

Ad. Deepak M. Tiwari
Advocate, High Court & Subordinate Courts

PRACTICE NOTE — CRIMINAL PROCEDURE

The Bharatiya Nagarik Suraksha Sanhita, 2023 — Key Points

Procedural code replacing the Code of Criminal Procedure, 1973, in force from 1 July 2024 — structure, key changes, timelines and a quick CrPC-to-BNSS map

IN FORCE FROM	1 July 2024
REPLACES	Code of Criminal Procedure, 1973 (2 of 1974)
STRUCTURE	39 Chapters, 531 Sections (CrPC: 37 Chapters, 484 Sections)
APPLICATION	New cases from 1.7.2024 under BNSS; pending investigations/trials generally continue under CrPC (S.531 saving clause)
READ WITH	BNS, 2023 (substantive law) and BSA, 2023 (evidence)

KEY CHAPTERS AT A GLANCE (SELECT)

CHAPTER/SUBJECT	COVERS	KEY SECTIONS
Preliminary & Constitution of Courts	Definitions; classes of criminal courts; Sessions/Magistrate hierarchy	S.1–S.26
Powers of Courts	Sentences courts may pass; territorial/jurisdictional powers	S.20–S.25
Arrest of Persons	Grounds, procedure, rights of arrested person, handcuffing	S.35–S.62
Processes to Compel Appearance/Production	Summons, warrants, proclamation, attachment of property	S.63–S.106
Search & Seizure	Search warrants, videography, digital evidence	S.103–S.111
Information to Police & Powers to Investigate	FIR registration, preliminary enquiry, investigation, chargesheet	S.173–S.196
Jurisdiction, Complaints & Commencement of Proceedings	Cognizance, complaints to Magistrates, process issue	S.197–S.226
Charge, Trial (Sessions/Warrant/Summons/Summary)	Framing of charge; trial procedure by court type	S.234–S.279
Plea Bargaining	Application, mutually satisfactory disposition, exclusions	S.289–S.300
Judgment	Contents, pronouncement, timelines	S.392–S.403
Bail	Regular, anticipatory, default bail; bonds	S.478–S.496
Maintenance of Wives, Children & Parents	Order for maintenance; interim maintenance; enforcement	S.144–S.147
Appeal, Reference & Revision	Appellate forums, limitation, revisional powers	S.413–S.442
Suspension, Remission & Commutation; Mercy Petitions	Sentence remission; mercy petition timelines	S.472–S.477

This is a select list of frequently used chapters, not the full 39-chapter scheme — always verify exact section boundaries against the bare Sanhita.

KEY CHANGES FROM THE CRPC, 1973

FIR REGISTRATION & PRELIMINARY ENQUIRY (S.173)

- **Zero FIR** given statutory backing — any police station must register an FIR for a cognizable offence regardless of jurisdiction, then transfer it for re-registration at the appropriate station.
- **e-FIR** for certain offences — informant must appear and sign within 3 days to complete the report.
- For cognizable offences punishable with **3 to 7 years**, police may, with permission of an officer not below DySP rank, conduct a **14-day preliminary enquiry** before registering the FIR — a departure from the earlier *Lalita Kumari* position of near-mandatory immediate registration.

FORENSIC & TECHNOLOGY MANDATES

- For offences punishable with **7+ years**, a forensic expert must visit the crime scene to collect evidence, and the process must be videographed.
- **Audio-video recording** of search and seizure is mandated (S. 105); such recordings must be forwarded to the Magistrate without delay.
- Summons, warrants and other processes may be served/executed in **electronic form**; wider recognition of electronic and digital records as documents.

INVESTIGATION & TRIAL TIMELINES

- Informant/victim to be updated on investigation progress within **90 days**.
- Charge to be framed within a prescribed period of the first hearing; Sessions Court judgment to be delivered within **30 days** of conclusion of arguments, extendable to **45 days** for reasons recorded in writing.
- Custody/default-bail timelines under S.187(3) mirror the earlier 60/90-day framework, but police custody may now be sought **in parts** across the first 40 or 60 days rather than only the initial 15 days.

CUSTODIAL SAFEGUARDS

- Arrest memo, grounds of arrest communicated, right to inform a person of choice, and display of arrested-persons' information at police stations/district HQ (S.36–S.37).
- For offences punishable with **under 3 years**, arrest of infirm persons or those **60+ years** requires prior permission of an officer not below DySP rank (S.35(7)).
- **Handcuffs** permitted only in specified circumstances — habitual/ repeat offenders, escape from custody, organised crime, terrorism, offences against the State, and specified serious offences (murder, rape, acid attack, etc.) (S.43(3)).

PROCESS CHART — FIR TO TRIAL & JUDGMENT

1

Information & FIR Registration

S.173

Zero FIR at any police station for a cognizable offence; e-FIR option (sign within 3 days); for 3–7 year offences, optional 14-day preliminary enquiry with DySP-rank permission before registration.

2

Arrest & Production

S.35–S.58

Grounds of arrest communicated; arrest memo; right to inform a person of choice; produced before the Magistrate within 24 hours (excluding travel time), as under the earlier S.57 CrPC regime.

3

Remand & Custody

S.187

Police custody up to 15 days total, seekable in parts within the first 40/60 days of the 60/90-day detention period; default bail accrues if the chargesheet is not filed within 60 days (offences up to 10 years) or 90 days (death/life/10+ years), counted from the first remand order.

4

Investigation & Chargesheet

S.176, S.193

Mandatory forensic visit and videography for 7+ year offences; videographed search/seizure; informant/victim updated within 90 days; police report (chargesheet) filed under S.193 stops the default-bail clock.

5

Cognizance, Committal & Charge

S.210 onwards

Magistrate takes cognizance; case committed to Sessions Court if exclusively triable there; charge framed within the prescribed period of first hearing/appearance.

6

Trial

Sessions/Warrant/Summons/Summary

Procedure follows the applicable trial track. Where the accused is a declared proclaimed offender who cannot be arrested, inquiry, trial or judgment may proceed **in absentia** on fulfilment of specified conditions (S.356).

7

Judgment & Appeal

30–45 days; Limitation Act

Sessions Court judgment within 30 days of conclusion of arguments (extendable to 45 days, reasons recorded). Appeal periods follow the Limitation Act, 1963, read with the applicable BNSS appellate provisions.

Alternative Route — Plea Bargaining (S.289–S.300)

Accused may apply for plea bargaining within **30 days of framing of charge**. Not available for offences punishable with death, life imprisonment, or imprisonment beyond 7 years, or offences affecting the socio-economic condition of the country, or committed against a woman or a child.

CRPC TO BNSS — QUICK SECTION MAP

SUBJECT	CRPC, 1973	BNSS, 2023
FIR registration	S.154	S.173
Arrest without warrant / notice of appearance	S.41 / S.41A	S.35
Production before Magistrate (24 hours)	S.57	S.58
Remand — police/judicial custody	S.167	S.187
Police report (chargesheet)	S.173	S.193

Cognizance by Magistrate	S.190	S.210
Commitment to Court of Session	S.209	S.232
Regular bail	S.437/S.439	S.480/S.483
Anticipatory bail	S.438	S.482
Maximum period of undertrial detention	S.436A	S.479
Maintenance of wives, children, parents	S.125	S.144
Inherent powers of the High Court	S.482	S.528
Trial in absentia of proclaimed offender	— (limited)	S.356
Plea bargaining	S.265A–S.265L	S.289–S.300

Section numbering is fully reorganised — always confirm the exact sub-clause against the bare Sanhita before drafting/pleading.

BAIL, UNDERTRIALS & COMMUNITY SERVICE

FIRST-TIME OFFENDERS — S.479

- Undertrial with no prior conviction is entitled to release on bond after serving **one-third** of the maximum sentence prescribed (for offences other than death/life imprisonment) — more liberal than the earlier S.436A CrPC (which used one-half for most offences).
- Undertrials who have served the maximum sentence are entitled to release; jail superintendent must apply on their behalf.

COMMUNITY SERVICE (BNS S.4(F), READ WITH S.23 BNSS)

- Available for six specified BNS offences: public servant unlawfully trading (S.202), non-appearance on proclamation (S.209), attempted suicide to compel a public servant (S.226), petty first-time theft under ₹5,000 with restoration (S.303(2)), misconduct in public while drunk (S.355), and defamation (S.356(2)).
- Defined as unremunerated work benefiting the community, ordered as a form of punishment.

PRACTICE NOTES

Check the Applicable Law by Offence Date

BNSS applies to the procedure for offences/cases arising on or after 1 July 2024; pending investigations, inquiries and trials generally continue under the CrPC by virtue of the S.531 saving clause — confirm the position for each matter individually.

Default Bail Clock Runs From First Remand

The 60/90-day period under S.187(3) is computed from the date of the first remand order by the Magistrate, not the date of arrest — verify this date carefully when calculating default bail eligibility.

Preliminary Enquiry — Use Cautiously

The S.173(3) preliminary enquiry window (3–7 year offences) is being actively litigated; several courts have cautioned against its use to delay FIR registration — be prepared to challenge unjustified delay.

Mercy Petitions — S.472/S.473

Convict/legal heir has 30 days from communication of the relevant order to file a mercy petition (Article 72/161); the State has a 60-day window to process and forward the petition.

For internal practice reference only — this note highlights select, frequently used provisions and does not cover all 531 sections. Cross-check exact section text, applicable Rules, and the latest High Court/Supreme Court rulings before relying in proceedings. Prepared 28 July 2026.

Primary sources: Bharatiya Nagarik Suraksha Sanhita, 2023 (indiacode.nic.in); PIB Comparative Analysis, CrPC and BNSS (2024); BPR&D Handbook and Ready Reckoners on BNSS, 2023; PRS Legislative Research Bill Summary.