



J&K POLICE HEADQUARTERS

JAMMU/SRINAGAR.

No.02/New-Laws-1/CMC/CR/Part A1/2024/10639-47

Dated:- 04-08-2024.

The Addl. Director General of Police,
Jammu Zone, Jammu.

The Addl. Director General of Police,
CID J&K.

The Inspector General of Police,
Kashmir Zone, Srinagar.

The Inspector General of Police,
Crime Branch, J&K.

The Inspector General of Police,
Railways, J&K.

Subject: - FAQs on BNSS 2023.

Sir,

Kindly find enclosed herewith a copy of FAQs with regard to Bharatiya Nagarik Suraksha Sanhita (BNSS) 2023. In this regard, I am directed to request that the same may be circulated to the field formations of your respective units for necessary action.

Yours faithfully,

**(J. S. Johar) IPS,
AIG of Police (C&C)**

For Director General of Police,
J&K, Srinagar.

Encl: (10) lvs.

Copy to the:-

1. AIG (Tech) PHQ J&K for favour of kind information with the request please upload the documents on Police web site.
2. PPS to DGP, PHQ J&K for information of DGP J&K.
3. PS to ADGP Coordination, PHQ J&K for information of ADGP HQs/Cord.
4. PS to IG POS for information of IG POS PHQ, J&K.

FAQs BNSS

Changes with respect to FIR [Sec. 173 BNSS]
<p>i. Registration of FIR irrespective of jurisdiction [Sec. 173 (1) BNSS] FIR can be registered at any Police station irrespective of the area, where the offence is committed.</p>
<p>ii. FIR through electronic means [Sec.173 (1) (ii) BNSS] FIR can be registered through electronic means (E-FIR). However the same has to be signed by the informant within 3 days.</p>
<p>iii. Conditions for conducting Preliminary enquiry [Sec.173 (3) BNSS] In offences punishable with imprisonment between 3 to 7 years, the Officer in-charge of the police station may</p> <ul style="list-style-type: none"> • with the permission of Deputy Superintendent of Police • conduct preliminary enquiry to ascertain whether there is any prima facie case, for proceeding in the matter. <p>Such preliminary enquiry must be completed in 14 days after permission of DySP which has to be accorded (or otherwise) within 24 hrs.</p> <p>Note: There was no such provision under CrPC.</p>
<p>Forwarding Daily Diary Reports to the Magistrate once in 14 days [Sec. 174 BNSS] Officer in charge shall forward the daily diary reports of information regarding non-cognizable cases once in 14 days to the Magistrate.</p> <p>Note: There was no specific timeline for this under CrPC.</p>
Changes with respect to recording of statements [Sec. 176, 179-183 BNSS]
<p>i. Recording of rape victim statement at her residence [Sec.176 BNSS] In relation to the offence of rape, the recording of the statement of victim shall be conducted at the residence of victim or at the place of her choice by a woman police officer in the presence of her parent or guardian or near relative or social worker of the locality. Such statement may also be recorded by audio-video electronic means including mobile phone.</p> <p>Note: CrPC did not have any provision for recording the statement of victim of sexual assault through mobile phone.</p>
<p>ii. Woman Police officer to record the statement of victim of sexual assault [Sec. 180 BNSS] The statement of a woman, against whom sexual assault is alleged to have been committed or attempted, shall be recorded by a woman police officer or any woman officer. Such statements may also be recorded by audio-video electronic means.</p>

iii. Recording of statement of victim of sexual assault by female Judicial Magistrate [Sec. 183 BNSS]

Section 183 (6) (a) mandates that the statement of the victim of the rape shall be recorded by a woman Judicial Magistrate and in her absence, by a male Judicial Magistrate in the presence of a woman.

iv. Women, persons above 60 or with acute illness not bound to attend Police station [Sec. 179 BNSS]

- a) **no male person under 15 years or above 60 years of age**
- b) **no woman**
- c) **no mentally or physically disabled person**
- d) **no person with acute illness**

shall be called to police station for recording of their statement.

However, if the said person is willing to attend the police station he or she may be permitted to do so.

v. Recording of statement by Judicial Magistrate of witness in offences punishable with imprisonment for 10 years or more [Sec. 183 (6) BNSS]

- In cases relating to the offences punishable with imprisonment for 10 years or life or death, the Judicial Magistrate shall record the statement of the witness brought before him by the police officer.**

Note: CrPC did not have any provision like this.

- If the person making the statement is temporarily or permanently, mentally or physically disabled, the statement made by the person with the assistance of an interpreter or a special educator, shall be recorded through audio-video electronic means, preferably by mobile phone.**

Arrest [Sec. 35 BNSS]

i. No arrest of aged or infirm person without permission of DySP in offences punishable with less than 3 years imprisonment [Sec. 35 BNSS]

In case of offences punishable with less than 3 years of imprisonment **no arrest of a person, who is**

- **infirm** or
- **above 60 years of age**

shall be made **without the prior permission of DySP.**

ii. Appointment of Designated Police Officer in every Police station for maintaining the record of arrested persons and displaying it in digital mode [Sec. 37 BNSS]

An officer, not below the rank of ASI, shall be appointed as Designated Police Officer in every Police station, who shall **maintain and display, in digital mode, the information regarding** name, address, nature of the offence of the **arrested person at** Police Station and District Headquarter.

iii. Information of arrest to Designated Police Officer [Sec. 48 BNSS]

Police officer effecting arrest is required to inform about arrest of person to

- a) Relatives or friends and
- b) Also to designated Police officer

iv. Arrest by Private person [Sec. 40 BNSS]

In case of arrest by private person, the arrested person must be handed over to the police within **6 hours** of arrest.

v. Use of handcuffs allowed in certain cases [Sec.43 (3) BNSS]

The use of handcuffs on the accused is permitted in the following cases:

- in case of habitual or repeat offender or
- in case of a person who has escaped from custody or
- in case of organised crime, terrorist act, drug related crime, illegal possession of arms and ammunition, murder, rape, acid attack, counterfeiting of coins and currency notes, human trafficking, sexual offences against children or offences against State.

Medical Examination [Sec. 51 to 53, 184 BNSS]

i. Application for the medical examination by any police officer [Sec 51 and 52 BNSS]

Any police officer can move an application for the medical examination of accused.

Note:- Under CrPC only SI could move such an application.

ii. Medical report of Victim in Rape cases to be given in 7 days [Sec. 184 BNSS]

The Medical Officer shall, within a period of **7 days**, forward the Medico-Legal Report (MLR) to the investigating officer, who shall forward to it to the Magistrate with Police Report.

iii. Medical examination report of accused to be given without delay [Sec. 52 BNSS]

The Medical Officer shall **without any delay** forward the Medico-Legal Report (MLR) to the investigating officer.

Remand [Sec. 187 (2) BNSS]

Police Remand can be sought for a period of 15 days

Remand of accused can be sought under BNSS

- **within first 40 days** of arrest in cases where the offence is punishable with **less than** 10 years imprisonment.
- **within first 60 days** of arrest in cases where the offence is punishable for **more than** 10 years imprisonment.

Police remand in total cannot exceed 15 days.

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

Changes with respect to Search [Sec. 103, 105, 185, 186 BNSS]

BNSS has introduced major changes regarding the search proceedings as compared to CrPC. It has mandated audio-video recording of the entire process of search. The following procedure has to be followed while conducting search:

Action before proceeding for search in person & deputing subordinate Police Officer for search

- a) Recording of reasons for search in Case diary: The Officer in-charge of Police Station or IO is required to record the grounds of his belief for conducting search and also record the reason for not conducting search in person in the case-diary.[Sec 185 (1) BNSS]
- b) Conducting search in person: The Officer incharge of Police Station or IO shall, if practicable, conduct the search in person. [Sec. 185 (2) BNSS]
- c) Deputing subordinate Police officer for conducting search: If the Officer in-charge of Police Station or IO is unable to conduct search in person, he may after recording the reasons, depute any subordinate Police officer for conducting the search.
[Sec. 185 (3) BNSS]

Procedure during Search

Recording of search and seizure through audio-video electronic means [Sec. 105 and Proviso to Sec. 185 (2) BNSS]

The Officer Incharge of Police Station or IO shall record the whole process of search by any audio-video electronic means preferably by mobile phone.

Search to be conducted in the presence of two independent witnesses [Sec.103 (4) BNSS]

As per Sec. 103 (4) of BNSS, before making search, Police officer is required to call upon two or more independent and respectable inhabitants of the locality in which the place to be searched is situated.

Refusal to become witness for search amounts to an offence [Sec.103(8) BNSS]

Any person who, without reasonable cause refuses or neglects to attend and witness a search under this section, when called upon to do so by an order in writing delivered or tendered to him, shall be deemed to have committed an offence under section 222 of Bharatiya Nyaya Sanhita, 2023.

Action after search

Audio-video recording of search to be sent to DM, SDM or JMIC [Sec. 105 BNSS]

The police officer shall without delay forward audio-video recording to the DM, SDM or JMIC.

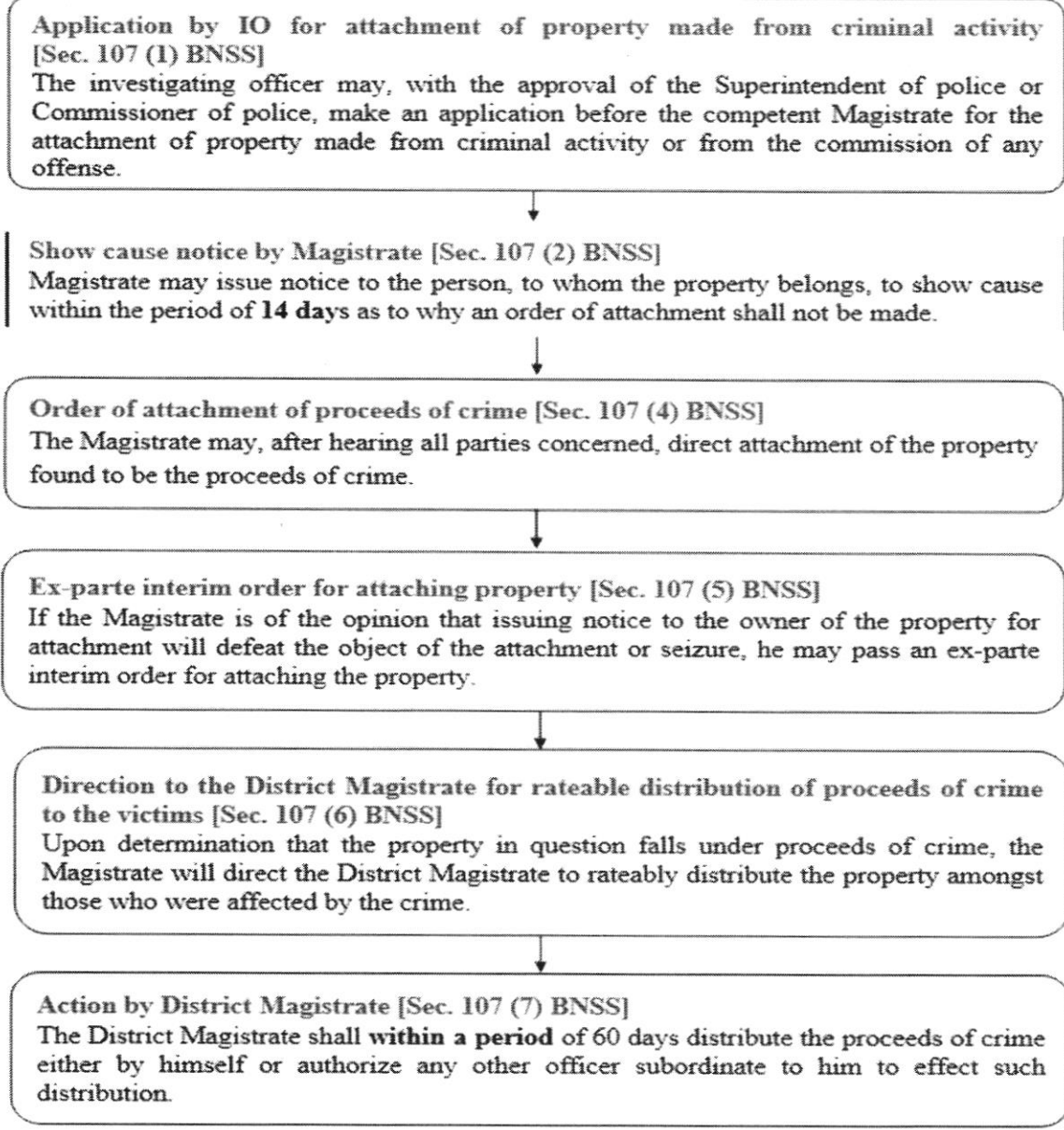
IO to send record regarding search to Magistrate within 48 hours [Sec.185 (5) BNSS]

The IO shall send the copies of the following record within 48 hours to the competent Magistrate:

- a) Reasons for conducting search
- b) Reason for not conducting search in person and deputing subordinate police officer in case someone else is deputed by IO to conduct search
- c) The details of search proceedings

Attachment, Forfeiture or Restoration of Property [Sec. 107 BNSS]

BNSS lays down the following procedure for the attachment of property of criminals, derived from criminal activity and its distribution:



Inquest Report [Sec. 194 – 196 BNSS]

i. Inquest report to be sent to SDM within 24 hours [Sec. 194 (1) BNSS]

The inquest report shall be signed by Officer incharge/IO and other persons shall be forwarded to the DM or SDM by police within **24 hours**.

Note: CrPC did not have any specific timeline for this.

ii. Power to summon person for the purpose of Inquest [Sec. 195 BNSS]

For the purpose of inquest proceedings, no male person under the age of **15** years or above the age of **60** years or a woman or mentally or physically disabled person or a person with acute illness shall be required to attend at any place other than the place where such person resides. If such person is willing to attend the police station he may be permitted to do so.

Police Report [Sec. 193 BNSS]

i. Investigation in certain sexual offence cases under BNS and POCSO to be completed within 2 months from the date of recording of information

The investigation in relation to an offence under sections 64, 65, 66, 67, 68, 70, 71 of the Bharatiya Nayaya Sanhita, 2023 or under sections 4, 6, 8 of the Protection of Children from Sexual Offences Act, 2012 shall be completed within 2 months from the date on which the information was recorded by the officer in-charge of the police station.

ii. IO to supply of copies of Police report through electronic means to Magistrate [Sec 193 (8) BNSS]

The investigating officer shall submit copies of the police report along with other documents duly indexed to the Magistrate.

The Magistrate shall supply these documents to the **accused and victim** as required under section 230 BNSS.

The Police Report and other **documents supplied by electronic communication shall be considered as duly served.**

Victim-centric Provisions [Sec. 193 BNSS]

i. IO to inform the victim about the progress of investigation within 90 days [Sec. 193 (3) (ii) BNSS]

The police officer shall, within a period of **90 days**, inform the progress of the investigation by any means including through electronic communication to the informant or the victim.

ii. Further investigation to be completed within 90 days [Sec.193 (9) BNSS]

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 **90 days** which may be extended with the permission of the Court.

iii. Victim to be heard before withdrawal from prosecution [Sec 360 BNSS]

No court shall allow withdrawal from prosecution without giving an opportunity of hearing to the victim.

Procedure in case of complaint case against Public Servant and others [Sec. 175 BNSS]

i. Magistrate's power in complaint against Public Servant [Sec. 175 (4) BNSS]

The Magistrate may take cognizance of a complaint against a public servant, regarding his official duties after:

- Receiving a report from senior officers of such officer about the fact and circumstances of the incident and
- consideration of assertions made by such Public Servant.

ii. Magistrate to hear police officer before ordering investigation in a complaint case [Sec. 175 (3) BNSS]

Magistrate may consider the submission made by the Police Officer before ordering investigation in complaint cases.

Speedy Trial [Sec. 175 BNSS]

i. Trial in-absentia of Proclaimed Offender [Sec. 356 BNSS]

- The BNSS has introduced provision for conducting trial in-absentia of Proclaimed Offender. This allows the trial and pronouncement of judgment in the absence of the accused, which was not provided under CrPC.
- Section 356 of the BNSS mandates the court to proceed with the trial in-absentia when a person declared as a Proclaimed Offender has absconded to evade trial, and there is no immediate prospect of arresting him. It also specifies a mandatory waiting period of ninety (90) days from the date of framing of the charge before commencing the trial.

Note: CrPC allowed evidence to be recorded in the absence of the accused u/s 299, but did not provide for trial to be *completed* or for judgment to be pronounced against Proclaimed offender.

ii. Framing of charge within 60 days [Sec. 263 BNSS]

The Magistrate shall frame the charge against the accused within period of 60 days from the date of first hearing on charge.

iii. Judgement within a period of 45 days on completion of trial [Sec. 392 BNSS]

After the termination of trial the judgment shall be pronounced at subsequent time but not later than 45 days.

iv. Judgement by Session Court within a period of 30 days after arguments (extendable to 45 days) [Sec. 258 BNSS]

After hearing the arguments of prosecution and defence, Session Court shall give the Verdict within a period of 30 days extendable up to 45 days.

<p>v. Examination of a witness by audio-video electronic means [Sec. 265 BNSS] During trial, the statements of prosecution witnesses may be recorded by audio-video electronic means.</p>
<p>vi. Prosecution Sanction in 120 days [Sec. 218 BNSS] Under Sec. 218 BNSS the Central or the State Government is required to decide request for sanction for prosecuting the public servant within 120 days. If the said Government fails to do so, the sanction will be deemed to have been accorded by the Government.</p>
<p>Other Key Changes</p>
<p>i. Forensic aid in heinous crime investigation [Sec. 176 (3) BNSS] Sec. 176 (3) of BNSS mandates the collection of forensic evidence at the crime scene by a forensic expert for offences punishable by imprisonment of 7 years or more. The provision is to be implemented within 5 years during which such capacity is to be developed by the State Government. The State Government shall also notify regarding utilization of forensic facility of any other State until State develops such facility.</p>
<p>ii. Compensation to persons groundlessly arrested (Malicious arrest) [Sec 360 BNSS] Whenever any person causes a police officer to arrest another person, if it appears to the Magistrate by whom the case is heard that there was no sufficient ground for causing such arrest, the Magistrate may award such compensation, not exceeding one thousand rupees, to be paid by the person so causing the arrest to the person soarrested.</p>
<p>iii. Minimum SP rank officer to be Special Executive Magistrate [Sec. 15 BNSS] In Police Commissionerate area, minimum Superintendent of Police rank officer may be appointed as a Special Executive Magistrate. Note: Under CrPC, Dy.S.P/A.C.P rank officer could be appointed as a Special Executive Magistrate</p>
<p>iv. Service of summons through electronic communication [Sec 64 (2) BNSS] Summons may also be served through electronic communication</p>
<p>v. Summons to produce document or other things [Sec. 94 BNSS] Under Sec. 94 BNSS, any Court or office Incharge of Police station can demand production of electronic communication including communication device, which is likely to contain digital evidence. Note: CrPC did not have any provision for summoning the electronic record.</p>
<p>vi. SP can entrust investigation to DySP [Sec. 175 (1) BNSS] The Superintendent of Police may after considering the nature and gravity of the offence require the Deputy Superintendent of Police to investigate the offence.</p>

Timelines for various stages of Trial under BNSS

Sr. No.	Stage	Provision	CrPC	BNSS
1.	Charge	Framing of charges by Magistrate (for offences the Magistrate is competent to try and punish)	No time prescribed Sec. 240 (1)CrPC	Within 60 days from first hearing on charge Sec. 263 (1) BNSS
2.	Charge	Procedure for an accused to file application for discharge (in cases triable by a Sessions Court)	No time prescribed Sec. 227 CrPC	Within 60 days from committal Sec. 250 (1) BNSS
3.	Charge	Procedure for discharge by Magistrate in case of absence of complainant on date fixed for hearing in a complaint case, for offences that are non-cognizable and compoundable	No time prescribed Sec. 249 CrPC	Granting 30 days opportunity to complainant to appear in court Sec. 272 BNSS
4.	Plea Bargaining	Procedure for application for plea bargaining by the accused, in court where trial for said offence is pending	No time prescribed Sec. 265-B (1)CrPC	Within 30 days from the date of framing of charge Sec. 290 (1) BNSS
5.	Trial	Procedure for admission and denial of genuineness of documents by the defence and prosecution	No time prescribed Sec. 294 (1)CrPC	Soon after supply of documents, and no later than 30 days, unless the Court relaxes the time limit with written reasons Sec. 330 (1) BNSS
6.	Trial	Procedure for examination of the accused in custody, through electronic means, by Magistrate or Sessions Court	No time prescribed Sec. 281 CrPC	Signature of accused to be taken within 72 hours of such examination Sec. 316 BNSS
7.	Trial	Commencement of in absentia trial against proclaimed offenders by a court	No time prescribed Sec. 299 CrPC	After a period of 90 days has lapsed from the framing of charge Sec. 356 (1) BNSS

8.	Trial	Issuance of two consecutive arrest warrants by a court against proclaimed offenders, before commencing in absentia trials	No time prescribed	Execution of 2 consecutive arrest warrants within the interval of 30 days Sec. 356 (2) (1)BNSS
9.	Trial	Publication of notice to proclaimed offender to appear before court, in a newspaper	No time prescribed	Notice period of 30 days Sec. 356 (2) (ii) BNSS
10.	Judgment and sentence	Pronouncement of judgment after termination of trial in any criminal court	Immediately after the termination of trial or at some subsequent time Sec. 353 (1) CrPC	Not later than 45 days Sec. 392 (1) BNSS
11.	Judgment and sentence	Judgment of acquittal or conviction by Court of Sessions	No time prescribed Sec.235 (1) CrPC	30 days from the completion of arguments. Extendable up to 45 days for reasons in writing Sec. 258 (1) BNSS
12.	Uploading of Judgment	Court to upload a digital copy of the judgment	No time prescribed Sec. 353 (4) CrPC	7 days from pronouncement, as far as practicable Sec. 392 (4) BNSS
13.	Disposal of property	Procedure for custody or disposal of property produced before a Court/Magistrate during investigation, inquiry or trial. The Court is bound to prepare a statement of property produced before it	No time prescribed Sec. 451 CrPC	Within 14 days of production of property before the court Sec. 497 (2) BNSS