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# **POLICE PROCEDURES UNDER BHARATIYA NAGARIK SURAKSHA SANHITA, 2023: A SHIFT TOWARDS RESPONSIVE POLICING**

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## **ABSTRACT**

The introduction of the Bharatiya Nagarik Suraksha Sanhita (BNSS) Act of 2023 marks a transformative shift in India's legal framework, supplanting the long-standing Criminal Procedure Code of 1973. Central to the BNSS is its commitment to simplifying and modernising police procedures and legal processes, thereby enhancing operational efficiency within law enforcement. Noteworthy innovations within the Act include stringent provisions aimed at combating heinous crimes while simultaneously prioritising the protection of fundamental rights, which underscores a balanced approach to justice. This Act stands as a significant legislative leap towards ensuring citizen security. By tackling contemporary safety challenges, the BNSS aims to cultivate a legal environment that is both efficient and accountable, thus fostering public trust and contributing to a safer societal landscape. This paper will provide a comprehensive examination of the BNSS, focusing specifically on its salient features pertaining to police procedures. By analysing the established frameworks and operational protocols outlined within this legislation, we aim to elucidate how these measures bolster law enforcement effectiveness while simultaneously ensuring adherence to legal standards. Furthermore, this exploration will assess the broader implications of the Sanhita on the overall accountability and functionality of police operations, thereby highlighting its potential to reshape the contemporary policing landscape in India. Through this analysis, we seek to contribute to the ongoing discourse on law enforcement reform and its alignment with democratic principles.

**Keywords:** BNSS, Police Procedures, First Information Report, Investigation, Arrest, Remand, Statements, Accountability, Criminal Justice, Legal Reforms.

## 1.1 INTRODUCTION

The Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as BNSS) represents a significant legislative framework in India's ongoing efforts to reform and modernise its criminal justice system. By consolidating various laws related to public safety, the BNSS seeks to create a more coherent, efficient, and responsive legal environment. This analysis aims to elucidate the key aspects of the BNSS, examining its objectives, implications, and potential impact on various stakeholders within the Indian societal landscape. The BNSS is designed to replace outdated colonial-era laws and elevate the standards of legal practice in India. It is crucial to contextualise this legislation within the historical framework of India's criminal justice system, which has often been critiqued for its perceived inadequacies in addressing contemporary societal challenges. The emergence of the BNSS can be understood as a response to calls for legal reform, triggered by a growing demand for a justice system that is not only robust but also equitable<sup>1</sup>.

Historically, Indian criminal law has been marked by a complexity that arises from multiple legal sources. The BNSS aims to consolidate these disparate elements, providing a single legislative reference for public safety offenses. This consolidation is intended to simplify legal procedures and make the justice system more accessible to citizens. Also, the enactment of the Bharatiya Nyaya Sanhita (BNS), Bharatiya Nagarik Suraksha Sanhita (BNSS), and Bharatiya Sakshya Adhinayam (BSA) on July 1, 2024, marks a significant milestone in the evolution of India's legal landscape<sup>2</sup>. These new laws modernise the criminal justice framework by replacing archaic British-era statutes, thereby addressing contemporary societal needs and challenges. Let's explore the vital procedural policy of BNSS 2023, particularly:

- 1. Modernisation of Legal Definitions and Procedures:** The BNS, BNSS, and BSA incorporate clear and precise definitions of criminal offenses and legal procedures, reflecting the current socio-economic context. This eliminates ambiguities inherent in outdated laws, ensuring better understanding and compliance among citizens and law

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<sup>1</sup> Sarraf, Adv. Sanjay & Kumar, Deepak. (2024). The Bharatiya Nyaya Sanhita: A Comprehensive Overview of India's New Criminal Law.

<sup>2</sup> Abinaya S. , Critical Analysis on Section 187 of Bharatiya Nagarik Suraksha Sanhita, 2023, 7 (6) IJLMH Page 329 - 343 (2024), DOI: <https://doi.org/10.10000/IJLMH.118535>.

enforcement agencies<sup>3</sup>.

2. **Victim-Centric Approach:** With an emphasis on victims' rights and support mechanisms, the new laws aim to provide comprehensive legal protection and access to justice for victims of crime. This shift recognizes the critical role of victims in the justice process and aims to empower them, ensuring their voices are heard and their dignity upheld<sup>4</sup>.
3. **Strengthening Law Enforcement:** The BNSS introduces reforms geared towards enhancing the capabilities and accountability of law enforcement agencies. This includes provisions for training, technology integration, and community policing initiatives designed to foster trust between police and the communities they serve<sup>5</sup>.
4. **Streamlining Judicial Processes:** The BNS seeks to expedite judicial proceedings by reducing delays through improved case management systems and judicial resources. This initiative aims to alleviate the backlog of cases and enhance the overall efficiency of the judicial system, ultimately ensuring timely justice<sup>6</sup>.
5. **Focus on Preventive Measures and Rehabilitation:** In addition to punitive measures, the new framework emphasizes preventive interventions and rehabilitation for offenders. This comprehensive approach aims to address the root causes of criminal behavior, thereby reducing recidivism and promoting societal reintegration<sup>7</sup>.
6. **Integration of Technology in Evidence Gathering:** The Bharatiya Sakshya Adhiniyam 2023, while being aligned with the Bharatiya Nagarik Suraksha Sanhita (BNSS) 2023, incorporates advanced technological tools for evidence collection and preservation, enhancing the reliability of judicial proceedings. This aligns with global standards and enables the justice system to adapt to the evolving nature of crime in the

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<sup>3</sup> Singla, Deepti. (2024). Revamping Criminal Justice System- Key Highlights of the Three New Criminal Laws Introduced in India.

<sup>4</sup> Supra note 3.

<sup>5</sup> Atrey, Ishan. (2024). Rehabilitation Strategies for First-Time Offenders in India in New Criminal Laws: An Integrated Approach towards Restorative Justice. *The Indian Police Journal*. 71. 58-72.

<sup>6</sup> Paul, Akash. (2025). Comparative Analysis of Old Criminal Laws with New Criminal Laws. 10.13140/RG.2.2.10731.25124.

<sup>7</sup> Supra note 6.

digital era<sup>8</sup>.

## 1.2 OBJECTIVES

This research paper aims to achieve the following two primary objectives centered on the Bharatiya Nagarik Suraksha Sanhita (BNSS) 2023:

- (i) It seeks to thoroughly examine the latest procedural policies and salient features introduced by this legislation, highlighting its implications for law enforcement and citizen engagement.
- (ii) The paper will scrutinise the specific police procedures delineated within the BNSS 2023, including the procedures for the first information report, investigation, recording of statement, arrest, medical examinations, remand, search, inquest report, and police report.

By addressing these objectives, the research endeavours to provide a comprehensive understanding of the operational framework established by the BNSS 2023, facilitating a critical analysis of its impact on the criminal justice system in India.

## 1.3 RESEARCH METHODOLOGY

This paper adopts a doctrinal research methodology, a rigorous theoretical approach that primarily utilises secondary sources to investigate its subject matter. This methodology is particularly effective in the legal domain, where it facilitates a thorough analysis of existing legislation, legal doctrines, principles, and interpretations. The reliance on secondary sources, including an extensive array of scholarly texts and authoritative resources such as the Criminal Manuals published by the Bureau of Police Research and Development (BPR&D), enables the research to synthesise a wide spectrum of perspectives and insights. The doctrinal methodology is advantageous for the presented research paper for its ability to critically engage with complex legal propositions and questions without necessitating primary data collection. By systematically reviewing and interpreting the existing literature, the study enriches our understanding of the prevailing legal framework. This nuanced approach not only highlights prescribed legal provisions but also engages with the interpretations that shape them, thereby contributing to the broader discourse within legal scholarship.

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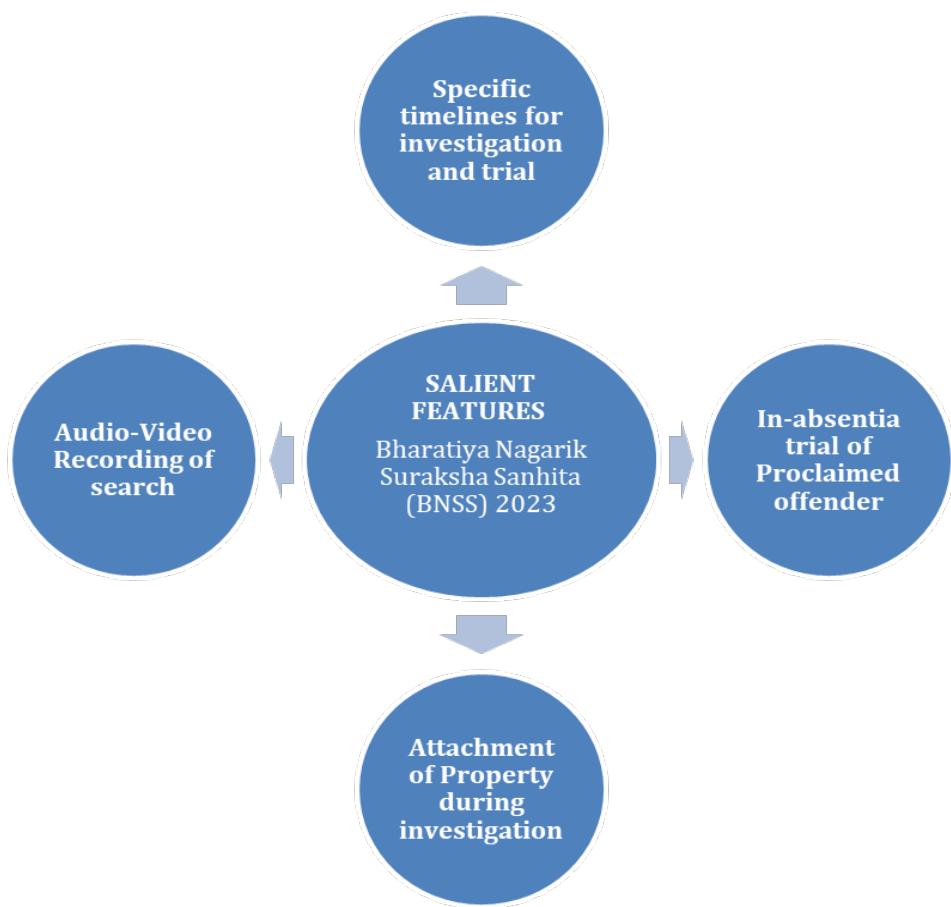
<sup>8</sup> Dobriyal, Saurabh. (2025). ARTHASHASTRA TO BHARATIYA NYAYA SANHITA: TRACING THE EVOLUTION OF CRIMINAL JUSTICE IN INDIA.

#### **1.4 BHARATIYA NAGARIK SURAKSHA SANHITA (BNSS) 2023: SALIENT FEATURES**

The Bharatiya Nagarik Suraksha Sanhita (BNSS) 2023 represents a significant reformation of the legal framework governing citizen safety and criminal justice in India. Unlike previous frameworks, which primarily focused on punitive measures, the B NSS advocates for measures that promote the rehabilitation and reintegration of offenders. This approach aligns with global trends towards a more humane and constructive justice system, acknowledging the need to address the root causes of criminal behavior. The B NSS places a strong emphasis on community engagement in ensuring public safety. It encourages collaborative efforts between law enforcement and local communities, recognizing that citizen participation is vital for effective crime prevention<sup>9</sup>. The subsequent features serve as a manifestation of the previously discussed objectives, encapsulating the key elements that align with the strategic goals of B NSS:

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<sup>9</sup> *Ibid.*

**Figure No. 1****Salient Features of BNSS**

*Source: Bharatiya Nagarik Suraksha Sanhita (BNSS) 2023*

a) **Specific timelines for investigation and trial:** The BNSS framework is designed to enhance the efficiency of the judicial process by establishing clear timelines for various stages of investigation and trial proceedings. By prescribing specific deadlines, the BNSS aims to mitigate delays that often impede the delivery of justice. This structured approach not only promotes accountability among law enforcement and judicial authorities but also fosters a more transparent legal environment for all stakeholders involved. Timely investigations and trials ensure that cases are resolved without undue postponement, thereby upholding the rights of victims and defendants alike and reinforcing public confidence in the judicial system.

Ultimately, the implementation of these prescribed timelines aligns with the overarching goal

of delivering swift and equitable justice for all<sup>10</sup>.

**b) Audio-Video Recording of search [Sec. 105 and Proviso to Sec. 185 (2) B NSS]:** B NSS 2023 underscores a commitment to fostering trust in law enforcement practices, which mandates the audio-visual recording of search and seizure operations, marking a significant advancement in enhancing transparency and accountability within investigative processes. This initiative is designed to safeguard the rights of individuals during searches, ensuring that all procedures adhere to legal standards and ethical practices. By employing modern technology to document these critical moments, the legislation aims to create a verifiable record that can be reviewed in cases of disputes or allegations of misconduct. Furthermore, this enhanced scrutiny not only bolsters public confidence in law enforcement agencies but also fosters a more systematic and transparent approach to investigations, ultimately contributing to the integrity of the judicial process<sup>11</sup>.

**c) Attachment of Property during investigation [Sec. 107 B NSS]:** The judicial attachment of property deemed as proceeds of crime represents a significant advancement in the realm of criminal justice, facilitating both deterrence and restorative justice. By enabling the court to seize assets acquired through illegal activities, this measure serves to not only deter potential offenders from engaging in criminal behavior but also ensures that victims receive a form of restitution. The distribution of these seized assets among the victims can provide much-needed financial relief, addressing the harm caused by the offenses and aiding in their recovery. This dual approach reinforces the principle that crime does not pay while simultaneously acknowledging and alleviating the financial burdens borne by those who have suffered due to criminal actions<sup>12</sup>.

**d) In-absentia trial of Proclaimed offender [Sec. 356 B NSS]:** B NSS establishes a framework that allows for the in-absentia trial of proclaimed offenders, thereby enhancing the efficiency and effectiveness of the judicial process. By permitting courts to proceed with trials in the absence of the accused, this provision aims to mitigate delays often associated with the non-appearance of defendants. The B NSS underscores the importance of balancing the rights of the

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<sup>10</sup> Supra note 9.

<sup>11</sup> Bajpai, Arushi & Gupta, Akash & Indusekhar, Akshath. (2024). Revisiting Criminal Law Bills: An In-Depth Critical Analysis of Bharatiya Nyaya Sanhita Bill and Bharatiya Nagarik Suraksha Bill. Statute Law Review. 45. 10.1093/slrb/hmae043.

<sup>12</sup> Hanspal, Manindra. (2024). Navigating Legal Changes in BNS, B NSS, and BSA, 2023: A New Era for Women's Safety in India. 6. 802-816. 10.10000/IJLSI.112168.

accused with the need to uphold the rule of law and ensure prompt justice for victims. This legal innovation promotes accountability while ensuring that judicial resources are utilized more effectively, ultimately contributing to a more robust legal system capable of addressing challenges posed by elusive offenders<sup>13</sup>.

## **1.5 POLICE PROCEDURES PRESCRIBED UNDER BHARATIYA NAGARIK SURAKSHA SANHITA (BNSS) 2023**

The police force in India plays a pivotal role in the criminal justice system, functioning as the primary agency responsible for the enforcement of law and order. Their involvement in police procedures is critical to the effective implementation of Indian criminal laws, encompassing various responsibilities that range from prevention and investigation to enforcement of laws. Understanding the role of police in this context requires an examination of their statutory obligations, procedural frameworks, and the broader implications of their activities on society. One of the primary functions of the police is to maintain public order and prevent crime. This involves patrolling, community engagement, and proactive measures aimed at deterring criminal activity<sup>14</sup>.

Further, the investigative role of the police is arguably the most critical aspect of their function within police procedures. Upon receiving a complaint, the police are responsible for collecting evidence, interviewing witnesses, and apprehending suspects. While the police do not directly prosecute offenders, their investigative work lays the foundation for the prosecution process. In some instances, the police may also serve as witnesses in court, providing critical testimony regarding the evidence collected during investigations. Despite their crucial functions, the Indian police face numerous challenges, including public perception, under-resourcing, and political pressures. Hence, the role of police in the procedures surrounding Indian criminal laws is multifaceted and essential for maintaining law and order and ensuring justice. From preventing crime to investigating offenses and laying the groundwork for prosecutions, police play a critical role in the functioning of the criminal justice system<sup>15</sup>. The following police

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<sup>13</sup> Ranjan, Radha. (2024). THE ROLE OF TECHNOLOGY IN ENHANCING THE EFFICIENCY OF THE BHARTIYA NAGARIK SURAKSHA SANHITA 2023.

<sup>14</sup> Singh, Shiv. (2024). Police reforms in India: A Human Rights Concern. Gurukul International Multidisciplinary Research Journal. 52-56. 10.69758/GIMRJ2406IIV12P007.

<sup>15</sup> Singh, Amit. (2025). Balancing power and rights: Examining police procedures and accountability in India. International Journal of Advanced Academic Studies. 7. 163-169. 10.33545/27068919.2025.v7.i1c.1342.

procedures are the manifestation of the multifaceted approach adopted under the new procedural law, i.e B NSS:

### **1.5.1 FIRST INFORMATION REPORT**

- **Registration of FIR, regardless of jurisdiction:** This provision facilitates prompt reporting and response to criminal activities, ensuring that victims can seek redress without the constraint of geographical limitations. Consequently, it enhances the efficacy of law enforcement by allowing for the immediate initiation of investigative processes, thereby promoting a more responsive and accessible justice system<sup>16</sup>
- **Electronic means of lodging FIR:** The registration of a First Information Report (FIR) can be conducted through electronic means, commonly referred to as E-FIR. Nevertheless, the informant must provide a physical signature on the document within a stipulated period of three days to validate the report. This process ensures both the convenience of electronic filing and adherence to legal protocols, thus maintaining the integrity of the reporting system<sup>17</sup>.
- **Pre-requisites for conducting Preliminary enquiry:** In cases involving offences subject to imprisonment of three to seven years, the Officer in charge of the police station is authorized to initiate a preliminary enquiry, contingent upon obtaining permission from the Deputy Superintendent of Police. This inquiry serves the essential purpose of determining the presence of a *prima facie* case, thereby guiding the decision on whether to advance further legal proceedings in the matter<sup>18</sup>.
- **Providing the magistrate with daily diary reports every 14 days:** The Officer in Charge is responsible for submitting the daily diary reports concerning noncognizable cases to the Magistrate on a bi-weekly basis (14 Days). It is important to note that the

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<sup>16</sup> Sec. 173 (1) B NSS 2023:Information in cognizable cases: Every information relating to the commission of a cognizable offence, irrespective of the area where the offence is committed, may be given orally or by electronic communication to an officer in charge of a police station.

<sup>17</sup> Sec.173 (1) (ii) B NSS 2023:Information in cognizable cases: Every information relating to the commission of a cognizable offence, irrespective of the area where the offence is committed, may be given by electronic communication, it shall be taken on record by him on being signed within three days by the person giving it.

<sup>18</sup> Sec.173 (3) B NSS 2023: Information in cognizable cases: Without prejudice to the provisions contained in section 175, on receipt of information relating to the commission of any cognizable offence, which is made punishable for three years or more but less than seven years, the officer in charge of the police station may with the prior permission from an officer not below the rank of Deputy Superintendent of Police, considering the nature and gravity of the offence

Code of Criminal Procedure (CrPC) did not stipulate a specific timeline for this submission, thereby providing the Officer with discretionary flexibility in adhering to the reporting schedule<sup>19</sup>.

### **1.5.2 RECORDING OF STATEMENTS**

- **Recording of a rape victim's statement at their residence:** In cases of rape, it is imperative that the recording of the victim's statement is conducted sensitively and respectfully. To this end, the statement should be taken at the victim's residence or another location of her choosing, ensuring the presence of a female police officer along with a parent, guardian, or local social worker. Additionally, the use of audio-video electronic means, including mobile phones, for recording such statements is permitted, though it is important to note that the Code of Criminal Procedure (CrPC) did not explicitly provide for this method in cases of sexual assault. This approach emphasises the need for a victim-centred process that prioritises comfort and security<sup>20</sup>.
- **Woman Police officer to record the statement of victim of sexual assault:** In cases involving allegations of sexual assault, it is imperative that the statement of the complainant, a woman, is documented by a female police officer or a designated woman officer. This protocol not only ensures sensitivity and comfort for the victim but also upholds the integrity of the investigative process. Furthermore, the option to record such statements through audio-visual electronic means enhances the accuracy and reliability of the evidence collected, contributing to a more thorough and respectful handling of these serious allegations<sup>21</sup>.
- **A female Judicial Magistrate to record a statement from a victim of sexual assault:** Section 183 (6) (a) stipulates that the recording of a rape victim's statement must be conducted exclusively by a female Judicial Magistrate. In instances where a female Magistrate is unavailable, a male Judicial Magistrate may record the statement, provided that a woman is present. This provision

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<sup>19</sup> Sec. 174 BNSS 2023: Information as to non-cognizable cases and investigation of such cases

<sup>20</sup> Sec.176 BNSS 2023: Procedure for investigation

<sup>21</sup> Sec. 180 BNSS 2023: Examination of witnesses by police

underscores the importance of creating a sensitive and supportive environment for victims<sup>22</sup>.

- **Attending the police station is not mandatory for women, persons over 60 years old, or those with acute illness:** In accordance with Sec 179 BNSS 2023, individuals categorized as follows shall not be summoned to the police station for the purpose of recording their statements: males under 15 years or above 60 years of age, women, individuals with mental or physical disabilities, and those experiencing acute illnesses. Nevertheless, should any individual from these categories express a willingness to attend the police station, they may be granted permission to do so at their discretion<sup>23</sup>.
- **Recording the statement of a witness in cases of crimes that can lead to imprisonment for 10 years or more:** In cases involving offences punishable by imprisonment for 10 years or more, including life sentences and capital punishment, it is incumbent upon the Judicial Magistrate to record witness statements presented by law enforcement. Notably, the Code of Criminal Procedure (CrPC) previously lacked a provision addressing this requirement. Additionally, for individuals who are temporarily or permanently mentally or physically disabled, their testimonies shall be captured through audio-video electronic means, preferably utilizing mobile technology, with the assistance of an interpreter or special educator. This approach ensures the integrity and accessibility of the judicial process<sup>24</sup>.

### 1.5.3 ARREST

- **The DySP must approve any arrest of elderly or infirm persons for offenses**

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<sup>22</sup> Sec. 183 BNSS 2023: Recording of confessions and statements

<sup>23</sup> Sec. 179 BNSS 2023: Police officer's power to require attendance of witnesses

<sup>24</sup> Sec. 183 (6) BNSS 2023: Recording of confessions and statements: (a) In cases punishable under section 64, section 65, section 66, section 67, section 68, section 69, section 70, section 71, section 74, section 75, section 76, section 77, section 78, section 79 or section 124 of the Bharatiya Nyaya Sanhita, 2023, the Magistrate shall record the statement of the person against whom such offence has been committed in the manner specified in sub-section (5), as soon as the commission of the offence is brought to the notice of the police & (b) a statement recorded under clause (a) of a person, who is temporarily or permanently, mentally or physically disabled, shall be considered a statement in lieu of examination-in-chief, as specified in section 142 of the Bharatiya Sakshya Adhiniyam, 2023 such that the maker of the statement can be cross-examined on such statement, without the need for recording the same at the time of trial.

**that can be punished with less than 3 years of imprisonment:** In cases involving offences punishable by imprisonment of less than three years, it is mandated that individuals who are infirm or aged 60 years and above shall not be arrested without obtaining prior approval from the Deputy Superintendent of Police (DySP). This provision serves to ensure that vulnerable populations are afforded additional safeguards within the legal framework, reflecting a commitment to humane treatment in the enforcement of the law<sup>25</sup>.

- **Every police station should have a designated police officer who keeps track of arrest records and displays them digitally:** In accordance with the prescribed procedure under Sec 37 BNSS 2023, each police station will designate an officer, not below the rank of Assistant Sub-Inspector (ASI), to oversee the maintenance and digital display of essential information pertaining to arrested individuals. This includes the individual's name, address, and the nature of the offence. Such information will be accessible at both the respective police station and the district headquarters, thereby enhancing transparency and facilitating public awareness regarding law enforcement activities<sup>26</sup>.
- **Inform the designated police officer about the arrest:** When a police officer effectuates an arrest, it is imperative that they promptly inform the arrested individual's relatives or friends, as well as a designated police officer overseeing the case. This communication ensures that the rights of the arrested person are upheld and that their support network is aware of their situation, fostering transparency and accountability within the law enforcement process. The notification serves not only a legal obligation but also a crucial aspect of upholding the dignity of the individual involved<sup>27</sup>.
- **Arrest by a Private Person:** If an individual is arrested by a private citizen, the arrested individual must be presented to law enforcement authorities within six hours of the arrest. Adhering to this timeframe is crucial to upholding the integrity of the legal process and to prevent any potential misuse of citizen's

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<sup>25</sup> Sec. 35 BNSS 2023: When police may arrest without warrant

<sup>26</sup> Sec. 37 BNSS 2023: Designated police officer

<sup>27</sup> Sec. 48 BNSS 2023: Obligation of person making arrest to inform about arrest, etc., to relative or friend

arrest provisions<sup>28</sup>.

- **Use of handcuffs allowed in certain cases:** The use of handcuffs on the accused is deemed permissible under specific circumstances, notably involving habitual or repeat offenders, individuals with a history of escaping custody, and cases linked to organized crime, terrorism, drug-related offenses, illegal possession of firearms, murder, rape, acid attacks, counterfeiting of currency, human trafficking, sexual offenses against children, or crimes against the state. Such measures are essential for maintaining security and order during legal proceedings, ensuring the safety of law enforcement personnel, the public, and the accused themselves<sup>29</sup>.

#### **1.5.4 MEDICAL EXAMINATION**

- **Application for the medical examination by any police officer:** Under the Criminal Procedure Code (CrPC), it is important to clarify that only a Sub-Inspector (SI) had the authority to move an application for the medical examination of an accused individual. While under Sec 51 & 52 BNSS, any police officer may initiate the process, procedural compliance necessitates that the formal application is submitted specifically by an SI. This distinction underscores the structured hierarchy and procedural regulations within law enforcement operations, ensuring that such requests are handled by designated personnel who adhere to the legal framework<sup>30</sup>.
- **Medical report of Victim in Rape cases to be given in 7 days:** The Medical Officer is required to complete and submit the Medico-Legal Report (MLR) to the investigating officer within a timeframe of seven days. Upon receipt of the MLR, the investigating officer is tasked with forwarding this document, along with the Police Report, to the Magistrate for further proceedings. This provision ensures the timely and efficient

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<sup>28</sup> Sec. 40 BNSS 2023. Arrest by private person and procedure on such arrest

<sup>29</sup> Sec.43 (3) BNSS 2023: Arrest how made: The police officer may, keeping in view the nature and gravity of the offence, use handcuff while making the arrest of a person or while producing such person before the court who is a habitual or repeat offender, or who escaped from custody, or who has committed offence of organised crime, terrorist act, drug related crime, or illegal possession of arms and ammunition, murder, rape, acid attack, counterfeiting of coins and currency-notes, human trafficking, sexual offence against children, or offence against the State.

<sup>30</sup> Sec 51 and 52 BNSS 2023: Examination of accused by medical practitioner at request of police officer & Examination of person accused of rape by medical practitioner

management of medico-legal cases, facilitating effective judicial oversight<sup>31</sup>.

- **Medical examination report of accused to be given without delay:** The Medical Officer is required to promptly submit the Medico-Legal Report (MLR) to the investigating officer, ensuring that this critical documentation is conveyed without delay. Timely communication of the MLR is essential to facilitate the progression of the investigation and uphold the integrity of the legal process. Adhering to this provision is imperative for the effective collaboration between medical and investigative teams, ultimately supporting justice and accountability<sup>32</sup>.

#### **1.5.5 REMAND**

Under the BNSS framework, authorities have the provision to request an extension of police remand for an accused individual even after the initial 15-day period has elapsed. This extension is critical for ensuring thorough investigations and gathering necessary evidence<sup>33</sup>.

**Table no.1**

Duration of Remand under BNSS	Duration of Remand under Criminal Procedure Code 1973
Within the first 40 days of arrest in cases where the offence is punishable with less than 10 years imprisonment	Within the first 60 days of arrest in cases where the offence is punishable for more than 10 years imprisonment.

**Source:** Bharatiya Nagarik Suraksha Sanhita (BNSS) 2023 & Criminal Procedure Code 1973

<sup>31</sup> Sec. 184 BNSS 2023: Medical Examination of victim of rape

<sup>32</sup> Sec. 52 BNSS 2023: Examination of person accused of rape by medical practitioner

<sup>33</sup> Sec 187, BNSS 2023: Procedure when investigation cannot be completed in twenty-four hours

### 1.5.6 SEARCH<sup>34</sup>

BNSS has implemented significant provisions for search proceedings that diverge from the Criminal Procedure Code (CrPC). A key requirement is the audio-video recording of the entire search process, which aims to enhance transparency and accountability. Additionally, specific procedural guidelines must be adhered to during the execution of a search, ensuring the integrity and legality of the proceedings:

- ***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 the Police Station or IO is mandated to meticulously document the grounds for their belief when initiating a search. This ensures transparency and accountability in law enforcement procedures. Additionally, if the Officer decides not to conduct a personal search, they are required to clearly articulate the reasons for this decision in the case diary. Such documentation is essential for providing a clear rationale for actions taken or not taken during an investigation<sup>35</sup>.
  - b) **Searching for a person:** The Officer in Charge of the Police Station, or Investigating Officer (IO), shall, whenever feasible, conduct the search personally to ensure thoroughness and integrity in the investigation process. This practice allows the officer to assess the situation in real-time and make informed decisions based on firsthand observations<sup>36</sup>.

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<sup>34</sup> Sec. 103, 105, 185, 186 BNSS 2023: Persons in charge of closed place to allow search, Recording of search and seizure through audio video electronic means, Search by police officer, When officer in charge of police station may require another to issue search-warrant

<sup>35</sup> Sec 185 (1) BNSS 2023:Search by police officer: Whenever an officer in charge of a police station or a police officer making an investigation has reasonable grounds for believing that anything necessary for the purposes of an investigation into any offence which he is authorised to investigate may be found in any place within the limits of the police station of which he is in charge, or to which he is attached, and that such thing cannot in his opinion be otherwise obtained without undue delay, such officer may, after recording in writing the grounds of his belief in the case-diary and specifying in such writing, so far as possible, the thing for which search is to be made, search, or cause search to be made, for such thing in any place within the limits of such station.

<sup>36</sup> Sec. 185 (2) BNSS 2023: Search by police officer: A police officer proceeding under sub-section (1), shall, if practicable, conduct the search in person: Provided that the search conducted under this section shall be recorded through audio-video electronic means preferably by mobile phone.

**c) Deputing subordinate Police officer for conducting search:** If the Officer in Charge of the Police Station or the Investigating Officer (IO) is unable to carry out a search personally, it is permissible for them to delegate this responsibility to a subordinate police officer. This delegation must be accompanied by a formal record of the reasons for their inability to conduct the search themselves<sup>37</sup>.

- ***Procedure During Search***

**a) Recording of search and seizure through audio-video electronic means:** The Officer In Charge of the Police Station or IO is tasked with meticulously documenting the entire search process using audio-visual electronic methods, ideally employing a mobile device for this purpose. This practice ensures that all actions are comprehensively recorded, thereby enhancing transparency and accountability during police operations<sup>38</sup>.

**b) Search is to be conducted in the presence of two independent witnesses:** According to Section 103(4) of the BNSS, prior to conducting a search, a police officer must solicit the presence of two or more independent and reputable residents from the locality where the search is to take place. This provision underscores the importance of transparency and community involvement in law enforcement activities<sup>39</sup>.

**c) Refusal to become a witness for search amounts to an offence:** Under

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<sup>37</sup> Sec. 185 (3) BNSS 2023: Search by police officer: If he is unable to conduct the search in person, and there is no other person competent to make the search present at the time, he may, after recording in writing his reasons for so doing, require any officer subordinate to him to make the search, and he shall deliver to such subordinate officer an order in writing, specifying the place to be searched, and so far as possible, the thing for which search is to be made; and such subordinate officer may thereupon search for such thing in such place.

<sup>38</sup> Sec. 105: Recording of search and seizure through audio video electronic means and Proviso to Sec. 185 (2) BNSS 2023: Search by police officer: Provided that the search conducted under this section shall be recorded through audio-video electronic means preferably by mobile phone.

<sup>39</sup> Sec.103 (4) BNSS 2023: Persons in charge of closed place to allow search: Before making a search under this Chapter, the officer or other person about to make it shall call upon two or more independent and respectable inhabitants of the locality in which the place to be searched is situate or of any other locality if no such inhabitant of the said locality is available or is willing to be a witness to the search, to attend and witness the search and may issue an order in writing to them or any of them so to do.

Section 222 of the Bharatiya Nyaya Sanhita, 2023, any individual who, without reasonable cause, fails or declines to attend and provide testimony during a search, when formally summoned via a written order, shall be considered to have committed an offense. This provision underscores the legal obligation of individuals to cooperate with judicial procedures and reinforces the importance of compliance in the pursuit of justice<sup>40</sup>.

- *Action after search*

- a) **Audio-video recording of search to be sent to DM, SDM or JMIC:** The police officer is required to promptly forward any audio-video recordings to the District Magistrate (DM), Sub-Divisional Magistrate (SDM), or Judicial Magistrate of the First Class (JMIC)<sup>41</sup>.
- b) **IO to send record regarding search to Magistrate within 48 hours:** The Investigating Officer (IO) is required to submit copies of specific records to the competent Magistrate within 48 hours. These records must include the rationale for conducting the search, the justification for delegating the search to a subordinate police officer—should another individual be appointed to carry out the search instead of the IO—and a comprehensive account of the search proceedings<sup>42</sup>.

#### **1.5.7 INQUEST REPORT<sup>43</sup>**

- **Inquest report to be sent to SDM within 24 hours:** The inquest report must be duly signed by the officer in charge or investigating officer and subsequently submitted to the district magistrate (DM) or sub-divisional magistrate (SDM) by the police within

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<sup>40</sup> Sec.103(8) BNSS 2023: Persons in charge of closed place to allow search: 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 the Bharatiya Nyaya Sanhita, 2023.

<sup>41</sup> Sec. 105 BNSS 2023: Recording of search and seizure through audio video electronic means

<sup>42</sup> Sec.185 (5) BNSS 2023: Search by police officer: Copies of any record made under sub-section (1) or sub-section (3) shall forthwith, but not later than forty-eight hours, be sent to the nearest Magistrate empowered to take cognizance of the offence, and the owner or occupier of the place searched shall, on application, be furnished, free of cost, with a copy of the same by the Magistrate.

<sup>43</sup> Sec. 194 – 196 BNSS 2023: Police to enquire and report on suicide, etc, Power to summon persons, Inquiry by Magistrate into cause of death

24 hours. It is important to note that the Criminal Procedure Code (CrPC) did not stipulate a specific timeline for this submission, thereby allowing for some flexibility in the process<sup>44</sup>.

- **Power to summon person for Inquest:** In the context of inquest proceedings, it is mandated that individuals within specific demographic categories—namely, males under the age of 15, males over the age of 60, women, individuals with mental or physical disabilities, and those suffering from acute illness—shall not be required to attend any location outside their residence. However, should any of these individuals express a willingness to attend a police station, such attendance may be permitted at their discretion<sup>45</sup>.

#### **1.5.8 POLICE REPORT<sup>46</sup>**

- **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 into offenses specified under sections 64, 65, 66, 67, 68, 70, and 71 of the Bharatiya Nayaya Sanhita, 2023, or sections 4, 6, and 8 of the Protection of Children from Sexual Offences Act, 2012, is mandated to be concluded within a strict timeframe of two months. This period commences from the date the relevant information is officially recorded by the officer in charge of the police station<sup>47</sup>.
- **IO to supply copies of the Police report through electronic means to the Magistrate:** The investigating officer is required to submit copies of the police report

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<sup>44</sup> Sec. 194(1) BNS 2023: Police to enquire and report on suicide, etc: When the officer in charge of a police station or some other police officer specially empowered by the State Government in that behalf receives information that a person has committed suicide, or has been killed by another or by an animal or by machinery or by an accident, or has died under circumstances raising a reasonable suspicion that some other person has committed an offence, he shall immediately give intimation thereof to the nearest Executive Magistrate empowered to hold inquests, and, unless otherwise directed by any rule made by the State Government, or by any general or special order of the District or Sub-divisional Magistrate, shall proceed to the place where the body of such deceased person is, and there, in the presence of two or more respectable inhabitants of the neighbourhood, shall make an investigation, and draw up a report of the apparent cause of death, describing such wounds, fractures, bruises, and other marks of injury as may be found on the body, and stating in what manner, or by what weapon or instrument (if any), such marks appear to have been inflicted.

<sup>45</sup> Sec. 195 BNS 2023: Power to summon persons

<sup>46</sup> Sec. 193, BNS 2023: Report of police officer on completion of investigation

<sup>47</sup> Sections 64, 65, 66, 67, 68, 70, 71, BNS 2023: Summons how served, Service of summons on corporate bodies, firms, and societies, Service when persons summoned cannot be found, Procedure when service cannot be effected as before provided, Service on Government servant, Service of Summons outside local limits & Sections 4, 6, 8, POCSO 2012: Punishment for penetrative sexual assault, Punishment for aggravated penetrative sexual assault, Punishment for sexual assault

and associated documents, appropriately indexed, to the Magistrate. In compliance with Section 230 BNSS, the Magistrate is then responsible for providing these documents to both the accused and the victim as mandated. Furthermore, any documents transmitted via electronic communication will be regarded as duly served, ensuring that all parties are adequately informed and have access to the relevant materials for the proceedings<sup>48</sup>.

## 1.6 CONCLUSION

The Bharatiya Nagarik Suraksha Sanhita, 2023, offers a progressive leap toward creating a more cohesive and modern legal framework for addressing public safety in India. It marks a pivotal advancement in India's legal framework addressing public safety. This comprehensive legislation is designed not only to modernize existing laws but also to integrate innovative legal standards that prioritize victims' rights and introduce alternative dispute resolution mechanisms. Such reforms represent a significant departure from traditional criminal justice paradigms, aiming to create a more cohesive and responsive system for addressing public safety concerns.

**Figure No. 2**

### Comprehensive Legal Approach Towards Justice



<sup>48</sup> Sec 193(8), BNSS 2023: Report of police officer on completion of investigation: Subject to the provisions contained in sub-section (7), 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.

One of the most commendable aspects of the BNSS is its commitment to victim-centric justice. By amplifying the voices of victims and ensuring that their rights are acknowledged, the legislation fosters a more empathetic legal environment. This shift is crucial in a country where the experiences and testimonies of victims have often been sidelined in the pursuit of legal outcomes. The BNSS has the potential to not only empower victims but also to reshape societal perceptions of justice and accountability.

Moreover, the introduction of alternative dispute resolution methods within the BNSS signifies a progressive approach towards decongesting the judiciary and offering timely justice. These mechanisms can facilitate resolution outside traditional court procedures, thereby reducing the burden on an already strained judicial system. By endorsing mediation and reconciliation, the BNSS encourages individuals to seek collaborative solutions while preserving community harmony.

However, the successful implementation of the BNSS hinges on the collaborative efforts of various stakeholders, including lawmakers, law enforcement, judicial authorities, and civil society. Each actor plays a critical role in navigating the intricate transition towards these new legal paradigms. Lawmakers must ensure that the legislation is executed effectively, while law enforcement agencies must be trained to adapt to the new standards and practices. Additionally, judicial actors will need to embrace these reforms, ensuring that the judicial process aligns with the evolving goals of public safety.

Civil society, too, has a vital role to play in advocating for the proper application of the BNSS and ensuring that it remains responsive to the needs of the public. Engagement with communities will be essential to garner support, raise awareness, and provide feedback that can further refine the law. Lastly, the BNSS stands as a beacon of hope for a more just and equitable system of public safety in India. By prioritizing the rights of victims and embracing innovative dispute resolution methods, it has the potential to transform the criminal justice landscape. However, its success will ultimately depend on sustained collaboration among all stakeholders committed to realizing its vision.