been discharged from hospital. On weighing facts and circumstances and without expressing

	any view on merits, the Court granted bail under Section 439 of the CrPC, directing him to execute a personal bond with sureties pending trial.
Vivekanand Mishra vs State of UP and Another, **2022 SCC OnLine SC 1903,**	It is a basic principle of criminal law, that bail is the rule and jail an exception. At the same time the non negotiable right of an individual to liberty must be juxtaposed with societal interest. Grant of Anticipatory Bail in a heinous case like this, on the basis of a CCTV footage produced by the Accused-Respondent, without any kind of certification and/or authentication, ignoring the materials on record including a dying declaration made by the deceased in hospital before the Tehsildar and statements of an eye-witness, can in no circumstances be justified.
Sumitha Pradeep Versus Arun Kumar C.K. and Another, **2022 SCC OnLine SC 1529,**	Hon'ble supreme Court in para 16, held that "We are dealing with a matter wherein the original complainant (appellant herein) has come before this Court praying that the anticipatory bail granted by the High Court to the accused should be cancelled. To put it in other words, the complainant says that the High Court wrongly exercised its discretion while granting anticipatory bail to the accused in a very serious crime like POCSO and, therefore, the order passed by the High Court granting anticipatory bail to the accused should be quashed and set aside. In many anticipatory bail matters, we have noticed one common argument being canvassed that no custodial interrogation is required and, therefore, anticipatory bail may be granted. There appears to be a serious misconception of law that if no case

	for custodial interrogation is made out by the prosecution, then that alone would be a good ground to grant anticipatory bail. Custodial interrogation can be one of the relevant aspects to be considered along with other grounds while deciding an application seeking anticipatory bail. There may be many cases in which the custodial interrogation of the accused may not be required, but that does not mean that the prima facie case against the accused should be ignored or overlooked and he should be granted anticipatory bail. The first and foremost thing that the court hearing an anticipatory bail application should consider is the prima facie case put up against the accused. Thereafter, the nature of the offence should be looked into along with the severity of the punishment. Custodial interrogation can be one of the grounds to decline anticipatory bail. However, even if custodial interrogation is not required or necessitated, by itself, cannot be a ground to grant anticipatory bail.”
Re Policy Strategy for Grant of Bail SMW, 2023 (2) KLT 97,	**SEVEN DIRECTIONS TO AVOID DELAY IN RELEASE OF PRISONERS AFTER GETTING BAIL** Hon’ble Court has issued following directions for speedy release of an accused detained in jail: (i)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]. (ii) 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. (III.) 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. (iv)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. (v) 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. (vi) 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. (Vii) 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.
Ritu Chhabaria Versus Union of India and Others,2023 SCC OnLine SC 502	**FILING CHARGESHEET WITHOUT COMPLETING THE INVESTIGATION DOES NOT EXTINGUISH THE RIGHT OF AN ACCUSED FOR GRANT OF DEFAULT BAIL** Without completing the investigation of a case, a chargesheet or prosecution complaint cannot be filed by an investigating agency only to deprive an arrested accused of his right to default bail under Section 167(2) of the CrPC. Such a chargesheet, if filed by an investigating authority without first completing the investigation, would not extinguish the right to default bail under Section 167(2) CrPC.The trial court, in such cases, cannot continue to remand an arrested person beyond the maximum stipulated time without offering the arrested person default bail.

Manish Sisodia vs Directorate of Enforcement, 2024 INSC 545,	"The bail is not to be withheld as a punishment is not to be forgotten, Bail is a rule & jail is an exception."
Parvinder Singh Khurana v. Directorate of Enforcement, 2024 SCC OnLine SC 1765 : 2024 INSC 546,	The Para -11, an order granting a stay to the operation of the order granting bail during the pendency of the application for cancellation of bail should be passed in very rare cases. 12, An order granting bail can be stayed by the Court only in exceptional cases when a very strong prima facie case of the existence of the grounds for cancellation of bail is made out. The prima facie case must be of a very high standard. By way of illustration, we can point out a case where the bail is granted by a very cryptic order without recording any reasons or application of mind. One more illustration can be of a case where material is available on record to prove serious misuse of the liberty made the accused by tampering with the evidence, such as threatening the prosecution witnesses. If the High Court or Sessions Court concludes that an exceptional case is made out for the grant of stay, the Court must record brief reasons and set out the grounds for coming to such a conclusion. 13. An ex-parte stay of the order ranting bail, as a standard rule, should not be granted. The power to grant an ex-parte interim stay of an order granting bail has to be exercised in very rare and exceptional cases where the situation demands the passing of such an order. While considering the prayer for granting an ex-parte stay, the concerned Court must apply its mind and decide

	whether the case is very exceptional, warranting the exercise of drastic power to grant an ex-parte stay of the order granting bail. Liberty granted to an accused under the order granting bail cannot be lightly and casually interfered with by mechanically granting an ex-parte order of stay of the bail order.
Sanjeev Kumar Vs. State **2024 SCC OnLine Del 7323**	The Hon'ble Delhi High Court analyzed the bail application in light of the Bharatiya Nagarik Suraksha Sanhita (BNSS) 2023, which governs the rights of detainees and the maximum permissible detention period for undertrials. The court considered that the accused, arrested in a serious financial fraud case, had been in detention for an extended period without trial. The provisions of BNSS, especially regarding prolonged pretrial detention, were central to the defense argument, which highlighted the need for a balanced approach, considering the applicant's right to a fair trial and personal liberty.
Himanshu Sharma Vs. State of MP, **(2024) 4 SCC 222**	(Paras 10 & 11), the Hon'ble Supreme Court has held that the law is well settled that the considerations for grant of bail and cancellation thereof are entirely different. Bail granted to an accused can only be cancelled if the court is satisfied that after being released on bail, (i) the accused has misused the liberty granted to him; (ii) flouted the conditions of bail order; (iii) that the bail was granted in ignorance of statutory provisions restricting the powers of the Court to grant bail;

	(iv) or that the bail was procured by misrepresentation or fraud."
CBI v. Kapil Wadhawan, (2024) 3 SCC 734, 2024 SCC OnLine SC 66	Para15. There cannot be any disagreement with the well-settled legal position that the right of default bail under Section 167(2)CrPC is not only a statutory right but is a right that flows from Article 21 of the Constitution of India. It is an indefeasible right, nonetheless it is enforceable only prior to the filing of the challan or the charge-sheet, and does not survive or remain enforceable on the challan being filed, if already not availed of. Once the challan has been filed, the question of grant of bail has to be considered and decided only with reference to the merits of the case under the provisions relating to grant of bail to the accused after the filing of the challan. Para 22. In view of the above settled legal position, there remains no shadow of doubt that the statutory requirement of the report under Section 173(2) would be complied with if the various details prescribed therein are included in the report. The report under Section 173 is an intimation to the court that upon investigation into the cognizable offence, the investigating officer has been able to procure sufficient evidence for the court to inquire into the offence and the necessary information is being sent to the court. The report is complete if it is

	accompanied with all the documents and statements of witnesses as required by Section 175(5). As settled in the aforestated case, it is not necessary that all the details of the offence must be stated. Para 23. The pendency of the further investigation qua the other accused or for production of some documents not available at the time of filing of charge-sheet would neither vitiate the charge-sheet, nor would it entitle the accused to claim right to get default bail on the ground that the charge-sheet was an incomplete charge-sheet or that the charge-sheet was not filed in terms of Section 173(2)CrPC.
RECORDING OF SEARCH AND SEIZURE THROUGH AUDIO-VIDEO ELECTRONIC MEANS	
Satya Narain Musadi & Ors. vs. State of Bihar (1980) 3 SCC 152	Statutory requirement of the report under Section 173(2) would be complied with if various details prescribed therein are included in the report. The report is complete if it is accompanied with all the documents and statements of witnesses as required by Section 175(5).

Maharashtra v. Tapas D. Neogy, (1999) 7 SCC 685.	**POWERS OF POLICE OFFICER TO SEIZE "ANY PROPERTY** A police officer under this section has the power to seize any property which may be found under circumstances creating suspicion of the commission of any offence. The legislature having used the expression "any property" and "any offence" have made the applicability of the provisions wide enough to cover offences created under any Act,
Dinesh Dalmia vs. CBI (2007) 8 SCC 770	Even if all the documents are not filed, by reason thereof the submission of the chargesheet itself would not be vitiated in law.
Teesta Atul Setalvad v. State of Gujarat, (2018) 2 SCC 372	property" includes any bank account creating suspicion about commission of an offence. Bank account need not be only of accused but can be any account creating suspicion about commission of offence,
Nevada Properties (P) Ltd. v. State of Maharashtra, (2019) 20 SCC 119.	Power of police officer to seize "any property" does not include power to attach, seize and seal immovable property,
Firoz Hira Manik Vs State of U.P(2024)	The Hon'ble Supreme Court dismissed the evidence presented without any recording and re-emphasized on the mandatory nature of the electronic recording
POLICE REPORT	
Dablu Kujur Vs Stae Of Jharkhand 2024 INSC 197	**POLICE REPORT IN PRESCRIBED FORM**

	The police report should be in the form prescribed by the State Government. “We have found that the investigating officers while submitting the chargesheet/Police Report do not comply with the requirements of the said provision. Though it is true that the form of the report to be submitted under Section 173(2) has to be prescribed by the State Government and each State Government has its own Police Manual to be followed by the police officers while discharging their duty, the mandatory requirements required to be complied with by such officers in the Police Report/Chargesheet are laid down in Section 173, more particularly sub-section (2) thereof.” (Para- 12)

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