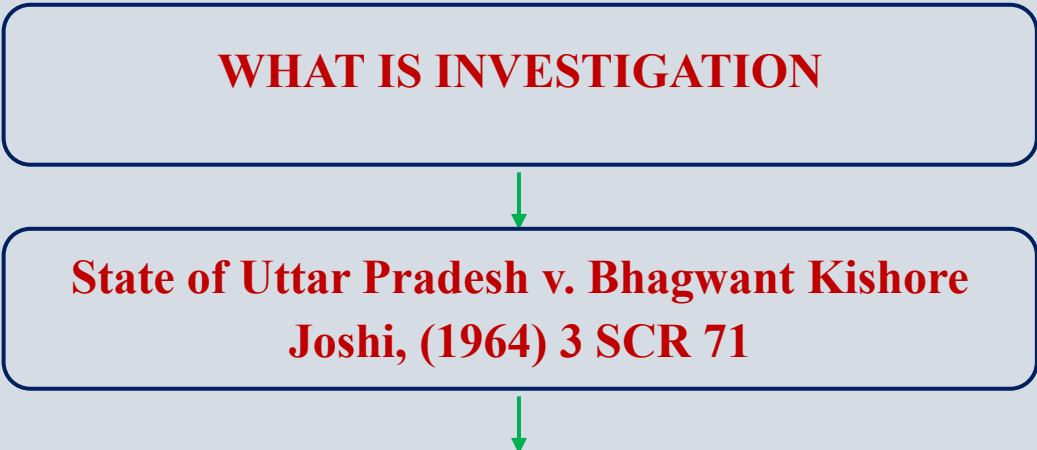




STUDY MATERIAL
FOR
JOINT WORKSHOP
ON
MEDICAL JURISPRUDENCE, BALLISTICS
EVIDENCE, CYBER CRIME & HANDLING,
ADMISSIBILITY & APPRECIATION OF
ELECTRONIC EVIDENCE
FOR
JUDICIAL OFFICERS, POLICE OFFICERS,
DOCTORS, FORENSICS & BALLISTICS
EXPERTS, DGCS/ADGCS & PROSECUTION
OFFICERS
FROM 26.09.2026 & 27.09.2026

PREPARED BY
UTTARAKHAND JUDICIAL AND LEGAL
ACADEMY, BHOWALI

WHAT IS INVESTIGATION



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graph TD; A[WHAT IS INVESTIGATION] --> B[State of Uttar Pradesh v. Bhagwant Kishore Joshi, (1964) 3 SCR 71]; B --> C[State of Uttar Pradesh v. Bhagwant Kishore Joshi, (1964) 3 SCR 71 in the following manner:];
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State of Uttar Pradesh v. Bhagwant Kishore Joshi, (1964) 3 SCR 71

State of Uttar Pradesh v. Bhagwant Kishore Joshi, (1964) 3 SCR 71 in the following manner:

“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

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...”

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.

ON ARREST OF AN ACCUSED
NO ROUTINE ARREST

Joginder Kumar v. State of UP And Ors. (1994)
4 SCC 260



“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 issue notice to person to attend the Station House and not to leave the station without permission would do.”

**Arnesh Kumar v. State of Bihar, (2014) 8 SCC
273,**



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.

‘REASONS OF ARREST’ & ‘GROUNDS OF ARREST’



**Prabir Purkayastha v. State (NCT of Delhi),
(2024) 8 SCC 254 (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.

**State of Karnataka by Nonavinakere Police vs.
Shivanna alias Tarkari Shivanna (2014) 8 SCC**



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.”

GROUND OF ARREST IN WRITING



**Pankaj Bansal Vs. Union of India (2024) 7 SCC
576**



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.

RIGHT TO BE PRODUCED BEFORE THE MAGISTRATE

Khatri (ii) VS State of Bihar 1981 (1) SCC 627

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.

**Vihaan Kumar Vs. State of Haryana, 2025
INSC 162,**

- 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 would amount to a violation of the fundamental right of the arrestee guaranteed under 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 Versus State of Andhra Pradesh and Others, 2025 SCC OnLine SC 1228,



Ground of arrest must be in detail and well explained and also communicated to accused his relative and friends.

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 noncompliance with the mandate, the arrest and subsequent remand would become illegal and entitle the person to be set free.

**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.

RIGHT TO DEFAULT BAIL

Gautam Navlakha Vs. NIA (2022) 13 SCC 542

Right to default bail is fundamental right subject to fulfilment of conditions in Section 167 CrPC.

ACCUSED OF SERIOUS OFFENCES

Kartar Singh vs. State of Punjab (1994) 3 SCC 569

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.

ON 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'.

**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.”

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.

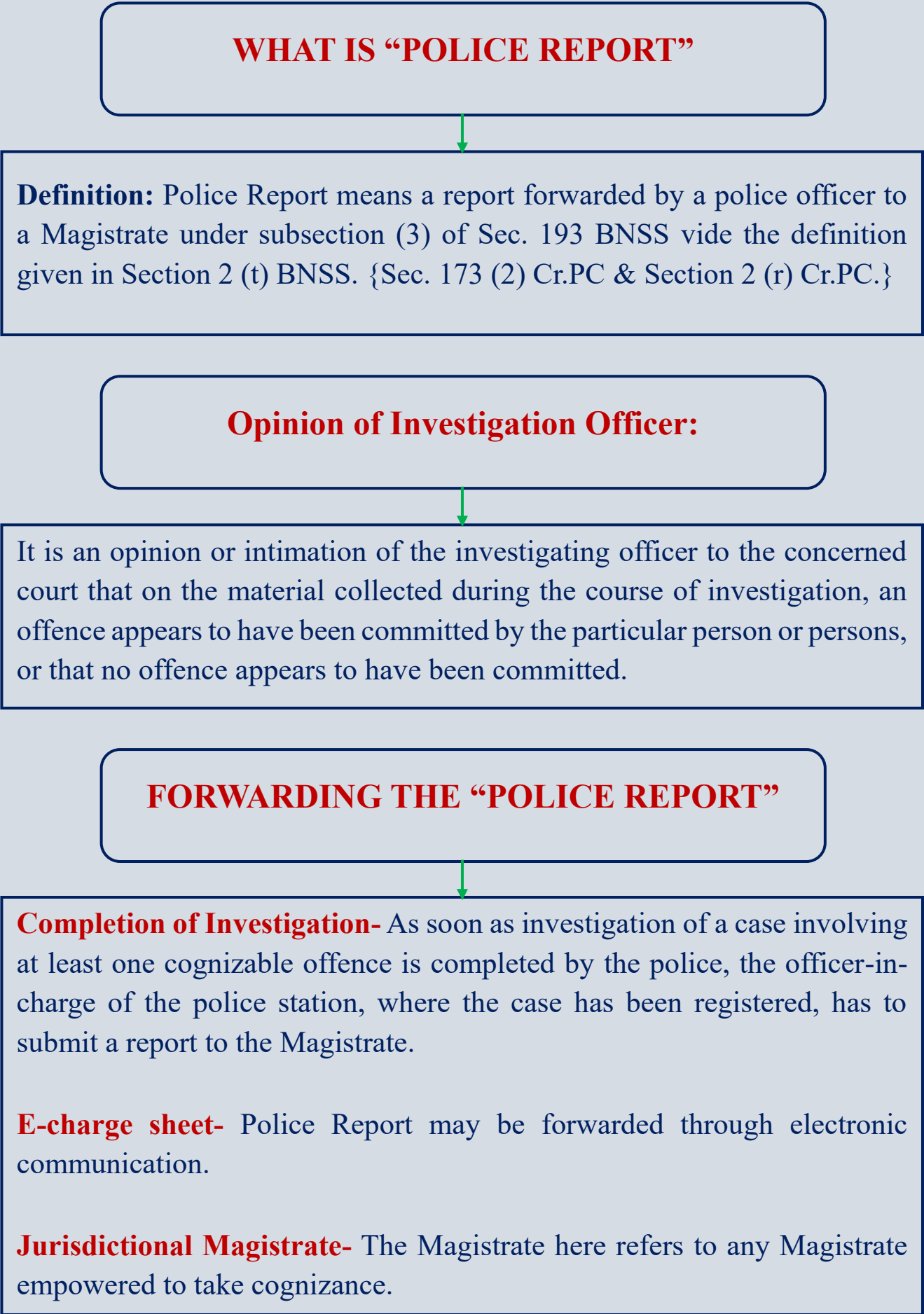
When a charge sheet is not filed and investigation is kept pending, the accused will have right to bail u/s 167(2).

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.

**Hitendra Vishnu Thakur vs. State of
Maharashtra, (1994) 4 SCC 602**

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.

WHAT IS “POLICE REPORT”



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graph TD; A[WHAT IS “POLICE REPORT”] --> B[Definition: Police Report means a report forwarded by a police officer to a Magistrate under subsection (3) of Sec. 193 BNSS vide the definition given in Section 2 (t) BNSS. {Sec. 173 (2) Cr.PC & Section 2 (r) Cr.PC.}]; B --> C[Opinion of Investigation Officer:]; C --> D[It is an opinion or intimation of the investigating officer to the concerned court that on the material collected during the course of investigation, an offence appears to have been committed by the particular person or persons, or that no offence appears to have been committed.]; D --> E[FORWARDING THE “POLICE REPORT”]; E --> F[Completion of Investigation- As soon as investigation of a case involving at least one cognizable offence is completed by the police, the officer-in-charge of the police station, where the case has been registered, has to submit a report to the Magistrate.]; F --> G[E-charge sheet- Police Report may be forwarded through electronic communication.]; G --> H[Jurisdictional Magistrate- The Magistrate here refers to any Magistrate empowered to take cognizance.];
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Definition: Police Report means a report forwarded by a police officer to a Magistrate under subsection (3) of Sec. 193 BNSS vide the definition given in Section 2 (t) BNSS. {Sec. 173 (2) Cr.PC & Section 2 (r) Cr.PC.}

Opinion of Investigation Officer:

It is an opinion or intimation of the investigating officer to the concerned court that on the material collected during the course of investigation, an offence appears to have been committed by the particular person or persons, or that no offence appears to have been committed.

FORWARDING THE “POLICE REPORT”

Completion of Investigation- As soon as investigation of a case involving at least one cognizable offence is completed by the police, the officer-in-charge of the police station, where the case has been registered, has to submit a report to the Magistrate.

E-charge sheet- Police Report may be forwarded through electronic communication.

Jurisdictional Magistrate- The Magistrate here refers to any Magistrate empowered to take cognizance.

POLICE REPORT – what it should contain
[Sec. 193 (3)(i) BNSS]



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

**POLICE REPORT REFLECTS POLICE
OPINION**



The final step in the investigation of an offence is the formation of opinion by the OIC of the PS.

The opinion ought to be based on the evidence collected in course of investigation.

The ultimate opinion to be formed by the police is whether the case in hand is one which ought to be sent up for trial or close the case.

Right of informant or victim [Sec. 193 (3)(ii) BNSS]

The police officer shall, within a period of ninety days, inform the progress of the investigation by any means including through electronic communication to the informant or the victim;

**Communication to informant [Sec. 193 (3)(iii)
BNSS]**

The officer shall also communicate, in such manner as the State Government may, by rules, provide, the action taken by him, to the person, if any, by whom the information relating to the commission of the offence was first given.

**Forward the report to Magistrate [Sec. 193 (6)
BNSS]**

When such report is in respect of a case to which section 190 applies, the police officer shall forward to the Magistrate along with the report—

- (a) all documents or relevant extracts thereof on which the prosecution proposes to rely other than those already sent to the Magistrate during investigation;
- (b) the statements recorded under section 180 of all the persons whom the prosecution proposes to examine as its witnesses.

**Exclusion some part from the copies to be
granted to the accused [Sec. 193 (7) BNSS]**

If the police officer is of opinion -

that any part of any such statement is not relevant to the subject matter of the proceedings or

that its disclosure to the accused is not essential in the interests of justice and is inexpedient in the public interest,

he shall indicate that part of the statement and append a note requesting the Magistrate to exclude that part from the copies to be granted to the accused and stating his reasons for making such request.

Number of copies to be submitted by IO [Sec. 193 (8) BNSS]

The police officer investigating the case shall also submit such number of copies of the police report along with other documents duly indexed to the Magistrate for supply to the accused as required under section 230.

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

Further investigation after forwarding the report [Sec. 193 (9) BNSS]

No bar on further investigation after police report has been forwarded to the Magistrate.

Where upon such investigation, the officer in charge of the police station obtains further evidence, oral or documentary, he shall forward to the Magistrate a further report or reports regarding such evidence.

Permission of Court and Time Limit:

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

S.105. RECORDING OF SEARCH AND SEIZURE THROUGH AUDIO-VIDEO ELECTRONIC MEANS

**Teesta Atul Setalvad v. State of Gujarat, (2018)
2 SCC 372**

1. Teesta Atul Setalvad v. State of Gujarat, (2018) 2 SCC 372 “Any 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,

**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,

**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 IN PRESCRIBED FORM



The police report should be in the form prescribed by the State Government.

Dablu Kujur Vs State of Jharkhand 2024 INSC 197



“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)

**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).

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.

FURTHER INVESTIGATION

**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.

**Ram Lal Narang vs. State (Delhi
Administration) (1979) 2 SCC 322**

Where fresh materials come to light which would implicate persons not previously 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.

**Hasanbhai 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.

**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.

**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.

**State of NCT of Delhi v. Ravi Kant Sharma,
(2007) 2 SCC 764**

Whether statement of witness's u/s 161 are the part of case diary?

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”.

**Central Bureau of Investigation v. R S Pai
(2002) 5 SCC 82**

Documents can be submitted subsequently

“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.

Sameer Sandhir v. CBI 2025 INSC 776

Section 173(5) is Directory

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.

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.

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.

**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.

**Imran Pratapgadhi vs. State of Gujarat, 2025
SCC OnLine SC 678,**

prior to the registration of an FIR,

“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.

CONSIDERATION OF DELAY IN FIR

**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.

Narayan Yadav Vs. State of Chhattisgarh 2025
INSC 927

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.

**On Pocso Act Delhi Domestic Working Women's
Forum vs UOI and Others on 14 December, 1989**

Six young domestic workers travelling on a train from Ranchi to Delhi were brutally harassed, assaulted and raped by army personnel. Acknowledging the hardships faced by the victims throughout the judicial process, this judgement delineated several guidelines to be followed when dealing with cases of sexual offences: -

1. The complainants of sexual assault cases should be provided with adequate legal representation.
2. Legal assistance will have to be provided at the police station.
3. The police should be under a duty to inform the victim of her right to representation before any questions were asked of her.

4. A list of advocates willing to act in these cases should be kept at the police station for victims.
5. The advocate shall be appointed by the court, upon application by the police at the earliest convenient moment.
6. In all rape trials anonymity of the victim must be maintained, as far as necessary.
7. Rape victims need to be given adequate and fair financial compensation.

(Medical Of Victim)

State Of Karnataka vs Manjanna on 4 May, 2000

Hosadgura Hospital refused to medically examine a girl victim of 15 years of age as she had not been referred by the police. (Majroobi chithhi) In the passing of the judgement, the Court put on record their disapproval of such conduct by Government Hospitals particularly in rural areas where hospital are few and far between citing the loss of evidence on account of the delay in conducting medical examination. The judgement also stated that age assessment of the victim, when in doubt, should be considered in favour of the victim.

**Bachpan Bachao Andolan v. Union of India
2023 LiveLaw (SC) 667**

..... It is pertinent to note that POCSO Rules, 2020 define a ‘support person’ as “someone assigned by a child welfare committee to render assistance to a child during the process of investigation and trial, or any other person assisting a child pre-trial or during the process of a trial pertaining to the offenses under the POCSO Act, 2012.”

"A support person is to provide information, emotional and psychological support, and practical assistance which are often crucial to the recovery of the child. This can go a long way in helping them cope with the aftermath of the crime and with the strain of any criminal proceedings – in many ways a support person, acts as guardian ad litem for the child".

**Attorney General For India vs Satish SC
(THREE JUDGE BENCH) (2022) 5 SCC 545,**

The word “Touch” has been used specifically with regard to the sexual parts of the body, whereas the word “physical contact” has been used for any other act. Therefore, the act of touching the sexual part of body or any other act involving physical contact, if done with “sexual intent” would amount to “sexual assault” within the meaning of Section 7 of the POCSO Act.

**Nipun Saxena vs Union Of India (2019)13
SCC,719**

43. In this case Hon’ble Supreme Court has issued the following directions:

1. No person can print or publish in print, electronic, social media, etc. the name of the victim or even in a remote manner disclose any facts which can lead to the victim being identified and which should make her identity known to the public at large.
2. In cases where the victim is dead or of unsound mind the name of the victim or her identity should not be disclosed even under the authorization of the next of the kin, unless circumstances justifying the disclosure of her identity exist, which shall be decided by the competent authority, which at present is the Sessions Judge.

3. FIRs relating to offences under Sections 376, 376A, 376AB, 376B, 376C, 376D, 376DA, 376DB or 376E of IPC and offences under POCSO shall not be put in the public domain.

4. In case a victim files an appeal under Section 372 CrPC, it is not necessary for the victim to disclose his/her identity and the appeal shall be dealt with in the manner laid down by law.

5. The police officials should keep all the documents in which the name of the victim is disclosed, as far as possible, in a sealed cover and replace these documents by identical documents in which the name of the victim is removed in all records which may be scrutinized in the public domain.

6. All the authorities to which the name of the victim is disclosed by the investigating agency or the court are also duty bound to keep the name and identity of the victim secret and not disclose it in any manner except in the report which should only be sent in a sealed cover to the investigating agency or the court.

7. An application by the next of kin to authorise disclosure of identity of a dead victim or of a victim of unsound mind under Section 228A(2)(c) of IPC should be made only to the Sessions Judge concerned until the Government acts under Section 228A(2)(c) and lays down a criteria as per our directions for identifying such social welfare institutions or organizations.

8. In case of minor victims under POCSO, disclosure of their identity can only be permitted by the Special Court, if such disclosure is in the interest of the child.

(8) In appropriate cases, the Special Court may, in addition to the punishment, direct payment of such compensation as may be prescribed to the child for any physical or mental trauma caused to him or for immediate rehabilitation of such child.

**Alakh Alok Srivastava Vs Union of India,
(2018) 5 SCC 651**

The POCSO Act has been legislated keeping in view the fundamental concept under Article 15 of the Constitution that empowers the State to make special provisions for children and also Article 39(f) which provides that the State shall in particular direct its policy towards securing that the children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment. The Statement of Objects and Reasons of the Act indicate the focus for reduction of child abuse and protection of children from the offences of sexual assault, sexual harassment and pornography, etc.

**In State of Bihar v. Rajballav Prasad, (2017) 2
SCC 178**

The Hon'ble S.C. has held that-

“General presumption of innocence of accused is not applicable to cases where there is contrary statutory presumption of his guilt such as when prosecuted under Sections 3, 5, 7 and 9 of POCSO Act, 2012. Prime consideration is fair trial for which witnesses must feel protected for free, frank and fearless deposition. Chances of accused fleeing from justice or tampering with evidence/trial if released on bail must be carefully assessed. Court should adopt a liberal approach and properly balance individual liberty and possibility of accused interdicting fair trial if released on bail, which is a social or public interest. Social interest should outweigh personal interest.”

State of UP Vs. Chhotey Lal (2011) 2 SCC 550,

The Hon'ble Supreme Court held that "It is wrong to assume that in all cases of intercourse with the women against will or without consent, there would be some injury on the external or internal part of the victim. The prosecutrix has clearly deposed that she was not in a position to put up any struggle as she was taken away from her village by adult males. The absence of injuries on the person of the prosecutrix is not sufficient to discredit her evidence; she was a helpless victim.

State of Karnataka v. Shivanna, (2014) 8 SCC 913,

Hon'ble Supreme Court has issued following directions

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.

**STORING AND WATCHING CHILD
PORNOGRAPHY**



**Just Rights for Children Alliance v. S. Harish,
2024 SCC OnLine SC 2611.**



Section 15 of the POCSO and Section 67-B of the IT Act penalize any form of use of child pornography, including storing and watching of such pornographic content.

COMPENSATION TO VICTIM

In Eera v. State (NCT of Delhi), (2017) 15 SCC 133,

The Hon'ble S.C has laid down that: "Special Court has power on its own or on application filed by or on behalf of child to pass interim order for grant of compensation to meet immediate needs of child for relief or rehabilitation at any stage after registration of FIR or to recommend award of compensation where accused is convicted, or where case ends in acquittal or discharge or accused is not traced or identified and where child has suffered loss or injury, taking into consideration all relevant factors. Such compensation to be paid by the State Government."

DETERMINATION OF AGE BY THE POCSO COURT

Siddu v. State, 2016 SCC OnLine Kar 8347,

Section 34 of the POCSO Act is the substantive provision which empowers the Special Judge to determine the age of the person whether he is a Juvenile or an adult person and that particular person has to be tried before the Juvenile Justice Board or before the Special Court. Sub-clause (2) of Section 34 clearly indicates that if any question arises in a proceeding before the Special Court, whether the person is a child or not, such question shall be determined by the Special Court after satisfying itself about the age of such person. In this provision stress has to be given to the words - "for satisfying itself" and how this satisfaction can be arrived at by the court has to be tested by other surrounding circumstances like oral and documentary evidence placed before the court and also the relevant rules under the law for the time being in force.

RESTRICTIONS ON MEDIA

**Nipun Saxena v. Union of India, (2019) 2 SCC
703**

“Considering relevant provisions of POCSO Act and intention of legislature to protect the privacy and reputation of a child victim, It was held by the Hon’ble S.C that media cannot disclose any material/information which may lead to disclosure of identity of a child victim. Any violation in this regard will amount to an offence under Section 23(4) of POCSO Act.”

Bar as to disclosure of name and identity of child victims of sexual offences, under POCSO Act applies even to dead victims.

**Nipun Saxena Vs. Union of India Writ Petition
Civil No. 565/2012**

Compensation Scheme for women victims/survivors of sexual assault/other crimes, 2018
