FIR, Arrest and Bail under the BNSS: A Practical Guide to Your Rights

Vakil Dial Team (Vakil Dial)

Published 22 September 2026, 15:30 IST · Version 1 · Editorial review by Vakil Dial Research Team ·
https://vakildial.com/research/publications/fir-arrest-and-bail-under-the-bnss-a-practical-guide-to-your-rights

Keywords: BNSS 2023, FIR section 173, Zero FIR, rights on arrest, default bail section 187, anticipatory bail section 482, section 479 undertrial bail, criminal trial timelines



Figure 1. The record room of a police station: the FIR is where the criminal process begins.

Most people meet the criminal justice system on one of the worst days of their lives: after a theft, an assault or a fraud, or with a knock at the door from the police. On that day, knowing the procedure is protection. Since 1 July 2024, that procedure has been governed by the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), which replaced the Code of Criminal Procedure, 1973 (CrPC).[1] Offences are now defined by the Bharatiya Nyaya Sanhita (BNS). The section numbers have changed and several rules are genuinely new. This guide sets out what matters most, for complainants and for the accused.

In an emergency, call **112** first. Paperwork can follow.

Reporting a crime: the FIR

The First Information Report is the document that sets a police investigation in motion for a cognizable offence (one where police can arrest without a warrant, such as theft, cheating or serious assault). It is now governed by section 173 BNSS, which corresponds to section 154 CrPC.[2]

The key rules:

- **You may report orally, in writing or electronically.** Oral information must be written down, read back to you and signed by you.
- **Zero FIR.** Information can be given "irrespective of the area where the offence is committed". A police station cannot turn you away because the crime happened in another station's jurisdiction; it must record the FIR and transfer it.
- **e-FIR.** Information sent by electronic communication is taken on record once you sign it within three days, so follow up an online complaint with a visit to sign.
- **Free copy.** A copy of the FIR must be given "forthwith, free of cost" to the informant or the victim. Always ask for it.
- **Protections for women.** Where a woman reports certain sexual offences under the BNS, her information must be recorded by a woman officer; if she is disabled, it is recorded at a place of her choice and videographed.

The new preliminary enquiry

Section 173(3) is a genuine novelty. For cognizable offences punishable with three years or more but less than seven years, the officer in charge may, with the prior permission of an officer not below the rank of Deputy Superintendent of Police, conduct a preliminary enquiry to check whether a prima facie case exists. That enquiry must be completed within 14 days.[?] It is a discretion, not a licence to stall. In *Lalita Kumari vs. Government of Uttar Pradesh* (2014), the Supreme Court held that registration is mandatory when information discloses a cognizable offence, and that principle still shapes how courts read the new section.

Vakil Dial Team (2026). FIR, Arrest and Bail under the BNSS: A Practical Guide to Your Rights. Vakil Dial Journals & Research.
https://vakildial.com/research/publications/fir-arrest-and-bail-under-the-bnss-a-practical-guide-to-your-rights

When the police refuse to register your FIR

Refusal is common, and the BNSS sets out a clear ladder.

1. **Write to the Superintendent of Police.** Under section 173(4), send the substance of your complaint, in writing and by post, to the SP of the district. If satisfied that a cognizable offence is disclosed, the SP must investigate personally or direct a subordinate to do so.
2. **Apply to the Magistrate.** If the SP does not act, section 173(4) now expressly lets you apply to the Magistrate. Under section 175(3) (the old section 156(3)), the Magistrate considers your application, which must be **supported by an affidavit**, may make such enquiry as necessary, considers the submission of the police officer, and may then order an investigation.[?]

The affidavit requirement codifies *Priyanka Srivastava vs. State of Uttar Pradesh* (2015), in which the Supreme Court insisted that such applications be sworn and show that the applicant first approached the police station and then the SP.[3] Attach proof of both steps: the complaint with the station's receipt stamp, and the postal receipt and tracking record of the letter to the SP.

Once an FIR is registered, section 193(3) obliges the police to inform the informant or victim of the progress of the investigation within 90 days, including by electronic means.[?]

If you are arrested: rights you should know

Arrest powers sit in sections 35 to 62 BNSS. The safeguards most worth remembering are these:

Right	Where it comes from
To be told the full particulars of the offence or other grounds of arrest, forthwith	Section 47(1) BNSS (old section 50 CrPC)
In a bailable offence, to be told you are entitled to bail and may arrange sureties	Section 47(2) BNSS

Vakil Dial
VAKILDIAL.COM

To have a relative, friend or nominated person told of the arrest and where you are held	Section 48 BNSS (old section 50A CrPC)
To an arrest memo, attested by a family member or respectable local witness and countersigned by you; the arresting officer must carry visible identification	Section 36 BNSS
To meet an advocate of your choice during interrogation, though not throughout it	Section 38 BNSS
Not to be held for more than 24 hours (excluding travel time) without being produced before a Magistrate	Section 58 BNSS and Article 22(2) of the Constitution

The Magistrate must check that these duties were met (section 48(4)).[?]

In November 2025, in *Mihir Rajesh Shah vs. State of Maharashtra*, the Supreme Court made written grounds of arrest compulsory for every offence under every statute, in a language the arrested person understands. Where giving them in writing at the moment of arrest is impractical, they may be conveyed orally at first, but the written copy must be supplied at least two hours before the person is produced for remand. If this is not done, the arrest and remand are illegal and the person is entitled to be released.[4]

Notice instead of arrest: section 35 and Arnesh Kumar

For offences punishable with up to seven years, arrest is not automatic. Under section 35(1)(b), police may arrest only if they have reason to believe the person committed the offence **and** arrest is necessary for a stated purpose: preventing a further offence, proper investigation, preventing tampering with evidence or witnesses, or securing attendance in court. Reasons must be recorded in writing, and so must reasons for not arresting.[?]

Where arrest is not required, section 35(3) obliges the police to issue a **notice of appearance** (the old section 41A CrPC). If you comply, and keep complying, you should not be arrested unless the officer records reasons for deciding otherwise. If you ignore it, you can be arrested. A newer safeguard in section 35(7) requires prior permission from an officer not below Deputy Superintendent of Police before arresting a person who is infirm or above 60 for an offence punishable with less than three years.

Vakil Dial
VAKILDIAL.COM

These rules build on *Arnesh Kumar vs. State of Bihar* (2014), in which the Supreme Court condemned the "attitude to arrest first and then proceed with the rest", required police to use a checklist of the statutory reasons and Magistrates to scrutinise them before authorising detention, and warned defaulting officers of departmental action and contempt.[5]

Bail: four routes worth understanding

Regular bail

For **bailable** offences, bail is a right under section 478 BNSS (old section 436 CrPC). For **non-bailable** offences, bail is discretionary under section 480 (old section 437), with wider powers for the Sessions Court and High Court under section 483 (old section 439).

Default bail (section 187)

If police fail to complete the investigation in time, the accused earns a statutory right to bail. Under section 187(3) (old section 167(2)), a Magistrate cannot authorise custody for more than **90 days** where the offence is punishable with death, life imprisonment or imprisonment of ten years or more, or **60 days** for any other offence. On expiry, the accused "shall be released on bail" if prepared to furnish it.[?] This right has to be claimed: an application should be filed promptly once the period expires and before a charge sheet comes in.

Note one change: police custody is still capped at 15 days in total, but may now be taken in parts during the first 40 or 60 days of detention (section 187(2)).[6]

Anticipatory bail (section 482)

If you have reason to believe you may be arrested for a non-bailable offence, you may apply to the Sessions Court or High Court under section 482 (old section 438) for a direction that you be released on bail if arrested. Conditions may include joining questioning and not leaving India without permission. Anticipatory bail is unavailable for offences under section 65 and section 70(2) of the BNS (rape of a girl under sixteen and gang rape of a girl under eighteen).[?]

Relief for first-time undertrials (section 479)

Vakil Dial
VAKILDIAL.COM

Section 479 caps pre-trial detention. An undertrial who has spent half of the maximum sentence for the offence in custody must be released on bail. A **first-time offender**, meaning someone never convicted of any offence before, must be released on bond after one-third. The benefit does not apply to offences punishable with death or life imprisonment, and is generally unavailable to those facing investigation or trial in more than one offence or case. The jail superintendent must apply to the court once the threshold is reached.[?] On 23 August 2024, in *In Re: Inhuman Conditions in 1382 Prisons*, the Supreme Court recorded that section 479 applies to all pending cases, including those registered before 1 July 2024.[7] Families should check the dates themselves rather than wait.

How a criminal trial unfolds, and the BNSS timelines

The arc is unchanged: charge sheet, supply of documents, discharge or charge, evidence, final arguments and judgment. What is new is a set of deadlines.

Stage	BNSS timeline
Investigation of rape and specified child sexual offences	Within two months of recording the information (section 193(2))
Supply of the police report, FIR and statements to the accused	Within 14 days of production or appearance (section 230)
Committal of a sessions case	Within 90 days of cognizance, extendable to 180 days (section 232)
Discharge application, sessions case	Within 60 days of committal (section 250)
Discharge application, magistrate's warrant case	Within 60 days of supply of documents (section 262)
Framing of charge	Within 60 days of the first hearing on charge (sections 251 and 263)
Judgment in sessions trial	Within 30 days of the end of arguments, extendable to 45 for recorded reasons (section 258)

Vakil Dial
VAKILDIAL.COM

Proceedings are to continue from day to day where possible (section 346), and audio-video appearance is permitted in many situations.[?] These timelines are a real lever: an accused who misses the discharge window may lose an early exit from a weak case, and a complainant can cite them when a matter drifts.

Practical documentation tips

- **Write it down the same day.** Note dates, times, places, names, vehicle numbers and the names or badge details of officers you dealt with.
- **Keep the FIR copy and every receipt.** Note the FIR number, police station and the sections invoked.
- **Use traceable post.** Send complaints to the SP by Speed Post or registered post, and keep the receipt and tracking printout.
- **Preserve digital evidence.** Keep original devices and files, take screenshots showing dates and sender details, and do not edit them.
- **For an accused, keep a custody timeline.** Record the date and time of arrest, production and every remand order. Default bail and section 479 both depend on accurate arithmetic.
- **Keep notices.** A section 35 notice, its date of service and proof of your compliance may matter later.
- **Do not sign blank papers.** Read every statement before signing.

How Vakil Dial can help

Criminal procedure rewards speed and precision, both hard to find under pressure. Vakil Dial's Criminal Law Assistance division helps people on either side of a case. In practice, that can mean:

- **Reviewing your papers:** an FIR, a section 35 notice, a remand order or a charge sheet, so you understand what is alleged and what comes next.
- **Preparing and filing documents:** a well-structured police complaint, the follow-up letter to the Superintendent of Police, or a Magistrate application under section

Vakil Dial
VAKILDIAL.COM

175(3) with its supporting affidavit.

- **Connecting you with a verified professional** from Vakil Dial's network of independent legal professionals, whose credentials such as Bar Council enrolment are checked by Vakil Dial's operations team, for bail applications, anticipatory bail, discharge and trial representation.
- **Guiding the process:** tracking the timelines that matter, from the default bail clock to the discharge window.

The simplest first step is to describe your situation through the guided Free Legal Advice page. Sending an enquiry is free and does not commit you to any paid service; the Vakil Dial team reviews it, replies, and explains any paid service first if one would help. You can follow your matter in "My Conversations" after signing in. If you want to understand a concept first, such as the difference between bailable and non-bailable offences, MAATRA, Vakil Dial's intelligent AI legal-information persona, explains procedure in general terms.

This is general legal information, not legal advice; every matter depends on its facts.

Conflicts of interest

This guide is published by Vakil Dial, which offers the services it describes.

Notes

1. Ministry of Home Affairs, Notification S.O. 848(E) dated 23 February 2024 bringing the BNSS into force from 1 July 2024 https://www.ncrb.mha.gov.in/uploads/SankalanPortal/DownloadPDF/GazetteNotificationOfBNS,BNSS,BSA.pdf
2. The Bharatiya Nagarik Suraksha Sanhita, 2023 (Act 46 of 2023), Gazette of India text https://delhipolice.mha.gov.in/assets/img/250884_2_english_01042024.pdf
3. Supreme Court of India, Priyanka Srivastava vs. State of Uttar Pradesh (2015) 6 SCC 287 https://api.sci.gov.in/jonew/judis/42519.pdf
4. Supreme Court of India, Mihir Rajesh Shah vs. State of Maharashtra, Criminal Appeal No. 2195 of 2025, judgment dated 6 November 2025 https://api.sci.gov.in/supremecourt/2024/56321/56321_2024_9_1502_65444_Judgement_06-Nov-2025.pdf

5. Supreme Court of India, Arnesh Kumar vs. State of Bihar (2014) 8 SCC 273 https://api.sci.gov.in/jonew/judis/41736.pdf
6. Press Information Bureau, CrPC and BNSS: A Comparative Analysis https://static.pib.gov.in/WriteReadData/specificdocs/documents/2024/may/doc2024522337501.pdf
7. Ministry of Home Affairs, Advisory on implementation of Section 479 BNSS (17 October 2024), citing the Supreme Court's order of 23 August 2024 https://www.mha.gov.in/files/documents/AdvisoryWS_17102024_6.pdf

Vakil Dial
VAKILDIAL.COM