



2026:AHC:101857

HIGH COURT OF JUDICATURE AT ALLAHABAD
APPLICATION U/S 528 BNSS No. - 7980 of 2026

A F R

Reserved on : 20th March, 2026

Delivered on : 5th May, 2026

Judgment uploaded on : 5th May, 2026

Ravi Alias Ravindra Singh

.....Applicant(s)

Versus

State of U.P. and another

.....Opposite Party(s)

Counsel for Applicant(s) : Sanjay Singh
Counsel for Opposite Party(s) : G.A.

Court No. - 87

HON'BLE PRAVEEN KUMAR GIRI, J.

1. Heard Sri Sanjay Singh, learned counsel for the applicant and Sri Pankaj Kumar, learned A.G.A. for the State.
2. Learned counsel for the applicant submits that the present application has been filed under **Section 528 BNSS**, for the relief mentioned in the **prayer clause** of the application. The relief sought in the application is delineated below:

"It is, therefore, most respectfully prayed that this Hon'ble Court may graciously be pleased to allow this application under 528 B.N.S.S. and quash the Non Bailable warrant issued against the applicant vide order dated 18.10.2024 passed by the Additional Session Judge, Court No.10, Agra in Session Trial No. 109/2024, arising out in case crime no.204 of 2020 for the offence under section 307, 504 IPC, Police

Station Sainya, District Agra And/or pass such other and further order or direction which this Hon'ble Court may deem fit and proper under the circumstances of the case."

3. Learned counsel for the applicant submits that the O.P. No. 2 had lodged an F.I.R. on 24.11.2020 against three accused persons, including the present applicant, under Sections 307 and 504 IPC. He further submits that, after completion of investigation, the I.O. submitted a charge-sheet on 20.03.2021 against three accused persons, including the present applicant, and thereafter, the learned trial court took cognizance vide order dated 03.04.2021. Learned counsel for the applicant further submits that the applicant was released on bail on 08.12.2021 by this Court vide order dated 08.12.2021 passed in Crl. Misc. Bail Application No. 38063 of 2021 (Ravi @ Ravindra vs. State of U.P.), on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned. He further submits that, as the matter was triable by the Sessions Court, the case was committed to the Sessions Court vide order dated 08.01.2024. He further submits that, in this case, charges were framed on 14.02.2024 in the presence of the accused-applicant and the next date was fixed as 16.03.2024. He further submits that the applicant was directed to be present before the trial court, either personally or through his counsel, on 12.08.2024.

4. Learned counsel for the applicant further submits that the applicant, due to personal difficulty, could not appear before the trial court and, in the meantime, the trial court issued a non-bailable warrant (NBW) against the applicant on 18.10.2024. He further submits that the trial court issued the NBW directly against the applicant without issuing first a bailable warrant against him, which is contrary to law. He further submits that a non bailable warrant was issued on 18.10.2024 against the applicant, and thereafter, a proclamation under Section 82 Cr.P.C. was also issued on 03.11.2025 against him along with the NBW on 03.11.2025, and thereafter, on 24.12.2025, an order of NBW along with orders under Sections 82 and 83 Cr.P.C. was also passed. He further submits that, since the applicant had already been granted bail, the

appropriate course available to the court was in terms of Section 89 Cr.P.C., which provides that when a person who is bound by a bail bond to appear before the court and fails to appear, the court may issue a warrant directing that such person be arrested and produced before the court and thereafter in case of absconding, the proceeding of proclamation, cancellation and confiscation of bail bond and sureties to be done.

5. Learned counsel for the applicant further submits that, till date, no notice has been issued for forfeiture of the bail bond as provided under Section 446 Cr.P.C. He further submits that, after forfeiting the bail bond and proceeding against the movable and immovable property in respect of the bail bond, as well as proceeding against the property of the sureties as pledged before the Court, proceedings under Section 83 Cr.P.C. should be initiated in terms of Section 356 of the BNSS.

6. Per contra, A.G.A. Sri Pankaj Kumar submits that the accused applicant after release on bail is not participating in trial proceeding, even charge has been framed in his presence and lingering the trial proceedings. After framing of charge on several dates, applicant moved exemption applications to exempt his personal appearance, some were allowed by the learned trial court, applicant was very well aware with the proceeding and he deliberately absconded, for which process was issued as NBW on 12.08.2024, which was recalled on application of applicant vide order dated 13.09.2024, thereafter, the applicant again played hide and seek with the trial court and fled from the court proceeding, though the date for evidence was fixed in presence of applicant as 16.03.2024, therefore, the impugned order has been passed in accordance with law.

7. Learned A.G.A. further submits that order sheet annexed as Annexure No.4 to the affidavit, itself reveals that after framing of charge, the applicant tried to delay the trial, though rest of the accused persons appeared before the trial court, who may also be **facing** hardship, due to dilatory tactics of the applicant.

8. This Court after perusing the record finds that the applicant accused was present before the trial court upto 02.08.2024 either personally or he moved his exemption application from appearance in person due to any personal difficulties. On 12.08.2024 the applicant accused neither appeared before the trial court nor moved any exemption application therefore, a Non-bailable warrant issued was against him by the trial court. On 13.09.2024 the warrant was recalled on furnishing personnel bond. The applicant accused appeared before the trial court up to 05.10.2024 and on 18.10.2024, neither he appeared personally before the trial court nor filed any exemption application therefore Non-Bailable warrant was issued against him.

9. The applicant accused was continuously absent since 18.10.2024, consequently, non bailable warrants were issued by the learned trial court from 18.10.2024 upto 28.10.2025 for 29 dates. For the first time on 03.11.2025 an order declaring him a **proclaimed offender** under section 82 Cr.P.C. was issued by the trial court and date of appearance before the court was fixed 14.11.2025, even so the applicant accused did not appear for six dates in compliance with the order of proclamation, thereafter, on 24.12.2025, the order of attachment of property under section 83 of Cr.P.C. was issued by the trial court. For two years, the process of Non-bailable warrant issued under section 89 Cr.P.C. and order of proclamation issued under section 82 of Cr.P.C., even then the accused has not appeared and therefore, order of attachment of property of applicant was issued under section 83 of Cr.P.C. and thereafter he filed the instant application under 528 of BNSS on 17.02.2026 for quashing the order of Non-bailable warrant passed against him by the trial court .

10. There are two sections i.e. Section 228 BNSS (*corresponding Section 205 Cr.P.C.*) and 355 BNSS (*corresponding Section 317 Cr.P.C.*) which provide that the personal attendance of the accused may be dispensed with during an enquiry or trial and in absence of the accused, the proceedings may be conducted by his Advocate. For ready reference the provisions of Sections 228 and 355 BNSS are delineated below :-

Section 228. Magistrate may dispense with personal attendance of accused.—(1) Whenever a Magistrate issues a summons, he may, if he sees reason so to do, dispense with the personal attendance of the accused and permit him to appear by his advocate.

(2) But the Magistrate inquiring into or trying the case may, in his discretion, at any stage of the proceedings, direct the personal attendance of the accused, and, if necessary, enforce such attendance in the manner hereinbefore provided.

Section 355 BNSS. Provision for inquiries and trial being held in absence of accused in certain cases.—(1) At any stage of an inquiry or trial under this Sanhita, if the Judge or Magistrate is satisfied, for reasons to be recorded, that the personal attendance of the accused before the Court is not necessary in the interests of justice, or that the accused persistently disturbs the proceedings in Court, the Judge or Magistrate may, if the accused is represented by an advocate, dispense with his attendance and proceed with such inquiry or trial in his absence, and may, at any subsequent stage of the proceedings, direct the personal attendance of such accused.

(2) If the accused in any such case is not represented by an advocate, or if the Judge or Magistrate considers his personal attendance necessary, he may, if he thinks fit and for reasons to be recorded by him, either adjourn such inquiry or trial, or order that the case of such accused be taken up or tried separately.

Explanation.—For the purpose of this section, personal attendance of the accused includes attendance through audio-video electronic means.

11. Thus, as per Section 228 and 355 BNSS during an enquiry or trial, the accused is required to appear before the court in person, unless an exemption from personal appearance has been granted by a judicial magistrate or a judge.

12. To ensure the attendance of the accused and the expeditious conclusion of the trial, the court concerned shall adhere to the prescribed statutory procedures without delay and refrain from adjourning proceedings without sufficient cause.

13. There are four stages of criminal proceedings during which an accused may abscond. Upon following the prescribed legal procedure, the criminal proceedings shall be concluded. The stages and the corresponding legal procedures are as follows :-

First- An accused absconds during investigation and police report/charge sheet is submitted against him, declaring him a proclaimed offender.

Second- An accused is not arrested during the investigation; either his arrest is stayed by any court of law, or his arrest is not required and he subsequently absconds after summoning and till the conclusion of the trial.

Third- An accused is on bail during investigation, furnishing bail bond and surety and he absconds subsequently after summoning and till the conclusion of the trial.

Fourth- An accused **absconds after the framing of charge** while he was released on bail/anticipatory bail, on furnishing his bail bond and surety.

Accordingly, the police, public officers, prosecutors and the court should strictly adhere to the following procedures prescribed under the BNSS and other relevant laws to ensure a speedy trial in cases involving an absconding accused at any stage of criminal proceedings.

1. If an accused is absconding from the stage of investigation till conclusion of trial and not on bail, the procedure to be followed by the concerned police officer and court, to complete the investigation, enquiry and trial as per law provided under the provisions mentioned herein below:-

Chapter XIX Rule 215 U.P. Police Regulations – Absconded Offenders. During investigation, an accused of cognizable and non-bailable offence is either absconding or concealing himself from his arrest, the procedure to be followed to complete investigation.

Section 75 BNSS (Corresponding Section 73 Cr.P.C.). **Issuance of NBW in the manner prescribed under Section 356 BNSS also.**

Section 84 BNSS (Corresponding Section 82 Cr.P.C.) **Proclamation for person absconding in the manner prescribed under Section 356 also.**

Section 209 of BNS (corresponding Section 174A of IPC). **Initiate proceedings to prosecute and punish for non-appearance in response to a proclamation under section 84 BNSS as per provision of Section 215(1)(a) BNSS** (corresponding section 195(1)(a) Cr.P.C.).

Section 85 BNSS (Corresponding Section 83 Cr.P.C.) **Attachment of property of an absconding person after thirty days, if fails to appear as per proclamation**

Section 193(3) BNSS (corresponding Section 173(2) Cr.P.C.) **Submit Police Report in court on completion of investigation**

Section 210 BNSS (corresponding Section 190 Cr.P.C.) **Cognizance of the offences be taken by the concerned court upon police report, complaint and suo moto.**

Section 227 BNSS (corresponding Section 204 of Cr.P.C.) **Issue of process (summons or warrant) against the accused**

Appointment of an advocate/amicus curiae as per Section 356 BNSS

*The Court concerned shall appoint **amicus curiae** to collect the records of the case on behalf of the absconder accused to defend the accused at every stage of enquiry or trial in absence of the accused*

*Section 230 BNSS (corresponding Section 207 Cr.P.C.). **Supply copy of police report and other documents to amicus curiae/appointed advocate as per Section 356 BNSS for the absconded accused, copy of police report and other documents.***

*Section 231 BNSS (corresponding Section 208 Cr.P.C.). **Supply of copies of statements and documents to amicus curiae for the absconded accused in complaint cases triable by Court of Session***

*Section 232 BNSS (corresponding Section 209 Cr.P.C.). **Commitment of case to Court of Session when offence is triable exclusively by it, or***

*Section 362 BNSS (corresponding Section 323 Cr.P.C.) **Procedure when after commencement of inquiry or trial, Magistrate finds case should be committed to the court of session for trial***

*Section 251 BNSS (corresponding Section 228 Cr.P.C.). **Framing of charge in Session Trial in presence of amicus curiae appointed for the absconded accused***

*Section 263 BNSS (corresponding Section 240 Cr.P.C.) **Framing of charge in trial of warrant cases instituted on a police report in presence of amicus curiae***

*Section 269(1) BNSS (corresponding Section 246(1) Cr.P.C.) **Procedure where accused is not discharged i.e. framing of charge in trial of warrant cases instituted on complaint or suo moto by the competent court in presence of amicus curiae.***

*Section 346 BNSS (corresponding section 309 Cr.P.C) **In every inquiry or trial, the proceedings shall be continued from day-to-day basis until all the witnesses in attendance have been examined and in case of rape or gang rape, the inquiry or***

trial shall be completed within a period of two months from the date of filing of the charge-sheet.

Section 335 of BNSS (corresponding to section 299 of the Cr.P.C.) Record of evidence in absence of accused after a gap of 90 days as prescribed under section 356 of BNSS .

Section 356 of BNSS. (New Section as no provision in Cr.P.C.) Inquiry, trial or judgment in absentia of proclaimed offender.

A permanent warrant shall be issued against the convicted person. Every month, the effort of the police to execute the conviction order or judgement shall be monitored by the trial court until it is executed, as per Section 72(2) BNSS. The matter shall also be monitored by the members of the District Monitoring Cell, in their monthly meetings. Additionally, the court shall obtain a written progress report from the concerned head of the police department of the district or police commissionerate, regarding execution of NBW in respect of the convicted person.

2. If an accused is on bail during investigation or his arrest has been stayed or his arrest was not required during investigation and is absconding after summoning. The procedure to be followed by the Judicial Officers to conclude trial as provided under the provisions mentioned hereinbelow :-

Section 193(3) BNSS (corresponding Section 173(2) Cr.P.C.) Submission of Police Report in court on completion of investigation

Section 210 BNSS (corresponding Section 190 Cr.P.C.) Cognizance of the offences be taken by the concerned court upon police report, complaint or suo moto.

Section 227 BNSS (corresponding Section 204 of Cr.P.C.) Issue of process (summons or warrant) against the accused.

Section 92 of BNSS (Corresponding Section 89 of Cr.P.C.) In case of absconding, arrest the accused on breach of bond, issue NBW against the accused or bail bond for his appearance in the court, twice at the interval of 30 days as per Section 356 BNSS to arrest him on breach of bond.

Section 84 of BNSS (corresponding Section 82 of Cr.P.C.) Proclamation for person absconding in the manner prescribed under Section 356 also

Section 209 BNS_(corresponding Section 174A IPC)- **Initiate proceedings to prosecute and punish for non-appearance in response to a proclamation under section 84 of Bharatiya Nagarik Suraksha Sanhita, 2023 as per provision of Section 215(1)(a) BNSS** (corresponding Section 195(1)(a) Cr.P.C.)

Section 485 BNSS (corresponding Section 441 Cr.P.C.) **Bond of accused and sureties.**

Section 486 BNSS (corresponding Section 441-A of Cr.P.C.) **Declaration by sureties.**

Section 491 BNSS (corresponding Section 446 of Cr.P.C.) **Procedure when bond has been forfeited.**

Section 492 BNSS (corresponding Section 446-A of Cr.P.C.)-**Cancellation of bond and bail bond**

Section 85 BNSS (corresponding Section 83 of Cr.P.C.) **Attachment of property of person absconding.**

Appointment of amicus curiae as provided under Section 356 BNSS

The Court concerned shall appoint **amicus curiae** to collect records of the case on behalf of the proclaimed offender to defend the absconded accused at every stage of enquiry or trial in absence of the accused.

Section 230 BNSS (corresponding Section 207 Cr.P.C.). **Supply copy of police report and other documents to amicus curiae/appointed advocate as per Section 356 BNSS for the absconded accused, copy of police report and other documents.**

Section 232 BNSS (corresponding Section 209 Cr.P.C.). **Commitment of case to Court of Session when offence is triable exclusively by it, or**

Section 362 BNSS (corresponding Section 323 Cr.P.C.) **Procedure when after commencement of inquiry or trial, Magistrate finds case should be committed to court of session for trial**

Section 251 BNSS (corresponding Section 228 Cr.P.C.). **Framing of charge in Session Trial in presence of amicus curiae appointed for the absconded accused**

Section 263 BNSS (corresponding Section 240 Cr.P.C.) **Framing of charge in trial of warrant cases instituted on a police report in presence of amicus curiae**

Section 269(1) BNSS (corresponding Section 246(1) Cr.P.C.) **Procedure where accused is not discharged i.e. framing of charge in trial of warrant cases instituted on complaint or suo moto by the competent court in presence of amicus curiae.**

Section 346 BNSS (corresponding section 309 Cr.P.C) **In every inquiry or trial the proceedings shall be continued from day to day basis until all the witnesses in attendance have been examined and in case of rape or gang rape, the inquiry or trial shall be completed within a period of two months from the date of filing of the charge sheet.**

Section 335 of BNSS (corresponding to section 299 of the Cr.P.C.) **Record of evidence in absence of accused after a gap of 90 days from the date of framing of charge as prescribed under section 356 of BNSS.**

Section 356 of BNSS. (New Section as no provision in Cr.P.C.) **Inquiry, trial or judgment in absentia of proclaimed offender.**

A permanent warrant shall be issued against the convicted person. Every month, the effort of the police to execute the conviction order or judgement shall be monitored by the trial court until it is executed, as per Section 72(2) BNSS. The matter shall also be monitored by the members of the District Monitoring Cell, in their monthly meetings. Additionally, the court shall obtain a written progress report from the concerned head of the police department of the district or police commissionerate, regarding execution of NBW in respect of the convicted person.

3. An accused is on bail and absconds at the stage of framing of charge. The procedure to be followed to complete trial as provided under sections:-

Section 92 of BNSS (Corresponding Section 89 of Cr.P.C.) **Arrest on breach of bond or bail bond for appearance**

Section 84 of BNSS (corresponding Section 82 of Cr.P.C.) **Proclamation for person absconding**

Section 209 BNS_(corresponding Section 174A IPC)- **Initiate proceedings to prosecute and punish for non-appearance in response to a proclamation under section 84 of Bharatiya Nagarik Suraksha Sanhita, 2023 as per provision of Section 215(1)(a) BNSS (corresponding Section 195(1)(a) Cr.P.C.)**

Section 485 BNSS (corresponding Section 441 Cr.P.C.) **Bond of accused and sureties.**

Section 486 BNSS (corresponding Section 441-A of Cr.P.C.) **Declaration by sureties.**

Section 491 BNSS (corresponding Section 446 of Cr.P.C.) **Procedure when bond has been forfeited.**

Section 492 BNSS (corresponding Section 446-A of Cr.P.C.)-Cancellation of bond and bail bond

Section 85 BNSS (corresponding Section 83 of Cr.P.C.) Attachment of property of person absconding.

Appointment of amicus curiae as prescribed under section 356 of BNSS

The Court concerned shall appoint **amicus curiae/advocate** to collect the record of the case on behalf of the proclaimed offender to defend the absconded accused in his absence at every stage of the court proceedings.

Section 346 BNSS (corresponding section 309 Cr.P.C) In every inquiry or trial the proceedings shall be continued from day to day basis until all the witnesses in attendance have been examined and in case of rape or gang rape, the inquiry or trial shall be completed within a period of two months from the date of filing of the charge-sheet.

Section 335 of BNSS (corresponding to section 299 of the Cr.P.C.) Record of evidence in absence of accused.

Section 356 of BNSS. (New Section as no provision in Cr.P.C.) Inquiry, trial or judgment in absentia of proclaimed offender.

A permanent warrant shall be issued against the convicted person. Every month, the effort of the police to execute the conviction order or judgement shall be monitored by the trial court until it is executed, as per Section 72(2) BNSS. The matter shall also be monitored by the members of the District Monitoring Cell, in their monthly meetings. Additionally, the court shall obtain a written progress report from the concerned head of the police department of the district or police commissionerate, regarding execution of NBW in respect of the convicted person.

14. The procedure, for the execution of summons, warrant of arrest, proclamation and attachments to compel the appearance of an accused shall be followed by the Court and the police as provided in Chapter VI (Sections 63 to 93) of the Bharatiya Nagarik Suraksha Sanhita, 2023.

15. If the service of a summons on an individual (accused) shall be performed in the manner provided under Sections 64, 66, 67, 68, 69 and 70 of BNSS i.e. the summons shall be served by a police officer on the

accused personally, if practicable; otherwise, it may be served by leaving one of the duplicates for him with an adult member of his family residing with him.

16. Regarding an absconding accused, the procedures for completing the investigation, inquiry and trial, even in the absence of the accused, has been mentioned in the relevant paragraphs of this judgement, as provided under the Bharatiya Nagarik Suraksha Sanhita, 2023 etc.

17. If an accused person absconds or conceals himself from arrest during an investigation involving a cognizable and non-bailable offence, the investigation shall be completed in accordance with Rule 215 and 216 of Chapter XIX of the U.P. Police Regulations. The investigating Officer shall apply to the concerned court for a warrant of arrest, a proclamation and an order of attachment. Following this, the officer shall complete the investigation and submit the police report to the court. Rules 215 and 216 of the U.P. Police Regulation are delineated below for ready reference :-

***“Rule 215 of U.P. Police Regulations-** Whenever an officer-in-charge of a police station, or an officer making an investigation under Chapter XII of the Code of Criminal Procedure, 1973 (2 of 1974) is satisfied that a person whom he is empowered to arrest under Section 41 (1) of the Code has **absconded or is concealing himself so that he cannot be arrested**, he must **apply** to the Court having jurisdiction, successively, for a **warrant of arrest**, a **proclamation** under Section 82 of the Code of Criminal Procedure, 1973 (2 of 1974) and **an order of attachment** under Section 83/84. All these applications should be made as early as may be desirable in the particular case; they need not be delayed for the conclusion of an investigation; and a warrant of arrest, a proclamation and an order of attachment may all legally be issued one after the other in their proper order on the same day. The officer who asks a Court to issue a proclamation must be prepared to produce legal evidence to prove that the person whose arrest desired has absconded, and must not accept the mere statement or report of an officer who has no personal knowledge of the absconding to satisfy the Court. When an order of attachment is issued he must satisfy himself that it is efficiently executed.*

Rule 216 of U.P. Police Regulations- *Any person for whose appearance a proclamation has been issued under Section 82 of the Code of Criminal Procedure, 1973 (2 of 1974) is an **absconded offender** within the meaning of this Chapter.”*

18. If a court concerned is satisfied that, after proved service of summons upon an accused, the accused has not appeared before the court, **Section 73** of the Bharatiya Nagarik Suraksha Sanhita, 2023 (corresponding to section 71 Cr.P.C.) empowers the court to direct that security (bail) be taken from the person against whom a warrant of arrest is issued, with the objective of reducing unnecessary detention while issuing such a warrant, the court may endorse it with a direction that if the person executes a bond with sufficient sureties, he shall be released from custody.

19. The provisions of section 73 of BNSS (corresponding section 71 Cr.P.C.) is delineated below:-

“Section 73 of BNSS . Power to direct security to be taken.—(1) *Any Court issuing a warrant for the arrest of any person may in its discretion direct by endorsement on the warrant that, if such person executes a bail bond with sufficient sureties for his attendance before the Court at a specified time and thereafter until otherwise directed by the Court, the officer to whom the warrant is directed shall take such security and shall release such person from custody.*

(2) The endorsement shall state—

(a) the number of sureties;

(b) the amount in which they and the person for whose arrest the warrant is issued, are to be respectively bound;

(c) the time at which he is to attend before the Court.

(3) Whenever security is taken under this section, the officer to whom the warrant is directed shall forward the bond to the Court.”

20. In case of any person/accused of a non-bailable offence who is evading arrest, **Section 75** of the Bharatiya Nagarik Suraksha Sanhita, 2023 (corresponding section 73 of Cr.P.C.) empowers a Chief Judicial Magistrate or a Magistrate of the First Class to direct a warrant to any person, within his local jurisdiction for the arrest of an escaped convict, a proclaimed offender, or **any person accused of a non-bailable offence who is evading arrest**. The provisions of section 75 of BNSS (corresponding section 73 of Cr.P.C.) are delineated below:

Section 75 of BNSS

“Section 75 of BNSS. Warrant may be directed to any person. -

*(1) The Chief Judicial Magistrate or a Magistrate of the first class may direct a warrant to any person within his local jurisdiction for the arrest of any escaped convict, proclaimed offender or **of any person who is accused of a non-bailable offence and is evading arrest.***

(2) Such person shall acknowledge in writing the receipt of the warrant, and shall execute it if the person for whose arrest it was issued, is in, or enters on, any land or other property under his charge.

(3) When the person against whom such warrant is issued is arrested, he shall be made over with the warrant to the nearest police officer, who shall cause him to be taken before a Magistrate having jurisdiction in the case, unless security is taken under section 73.”

21. If an accused person is hiding to avoid the execution of a warrant, issued twice 30 days intervals as provided under Section 356 BNSS, Section 84 of the BNSS (corresponding section 82 of Cr.P.C.), empowers the courts to issue a written proclamation against such person. The proclamation requires such person to appear at a specified place and time (within 30 days from the date of publication of such proclamation). Thus, as per Section 84 of the BNSS, if the Court has reason to believe that a person is absconding to avoid execution of a warrant, a proclamation may be issued, but the proclamation shall be published as per Section 84 BNSS as well as Section 356 BNSS. If the absconded person fails to appear within 30 days, at the specific place and time, the Court can declare him a “proclaimed offender”. Failure to appear can also lead to the accused to criminal prosecution under Section 209 of the BNS (corresponding section 174-A IPC). In cases where the accused was released on bail, failure to appear may result in a show cause notice, forfeiture of the bail bond and surety and its recovery under Section 491 BNSS (corresponding Section 446 Cr.P.C.), Section 492 BNSS (corresponding Section 446A Cr.P.C.) and furthermore, the court may order the attachment of property of the absconded accused under section 85 BNSS (corresponding Section 83 Cr.P.C.). The provisions of Section 84 of the BNSS (corresponding to section 82 Cr.P.C.) are delineated below:-

“Section 84 of BNSS:- Proclamation for person absconding.— (1) *If any Court has reason to believe (whether after taking evidence or not) that any person against whom a warrant has been issued by it has absconded or is concealing himself so that such warrant cannot be executed, such Court may publish a written proclamation requiring him to appear at a specified place and at a specified time not less than thirty days from the date of publishing such proclamation.*

(2) *The proclamation shall be published as follows:—*

(i) (a) *it shall be publicly read in some conspicuous place of the town or village in which such person ordinarily resides;*

(b) *it shall be affixed to some conspicuous part of the house or homestead in which such person ordinarily resides or to some conspicuous place of such town or village; (c) a copy thereof shall be affixed to some conspicuous part of the Court-house;*

(ii) *the Court may also, if it thinks fit, direct a copy of the proclamation to be published in a daily newspaper circulating in the place in which such person ordinarily resides.*

(3) *A statement in writing by the Court issuing the proclamation to the effect that the proclamation was duly published on a specified day, in the manner specified in clause (i) of sub-section (2), shall be conclusive evidence that the requirements of this section have been complied with, and that the proclamation was published on such day.*

(4) *Where a proclamation published under sub-section (1) is in respect of a person accused of an offence which is made punishable with imprisonment of ten years or more, or imprisonment for life or with death under the Bharatiya Nyaya Sanhita, 2023 or under any other law for the time being in force, and such person fails to appear at the specified place and time required by the proclamation, the Court may, after making such inquiry as it thinks fit, pronounce him a proclaimed offender and make a declaration to that effect*

(5) *The provisions of sub-sections (2) and (3) shall apply to a declaration made by the Court under sub-section (4) as they apply to the proclamation published under sub-section (1).”*

22. If a proclaimed offender does not appear in court on the date and time in compliance of order of Section 84 BNSS (corresponding Section 82 Cr.P.C.), then before cancellation, forfeiture of the bail bond and sureties which was furnished before release from judicial custody, a fresh separate criminal case can be initiated as per the provisions of Section 215(1) of BNSS, under Section 209 BNS (corresponding Section 174A IPC) against the absconded accused for violation of order of a court passed under Section 84 BNSS (corresponding Section 82 Cr.P.C.), thus, Section 209 of the Bharatiya Nyaya Sanhita (BNS), 2023 (corresponding section 174-A IPC) penalizes non-appearance in response to a proclamation issued by a court under Section 84 of the Bharatiya Nagarik Suraksha Sanhita (BNSS). It applies to individual who fails to appear at a specified place and time after being proclaimed offenders.

For offence of Section 209 of the BNS (corresponding section 174-A IPC) provision of cognizance has been mentioned under section 215(1)(a) of the BNSS. The provisions of Section 209 of the Bharatiya Nyaya Sanhita, 2023 are delineated below:-

“Section 209 BNS:- Non-appearance in response to a proclamation under section 84 of Bharatiya Nagarik Suraksha Sanhita, 2023.—Whoever fails to appear at the specified place and the specified time as required by a proclamation published under sub-section (1) of section 84 of the Bharatiya Nagarik Suraksha Sanhita, 2023, shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both, or with community service, and where a declaration has been made under sub-section (4) of that section pronouncing him as a proclaimed offender, he shall be punished with imprisonment for a term which may extend to seven years and shall also be liable to fine.

23. For offence of section 209 of the B.N.S, provision of cognizance has been mentioned under section 215(1)(a) of the BNSS. **Section 215(1)(a) of the BNSS** (corresponding section 195(1)(a) of Cr.P.C.) restricts courts from taking cognizance of specific offences, including contempt of lawful authority, offences against public justice, and document-related crimes, without a formal written complaint from the concerned public servant. This provision ensures orderly administration of justice by requiring written authorization for prosecution. Section 215(1)(a) of the BNSS covers offences under Sections 206 to 223 of the Bharatiya Nyaya Sanhita (BNS), 2023, excluding Section 209 BNS. The provisions of Section 215(1)(a) of the BNSS are delineated below:-

Section 215(1)(a) of BNSS

Section 215. Prosecution for contempt of lawful authority of public servants, for offences against public justice and for offences relating to documents given in evidence.--(1) No Court shall take cognizance—

(a)(i) of any offence punishable under sections 206 to 223 (both inclusive **but excluding section 209**) of the Bharatiya Nyaya Sanhita, 2023; or

(ii) of any abetment of, or attempt to commit, such offence; or

(iii) of any criminal conspiracy to commit such offence, **except on the complaint in writing of the public servant concerned or of some other public servant to whom he is administratively subordinate or of some other public servant who is authorised by the concerned public servant so to do;**

Section 195 (1)(a) of Cr.P.C

Section 195. Prosecution for contempt of lawful authority of public servants, for offences against public justice and for

offences relating to documents given in evidence.—(1) No Court shall take cognizance—

(a) (i) of any offence punishable under sections 172 to 188 (both inclusive) of the Indian Penal Code, (45 of 1860), or

(ii) of any abetment of, or attempt to commit, such offence, or (

iii) of any criminal conspiracy to commit such offence,

except on the complaint in writing of the public servant concerned or of some other public servant to whom he is administratively subordinate;

24. Under section 195(1)(a) of Cr.P.C. there was no such word ‘Excluding’ section 174-A of IPC while under section 215 of BNSS the word ‘Excluding’, Section 209 of BNS has been mentioned.

25. The ‘Exclusion’ **Explained:** Section 215(a)(i) covers offences under sections 206 to 223 of BNS but **explicitly excludes** Section 209 BNS. Section 209 BNS deals with non-appearance in response to the order of proclamation passed by a court of law rather than a public servant. This means that while other offences require a formal written complaint, but prosecution for non-appearance (209 BNS) can proceed through standard police procedures without this specific limitation. Thus, the term ‘Exclusion’ explains that there is no restriction on taking cognizance, if there is no written complaint to initiate criminal proceedings against the proclaimed offender and thus an FIR can be registered and police report can be submitted in the court for taking cognizance or suo moto cognizance can be taken by the court who passed the order of proclamation under section 84 of BNSS.

26. If an accused person absconds and he has been declared a proclaimed offender and thereafter, as per section 85 of BNSS, the court issuing a proclamation under section 84 (corresponding section 82 CrPC) may order the attachment of any property (movable or immovable) belonging to the proclaimed person. Attachment may take place within the district or, if endorsed by the District Magistrate, outside the district. If the property is perishable, the court may order its immediate sale to avoid spoilage, with proceeds held by the court. Individuals other than the accused can file claims or objections to the attached property within 6

months. The provisions of Section 85 of the BNSS (corresponding section 83 of Cr.P.C.) are delineated below:-

Section 85 of BNSS

Section 85 of BNSS. Attachment of property of person absconding.—(1) The Court issuing a proclamation under section

84 may, for reasons to be recorded in writing, at any time after the issue of the proclamation, order the attachment of any property, movable or immovable, or both, belonging to the proclaimed person: Provided that where at the time of the issue of the proclamation the Court is satisfied, by affidavit or otherwise, that the person in relation to whom the proclamation is to be issued,—
(a) is about to dispose of the whole or any part of his property; or
(b) is about to remove the whole or any part of his property from the local jurisdiction of the Court, it may order the attachment of property simultaneously with the issue of the proclamation.

(2) Such order shall authorise the attachment of any property belonging to such person within the district in which it is made; and it shall authorise the attachment of any property belonging to such person without such district when endorsed by the District Magistrate within whose district such property is situate.

(3) If the property ordered to be attached is a debt or other movable property, the attachment under this section shall be made

—
(a) by seizure; or

(b) by the appointment of a receiver; or

(c) by an order in writing prohibiting the delivery of such property to the proclaimed person or to any one on his behalf; or

(d) by all or any two of such methods, as the Court thinks fit.

(4) If the property ordered to be attached is immovable, the attachment under this section shall, in the case of land paying revenue to the State Government, be made through the Collector of the district in which the land is situate, and in all other case- (a) by taking possession; or

(b) by the appointment of a receiver; or

(c) by an order in writing prohibiting the payment of rent on delivery of property to the proclaimed person or to any one on his behalf; or

(d) by all or any two of such methods, as the Court thinks fit.

(5) If the property ordered to be attached consists of live-stock or is of a perishable nature, the Court may, if it thinks it expedient, order immediate sale thereof, and in such case the proceeds of the sale shall abide the order of the Court.

(6) The powers, duties and liabilities of a receiver appointed under this section shall be the same as those of a receiver appointed under the Code of Civil Procedure, 1908 (5 of 1908).

27. If an accused of non-bailable and cognizable offence is evading arrest, and he is declared a proclaimed offender and his property is attached, the investigating officer is required to submit the final police report (charge-sheet) under Section 193(3) of the *Bharatiya Nagarik Suraksha Sanhita, 2023* (corresponding to section 173(2) CrPC) to the court of

Magistrate without unnecessary delay, including through electronic communication.

28. Further, the Investigating Officer is obligated to inform the informant or the victim about the progress of the investigation **within ninety days** as per Section 193(3) of the BNSS while same was not mentioned under the Code of Criminal Procedure, 1973. The provisions of section 193(3) of BNSS (corresponding to section 173(2) Cr.P.C.) are delineated below:-

Section 193(3) BNSS

“Section 193(3) of BNSS (i) As soon as the investigation is completed, the officer in charge of the police station shall forward, including through electronic communication to a Magistrate empowered to take cognizance of the offence on a police report, a report in the form as the State Government may, by rules provide, stating—

(a) the names of the parties;

(b) the nature of the information;

(c) the names of the persons who appear to be acquainted with the circumstances of the case;

(d) whether any offence appears to have been committed and, if so, by whom;

(e) whether the accused has been arrested;

(f) whether the accused has been released on his bond or bail bond;

(g) whether the accused has been forwarded in custody under section 190;

(h) whether the report of medical examination of the woman has been attached where investigation relates to an offence under sections 64, 65, 66, 67, 68, 70 or section 71 of the Bharatiya Nyaya Sanhita, 2023;

(ii) the police officer shall, within a period of ninety days, inform the progress of the investigation by any means including through electronic communication to the informant or the victim; (New provision as this provision was not in Cr.P.C.)

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

Section 173(2) of Cr.P.C.

“Section 173(2) of Cr.P.C. (2) (i) As soon as it is completed, the officer in charge of the police station shall forward to a Magistrate empowered to take cognizance of the offence on a police report, a report in the form prescribed by the State Government, stating—

(a) the names of the parties;

(b) the nature of the information;

(c) the names of the persons who appear to be acquainted with the circumstances of the case;

(d) whether any offence appears to have been committed and, if so, by whom;

(e) whether the accused has been arrested;

(f) whether he has been released on his bond and, if so, whether with or without sureties;

(g) whether he has been forwarded in custody under section 170.

(h) whether the report of medical examination of the woman has been attached where investigation relates to an offence under [sections 376, 376A, 376AB, 376B, 376C, 376D, 376DA, 376DB] or section 376E of the Indian Penal Code (45 of 1860)].]

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

29. As per Section 210 of the Bharatiya Nagarik Suraksha Sanhita, 2023, a Judicial Magistrate/Special Court may take cognizance in three ways: upon receiving a complaint of facts constituting an offence; upon a police report, or upon the Magistrate’s own knowledge.

30. This provision signifies the formal commencement of criminal proceedings, wherein the Magistrate applies judicial mind to the facts to determine whether there is sufficient ground to proceed. The provisions of section 210 of BNSS (corresponding Section 190 Cr.P.C.) are delineated below:-

Section 210 of BNSS. Cognizance of offences by Magistrate.—

(1) Subject to the provisions of this Chapter, any Magistrate of the first class, and any Magistrate of the second class specially empowered in this behalf under sub-section

(2), may take cognizance of any offence—

(a) upon receiving a complaint of facts, including any complaint filed by a person authorised under any special law, which constitutes such offence;

(b) upon a police report (submitted in any mode including electronic mode) of such facts; 82

(c) upon information received from any person other than a police officer, or upon his own knowledge, that such offence has been committed.

(2) The Chief Judicial Magistrate may empower any Magistrate of the second class to take cognizance under sub-section (1) of such offences as are within his competence to inquire into or try.

31. As per Section 227 of the BNSS, if the Magistrate finds sufficient grounds to proceed, he may issue a summon (for summons cases) or a warrant/summon (for warrant cases) to bring the accused before the

Court. Summons or warrants can be issued through electronic means (e.g., digital message).

32. If an accused has been released on bail and has furnished a bail bond with sureties under Section 485 BNSS (corresponding Section 441 Cr.P.C.) and 486 BNSS (corresponding Section 441A Cr.P.C.), the Court concerned, after taking cognizance of the offence, may issue summons or non-bailable warrant (NBW) under Section 227 of the BNSS. The provisions of Section 227 BNSS (corresponding Section 204 Cr.P.C.) are delineated below for ready reference:-

“Section 227 BNSS. Issue of process.— (1) *If in the opinion of a Magistrate taking cognizance of an offence there is sufficient ground for proceeding, and the case appears to be—*

(a) a summons-case, he shall issue summons to the accused for his attendance; or

(b) a warrant-case, he may issue a warrant, or, if he thinks fit, a summons, for causing the accused to be brought or to appear at a certain time before such Magistrate or (if he has no jurisdiction himself) some other Magistrate having jurisdiction:

Provided that summons or warrants may also be issued through electronic means.

(2) No summons or warrant shall be issued against the accused under sub-section (1) until a list of the prosecution witnesses has been filed.

(3) In a proceeding instituted upon a complaint made in writing, every summons or warrant issued under sub-section (1) shall be accompanied by a copy of such complaint.

(4) When by any law for the time being in force any process-fees or other fees are payable, no process shall be issued until the fees are paid and, if such fees are not paid within a reasonable time, the Magistrate may dismiss the complaint.

(5) Nothing in this section shall be deemed to affect the provisions of section 90”

33. The summons and warrants of arrest shall be issued, served as well as executed as per provision of Chapter VI of BNSS from Section 63 to 93 of the BNSS. The relevant provisions for ready reference delineated below:

Section 64 BNSS (corresponding Section 62 Cr.P.C.)- Service of summons to be served personally to the person summoned.

Section 66 BNSS (corresponding Section 64 Cr.P.C.)- Where the person summoned cannot be found, the summons may be served on some adult member of his family residing with him.

Section 67 BNSS (corresponding Section 65 Cr.P.C.)- If service of summons cannot be effected as provided in Sections 64 and 66 BNSS, the serving officer shall affix one of the duplicates of summons to some conspicuous part of the house or homestead in which the person summoned ordinarily resides.

Section 90 BNSS (corresponding Section 87 Cr.P.C.)- After summons if a court concerned has reason to believe that the accused is either absconding or not obeying the summons or not appearing before court after duly service of summons.

Section 91 BNSS (corresponding Section 88 Cr.P.C.)-Power to take bond or bail bond for appearance

Section 92 BNSS (corresponding Section 89 Cr.P.C.)-Arrest on breach of bond or bail bond for appearance

34. Section 92 of the BNSS (corresponding section 89 of Cr.P.C.) empowers a Court to issue a warrant for the arrest of any person who fails to appear after executing a bond (with or without sureties) to appear before that Court. This ensures compliance with attendance orders in criminal proceedings.

35. The section applies when a person is bound by a bond (under the Cr.P.C.) to appear in Court but fails to do so. The Presiding Officer of the Court can issue a warrant directing the arrest of such a person, and upon arrest, the individual is brought before the Court. It is a procedural tool designed to compel the attendance of individuals who have previously given undertaking to appear before the Court. The provisions of Section 92 of the BNSS (corresponding section 89 of Cr.P.C.) are delineated below:-

Section 92. BNSS:- Arrest on breach of bond or bail bond for appearance - *When any person who is bound by any bond or bail bond taken under this Sanhita to appear before a Court, does not appear, the officer presiding in such Court may issue a warrant directing that such person be arrested and produced before him.*

36. If a person/accused is hiding to avoid execution of a warrant then Section 84 of the BNSS (corresponding section 82 of Cr.P.C.), empowers

courts to issue a written proclamation against an absconding person for whom a warrant has been issued. It requires such person to appear at a specified place and time (at least 30 days from the date of publication).

37. Thus, as per Section 84 of the BNSS, if the Court has reason to believe (with or without evidence) that a person is hiding to avoid execution of a warrant, a proclamation may be issued. The proclamation is read publicly in the town or village where the person resides, affixed to his house, and displayed at the courthouse. If the person fails to appear **within 30 days** at the specified place and time, the Court can declare him a “proclaimed offender”. Failure to appear within 30 days can lead to an accused to criminal prosecution under Section 209 of the BNS (corresponding section 174-A IPC), to show cause and forfeiture of bail bond and surety and its recovery under Section 491 BNSS (corresponding Section 446 Cr.P.C.), Section 492 BNSS (corresponding Section 446A Cr.P.C.) and attachment of property of the absconded accused under section 85 BNSS (corresponding Section 83 Cr.P.C.).

38. If a person is in custody in a criminal case and released on bail after furnishing a bond and sureties to appear before the court, then Section 485 of the BNSS (corresponding to section 441 of Cr.P.C.) mandates that, before releasing any person on bail, he must execute a bond (with or without sureties) guaranteeing his attendance at court on the date of hearings and continue to appear until instructed otherwise. The bond can also bind the accused to appear in higher courts (High Court, Court of Session) to answer the charges. The provisions of Section 485 of the BNSS (corresponding section 441 of Cr.P.C.) are delineated below:-

Section 485 of BNSS:- Bond of accused and sureties.— (1) *Before any person is released on bond or bail bond, a bond for such sum of money as the police officer or Court, as the case may be, thinks sufficient shall be executed by such person, and, when he is released on bond or bail bond, by one or more sufficient sureties conditioned that such person shall attend at the time and place mentioned in the bond, and shall continue so to attend until otherwise directed by the police officer or Court, as the case may be.*

(2) *Where any condition is imposed for the release of any person on bail, the bond or bail bond shall also contain that condition.*

(3) If the case so requires, the bond or bail bond shall also bind the person released on bail to appear when called upon at the High Court, Court of Session or other Court to answer the charge.

(4) For the purpose of determining whether the sureties are fit or sufficient, the Court may accept affidavits in proof of the facts contained therein relating to the sufficiency or fitness of the sureties, or, if it considers necessary, may either hold an enquiry itself or cause an inquiry to be made by a Magistrate subordinate to the Court, as to such sufficiency or fitness.

39. Section 485 (Bond of accused and sureties): Mandates that before a person is released, he must execute a bond for a sum of money the court/police officer deems sufficient, if the court requires, this must also be executed by sufficient sureties to ensure the accused attends court.

40. Section 2(1) BNSS. Definitions the specific definitions for the terms, “bail, bail bond and bond.”

Section 2(1) (b) “bail” means release of a person accused of or suspected of commission of an offence from the custody of law upon certain conditions imposed by an officer or Court on execution by such person of a bond or a bail bond

Section 2(1)(d) “bail bond” means an undertaking for release with surety;

Section 2(1)(e) “bond” means a personal bond or an undertaking for release without surety;

41. For surety, Section 486 of the BNSS (corresponding section 441-A of Cr.P.C.) mandates that any person acting as a surety for an accused person’s bail must declare to the Court the number of other persons for whom he has stood surety along with relevant details. This provision enhances accountability and allows the Court to verify the surety’s capacity.

42. The surety must provide details of his current and past bail commitments to the Court. This ensures transparency and prevents individuals from over-extending their obligations as sureties, thereby ensuring that they are capable of guaranteeing the accused’s appearance. This applies to the process of granting bail and setting bond conditions. The provisions of Section 486 of the BNSS (corresponding section 441-A of Cr.P.C.) are delineated below:-

Section 486 BNSS:- Declaration by sureties.—Every person standing surety to an accused person for his release on bail, shall

make a declaration before the Court as to the number of persons to whom he has stood surety including the accused, giving therein all the relevant particulars.

43. For forfeiture of a bond, Section 491 of the BNSS (corresponding section 446 of Cr.P.C.), outlines the procedure when a bail or surety bond is forfeited. It enables courts to demand payment of the penalty, recover it as a fine, or imprison the surety, if the bond conditions are broken/not complied with.

44. As per section 491 of BNSS, when a bond for appearance or production of property is proven to be forfeited, the court must record the grounds of proof. The court may call upon any person bound by such bond (or his surety) to pay the penalty amount or show cause why it should not be paid. If the penalty is not paid and sufficient cause is not shown, the court can proceed to recover the amount as if it were a fine imposed by it. If the penalty cannot be paid and recovery is not possible, the person can be committed to civil prison for up to six months. The court, after recording reasons, has the power to remit (reduce or waive) any portion of the penalty. If the surety dies before the bond is forfeited, their estate is discharged from liability. The provisions of **Section 491 BNSS** are delineated below for reference :-

Section 491. BNSS Procedure when bond has been forfeited.— (1)
*Where, — (a) a bond under this Sanhita is for appearance, or for production of property, before a Court and it is proved to the satisfaction of that Court, or of any Court to which the case has subsequently been transferred, that the **bond has been forfeited**; or*

*(b) in respect of any other bond under this Sanhita, it is proved to the satisfaction of the Court by which the bond was taken, or of any Court to which the case has subsequently been transferred, or of the Court of any Magistrate of the first class, that the bond has been forfeited,⁵⁶ the Court shall record the grounds of such proof, and **may call upon any person bound by such bond to pay the penalty thereof or to show cause why it should not be paid.***

Explanation.—A condition in a bond for appearance, or for production of property, before a Court shall be construed as including a condition for appearance, or as the case may be, for production of property, before any Court to which the case may subsequently be transferred.

(2) If sufficient cause is not shown and the penalty is not paid, the Court may proceed to recover the same as if such penalty were a fine imposed by it under this Sanhita:

*Provided that where such penalty is not paid and cannot be recovered in the manner aforesaid, the person so bound as **surety** shall be liable, by **order of the Court ordering the recovery of the***

*penalty, to imprisonment in **civil jail for a term which may extend to six months.***

(3) The Court may, after recording its reasons for doing so, remit any portion of the penalty mentioned and enforce payment in part only.

(4) Where a surety to a bond dies before the bond is forfeited, his estate shall be discharged from all liability in respect of the bond.

(5) Where any person who has furnished security under section 125 or section 136 or section 401 is convicted of an offence the commission of which constitutes a breach of the conditions of his bond, or of a bond executed in lieu of his bond under section 494, a certified copy of the judgment of the Court by which he was convicted of such offence may be used as evidence in proceedings under this section against his surety or sureties, and, if such certified copy is so used, the Court shall presume that such offence was committed by him unless the contrary is proved.

45. For cancellation of bond or bail bond, Section 492 of the BNSS (corresponding section 446-A of Cr.P.C.), mandates that if an accused fails to comply with bond conditions (e.g., missing a court date), the accused's bond and his surety's bond are forfeited and cancelled, generally restricting automatic release on bail.

46. As per the provisions of section 492 of BNSS upon breach of conditions, the court cancels the current bail bond, and the bond for appearance is forfeited. Following cancellation, the person cannot be released again on his own bond without sufficient cause shown, the person may be released if he provides a new personal bond and new surety bonds. The provisions of Section 492 of the BNSS (corresponding section 446-A of Cr.P.C.) are delineated below:-

Section 492 BNSS . Cancellation of bond and bail bond.—*Without prejudice to the provisions of section 491, where a bond or bail bond under this Sanhita is for appearance of a person in a case and it is forfeited for breach of a condition,—(a) the bond executed by such person as well as the bond, if any, executed by one or more of his sureties in that case shall stand cancelled; and*

(b) thereafter no such person shall be released only on his own bond in that case, if the police officer or the Court, as the case may be, for appearance before whom the bond was executed, is satisfied that there was no sufficient cause for the failure of the person bound by the bond to comply with its condition:

Provided that subject to any other provisions of this Sanhita he may be released in that case upon the execution of a fresh personal bond for such sum of money and bond by one or more of such

sureties as the police officer or the Court, as the case may be, thinks sufficient.

47. If an accused person is released on bail on furnishing bail bond and sureties and absconds to avoid court proceedings so that a warrant could not be executed and thereafter, he has been declared a proclaimed offender. Thereafter, a fresh criminal proceedings against the accused under Section 209 BNSS is initiated and thereafter, the bond and sureties are cancelled and confiscated. After that, the Court may initiate action under Section 85 of the BNSS (corresponding section 83 of Cr.P.C.), which governs the attachment of rest of the property of the absconding persons, and authorizes a court to order the attachment of property belonging to a person, who has failed to appear after a proclamation.

48. After exhausting the processes in case of an absconded accused, released on bail on furnishing bail bond and surety, the concerned Court shall **appoint an amicus curiae/advocate**, as provided under section 356 BNSS to the absconded accused and thereafter, if a case is not committed, then after compliance of provision of Section 230 BNSS (corresponding Section 207 Cr.P.C.), the case shall be committed to the court concerned under Section 232 BNSS (corresponding Section 209 Cr.P.C.) or under Section 362 BNSS (corresponding Section 323 Cr.P.C.) for framing charge under Section 251 BNSS (corresponding Section 228 Cr.P.C.) in case of Sessions Trial, and under Section 263 BNSS (corresponding Section 240 Cr.P.C.) in case of warrant trial instituted on police report and under Section 269(1) BNSS (corresponding Section 246(1) Cr.P.C.) in case of warrant trial instituted on complaint and to proceed further to complete trial.

49. Before committal of a case instituted on police report, for framing of charge, Section 230 of the BNSS, 2023 (corresponding to Section 207 Cr.P.C.) mandates that, in cases instituted on a police report, the Judicial Magistrate shall furnish to the accused, and to the victim (where represented), free copies of the police report/chargesheet, the FIR, witness statements recorded under Section 180(3), confessions and

statements recorded under Section 183, and any other relevant documents submitted along with the report.

50. These documents must be supplied without delay and, in any case, within 14 days from the date of the accused's appearance or production before the court. Where the documents are voluminous, the court may, instead of providing physical copies, permit inspection of such documents either in court or through electronic means. The provisions mentioned under Section 230 of BNSS (corresponding to section 207 of Cr.P.C.) are delineated below for reference :-

Section 230 BNSS:- Supply to accused of copy of police report and other documents.—In any case where the proceeding has been instituted on a police report, the Magistrate shall **without delay, and in no case beyond fourteen days from the date of production or appearance of the accused, furnish to the accused and the victim (if represented by an advocate) free of cost, a copy of each of the following:—**

(i) the police report;

(ii) the first information report recorded under section 173; (iii) the statements recorded under sub-section (3) of section 180 of all persons whom the prosecution proposes to examine as its witnesses, excluding therefrom any part in regard to which a request for such exclusion has been made by the police officer under sub-section (7) of section 193;

(iv) the confessions and statements, if any, recorded under section 183;

(v) any other document or relevant extract thereof forwarded to the Magistrate with the police report under sub-section (6) of section 193:

Provided that the Magistrate may, after perusing any such part of a statement as is referred to in clause (iii) and considering the reasons given by the police officer for the request, direct that a copy of that part of the statement or of such portion thereof as the Magistrate thinks proper, shall be furnished to the accused:

Provided further that if the Magistrate is satisfied that any such document is voluminous, he shall, instead of furnishing the accused and the victim (if represented by an advocate) with a copy thereof, may furnish the copies through electronic means or direct that he will only be allowed to inspect it either personally or through an advocate in Court:

Provided also that supply of documents in electronic form shall be considered as duly furnished.

51. It is relevant to mention here that in section 230 of BNSS (not in Cr.P.C.) the time period has been given **14 days to provide copy of** the investigated documents not only to the accused but also to the victim either personally or through represented advocate.

52. Before committal of case instituted on complaint for framing of charge, Section 231 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 (*corresponds to Section 208 of the Cr.P.C*) mandates that in private complaint cases triable by a Court of Session, the Judicial Magistrate must immediately furnish the accused, free of cost, the documents mentioned under section 231 BNSS. The provisions of Section 231 of BNSS (*corresponding Section 208 of Cr.P.C.*) are delineated below:-

Section 231 B.N.S.S.:- Supply of copies of statements and documents to accused in other cases triable by Court of Session.-Where, in a case instituted otherwise than on a police report, it appears to the Magistrate issuing process under section 227 that the offence is triable exclusively by the Court of Session, the Magistrate shall forthwith furnish to the accused, free of cost, a copy of each of the following:—

(i) the statements recorded under section 223 or section 225, of all persons examined by the Magistrate;

(ii) the statements and confessions, if any, recorded under section 180 or section 183;

(iii) any documents produced before the Magistrate on which the prosecution proposes to rely:

Provided that if the Magistrate is satisfied that any such document is voluminous, he shall, instead of furnishing the accused with a copy thereof, direct that he will only be allowed to inspect it either personally or through an advocate in Court:

Provided further that supply of documents in electronic form shall be considered as duly furnished.

53. There are two Sections i.e. Section 232 and Section 362 in the Bharatiya Nagarik Suraksha Sanhita, 2023 for committal of case to the court of sessions. Section 232 of the *Bharatiya Nagarik Suraksha Sanhita, 2023* (*corresponding Section 209 of Cr.P.C.*) governs the commitment of cases to the Court of Session, when an offence

is exclusively triable by it. After complying with Section 230 or 231 BNSS (supply of documents to the accused and victim), the Judicial Magistrate shall commit the case under Section 232 BNSS to the Court of Session and transmit the entire record, including documents and articles intended to be produced as evidence, while also notifying the Public Prosecutor. Such committal proceedings must ordinarily be completed within 90 days from the date of taking cognizance, extendable up to 180 days for reasons to be recorded in writing. The provisions of section 232 of BNSS (corresponding Section 209 of Cr.P.C.) are delineated below:-

Section 232 BNSS

232. Commitment of case to Court of Session when offence is triable exclusively by it.—When in a case instituted on a police report or otherwise, the accused appears or is brought before the Magistrate and it appears to the Magistrate that the offence is triable exclusively by the Court of Session, he shall—

(a) commit, after complying with the provisions of section 230 or section 231 the case to the Court of Session, and subject to the provisions of this Sanhita relating to bail, remand the accused to custody until such commitment has been made;

(b) subject to the provisions of this Sanhita relating to bail, remand the accused to custody during, and until the conclusion of, the trial;

(c) send to that Court the record of the case and the documents and articles, if any, which are to be produced in evidence;

(d) notify the Public Prosecutor of the commitment of the case to the Court of Session:

Provided that the proceedings under this section shall be completed within a period of ninety days from the date of taking cognizance, and such period may be extended by the Magistrate for a period not exceeding one hundred and eighty days for the reasons to be recorded in writing: (New provision as this proviso was not mentioned in the Cr.P.C.)

Provided further that any application filed before the Magistrate by the accused or the victim or any person authorised by such person in a case triable by Court of Session, shall be forwarded to the Court of Session with the committal of the case. (New provision as this proviso was not mentioned in the Cr.P.C.)

Section 209 Cr.P.C.

209. Commitment of case to Court of Session when offence is triable exclusively by it.—When in a case instituted on a police report or

otherwise, the accused appears or is brought before the Magistrate and it appears to the Magistrate that the offence is triable exclusively by the Court of Session, he shall—

1(a) commit, after complying with the provisions of section 207 or section 208, as the case may be, the case to the Court of Session, and subject to the provisions of this Code relating to bail, remand the accused to custody until such commitment has been made;

(b) subject to the provisions of this Code relating to bail, remand the accused to custody during, and until the conclusion of, the trial;

(c) send to that Court the record of the case and the documents and articles, if any, which are to be produced in evidence;

(d) notify the Public Prosecutor of the commitment of the case to the Court of Session.

54. Thus maximum extended period in totality with reason in writing shall be 180 days to commit a case in court of session, therefore, it shall be committed within 90 days as per section 232 of BNSS and with reason in writing it may be extended upto 90 days only.

55. Section 362 of the *Bharatiya Nagarik Suraksha Sanhita, 2023* (corresponding Section 323 of Cr.P.C.) provides that if, during any inquiry or trial, a Magistrate is of the opinion that the case ought to be tried by a Court of Session, the Magistrate shall commit it (cross case etc.) to that Court before signing the judgment. This provision ensures that cases requiring higher jurisdiction are tried by the Court of Session. The Magistrate may commit the case at any stage of the proceedings prior to the pronouncement of judgment, and once such a decision is made, the procedure for commitment prescribed under the relevant provisions of the Sanhita shall be followed. The provision of section 362 of BNSS (corresponding Section 323 of Cr.P.C.) are delineated below:-

Section 362 BNSS:- Procedure when after commencement of inquiry or trial, Magistrate finds case should be committed.—If, in any inquiry into an offence or a trial before a Magistrate, it appears to him at any stage of the proceedings before signing the judgment that the case is one which ought to be tried by the Court of Session, he shall commit it to that Court under the provisions hereinbefore contained

and thereupon the provisions of Chapter XIX shall apply to the commitment so made.

56. Regarding Session trial, Section 251 of the *Bharatiya Nagarik Suraksha Sanhita, 2023* (corresponding Section 228 of Cr.P.C.) deals with the framing of charges in trials before a Court of Session. It provides that when a case is triable by the Court of Session, the Judge shall frame the charge in writing within 60 days from the date of the first hearing on the question of charge, with a view to reducing delays. If the offence is not exclusively triable by the Court of Session, the Judge may transfer the case to a Judicial Magistrate of the First Class for trial. The charge so framed shall be read and explained to the accused, who may be present either physically or through audio-video electronic means, and the accused shall be asked whether they plead guilty or claim trial. Charges are framed only after the Judge is satisfied that a prima facie case exists against the accused. The provision of section 251 of BNSS (corresponding Section 228 of Cr.P.C.) are delineated below:-

Section 251 BNSS. Framing of charge.—(1) *If, after such consideration and hearing as aforesaid, the Judge is of opinion that there is ground for presuming that the accused has committed an offence which—*

(a) is not exclusively triable by the Court of Session, he may, frame a charge against the accused and, by order, transfer the case for trial to the Chief Judicial Magistrate, or any other Judicial Magistrate of the first class and direct the accused to appear before the Chief Judicial Magistrate, or the Judicial Magistrate of the first class, on such date as he deems fit, and thereupon such Magistrate shall try the offence in accordance with the procedure for the trial of warrant-cases instituted on a police report;

(b) is exclusively triable by the Court, he shall frame in writing a charge against the accused within a period of sixty days from the date of first hearing on charge. (New provision as it was not in the Cr.P.C.)

(2) Where the Judge frames any charge under clause (b) of sub-section (1), the charge shall be read and explained to the accused present either physically or through audio-video electronic means and the accused shall be asked whether he pleads guilty of the offence charged or claims to be tried.

Section 228 Cr.P.C. Framing of charge.—(1) *If, after such consideration and hearing as aforesaid, the Judge is of opinion that there is ground for presuming that the accused has committed an offence which—*

(a) is not exclusively triable by the Court of Session, he may, frame a charge against the accused and, by order, transfer the case for trial to the Chief Judicial Magistrate, or any other Judicial Magistrate of the first class and direct the accused to appear before the Chief Judicial Magistrate, or, as the case may be, the Judicial Magistrate of the first class, on such date as he deems fit, and thereupon such Magistrate shall try the offence in accordance with the procedure for the trial of warrant-cases instituted on a police report;

(b) is exclusively triable by the Court, he shall frame in writing a charge against the accused.

(2) Where the Judge frames any charge under clause (b) of sub-section (1), the charge shall be read and explained to the accused and the accused shall be asked whether he pleads guilty of the offence charged or claims to be tried.

57. Regarding warrant trial instituted on a police report, Section 263 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (corresponding Section 240 of Cr.P.C.) deals with the framing of charge. It provides that when such a case is before a Judicial Magistrate, and upon consideration of the police report and the accompanying documents, and after hearing both the prosecution and the accused, the Magistrate is of the opinion that there are sufficient grounds for presuming that the accused has committed an offence triable as a warrant case, the Magistrate shall frame a charge in writing within 60 days from the date of the first hearing, with a view to expediting the trial. The charge shall be read and explained to the accused, who shall then be asked whether they plead guilty or claim to be tried. The provision of section 263 of BNSS (corresponding Section 240 of Cr.P.C.) are delineated below:-

Section 263 BNSS. Framing of charge.—(1) *If, upon such consideration, examination, if any, and hearing, the Magistrate is of opinion that there is ground for presuming that the accused has committed an offence triable under this Chapter, which such Magistrate is competent to try and which, in his opinion, could be adequately punished by him, he shall frame in writing a charge against the accused within a period of sixty days from the date of first hearing on charge.*

(2) The charge shall then be read and explained to the accused, and he shall be asked whether he pleads guilty of the offence charged or claims to be tried.

58. Regarding warrant trial instituted on complaint or suo moto by the concerned court, Section 269(1) of BNSS (corresponding Section 246(1) of Cr.P.C.) deals with the framing of charge as if, upon taking all the evidence referred to in Section 268, the Judicial Magistrate is of the opinion that there are grounds for presuming that the accused has committed an offence triable as a warrant case, the Magistrate shall frame a charge in writing. Upon framing of the charge, it shall be read and explained to the accused, and the Magistrate shall ask whether the accused pleads guilty or claims to be tried. The provision of section 269(1) of BNSS (corresponding Section 246(1) of Cr.P.C.) are delineated below:-

Section 269(1) BNSS:- Procedure where accused is not discharged.

—(1) If, when such evidence has been taken, or at any previous stage of the case, the Magistrate is of opinion that there is ground for presuming that the accused has committed an offence triable under this Chapter, which such Magistrate is competent to try and which, in his opinion, could be adequately punished by him, he shall frame in writing a charge against the accused.

59. In case of absconding accused, in presence of amicus curiae/advocate (appointed under Section 356(3) BNSS) for the absconded accused, section 335 of BNSS (corresponding section 299 of the CrPC), allows courts to record evidence against an absconding accused who has no immediate prospect of arrest. These depositions can be used as evidence if the witness dies, is incapable of testifying, or cannot be found when the accused is eventually tried.

60. Section 335 of BNSS ensures evidence is preserved for prosecution when an accused **is on the run**, preventing the loss of testimony over time. It must be proved that the accused has absconded, and there is no immediate prospect of arresting them. A Magistrate or Sessions Court can examine witnesses in the accused's absence and record their depositions. These recorded statements can be used against the accused later if the witness is dead, incapable of giving evidence, or

missing. The provisions of Section 335 of the BNSS (corresponding section 299 of Cr.P.C.) are delineated below:-

Section 335 of BNSS. Record of evidence in absence of accused.—

(1) If it is proved that an accused person has absconded, and that there is no immediate prospect of arresting him, the Court competent to try, or commit for trial, such person for the offence complained of may, in his absence, examine the witnesses (if any) produced on behalf of the prosecution, and record their depositions and any such deposition may, on the arrest of such person, be given in evidence against him on the inquiry into, or trial for, the offence with which he is charged, if the deponent is dead or incapable of giving evidence or cannot be found or his presence cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable.

(2) If it appears that an offence punishable with death or imprisonment for life has been committed by some person or persons unknown, the High Court or the Sessions Judge may direct that any Magistrate of the first class shall hold an inquiry and examine any witnesses who can give evidence concerning the offence and any depositions so taken may be given in evidence against any person who is subsequently accused of the offence, if the deponent is dead or incapable of giving evidence or beyond the limits of India.

61. In case of absconding accused, released on bail after furnishing bail bond and sureties, the court concerned should initiated proceedings as per the provision of law and after exhausting it, as per Section 356 of the BNSS, the accused must be declared a proclaimed offender. Two consecutive warrants must be issued within a 30 days interval. Public notice in a local or national newspaper is required, allowing 30 days for appearance. Information must be given to relatives/friends and pasted at the last known residence and the local police station. The Court must wait 90 days from the framing of charges before starting the trial in absentia. If the offender does not have an advocate, the State must provide one Advocate at its expense.

62. In respect of an absconding accused declared a proclaimed offender, a new provision of law, i.e., Section 356, has been introduced with a mandatory provision to conduct a criminal case in the absence of the accused and to complete the trial. In case of conviction, his appeal shall not be entertained unless he first surrenders, and the limitation

period to file an appeal is three years in the case of an absconding and convicted accused. The complete procedure to conduct a criminal case has been provided under Section 356 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS). **The provisions of Section 356 BNSS is delineated below:-**

“Section 356. Inquiry, trial or judgment in absentia of proclaimed offender. - (1) Notwithstanding anything contained in this Sanhita or in any other law for the time being in force, when a person declared as a proclaimed offender, whether or not charged jointly, has absconded to evade trial and there is no immediate prospect of arresting him, it shall be deemed to operate as a **waiver of the right** of such person to be present and tried in person, and the Court shall, after recording reasons in writing, in the interest of justice, proceed with the trial in the like manner and with like effect **as if he was present**, under this Sanhita and **pronounce the judgment:**

Provided that the Court shall not commence the trial unless a period of ninety days has lapsed from the date of framing of the charge.

(2) The Court shall **ensure that the following procedure** has been complied with before proceeding under sub-section (1), namely:---

(i) **issuance of two consecutive warrants** of arrest within the interval of at least thirty days;

(ii) **publish in a national or local daily newspaper** circulating in the place of his last known address of residence, requiring the proclaimed offender to appear before the Court for trial and informing him that in case he fails to appear within thirty days from the date of such publication, the trial shall commence in his absence;

(iii) **inform his relative or friend**, if any, about the commencement of the trial; and

(iv) **affix information about the commencement of the trial on some conspicuous part of the house or homestead** in which such person ordinarily resides and **display in the police station** of the district of his last known address of residence.

(3) Where the proclaimed offender is not represented by any advocate, he shall be **provided with an advocate for his defence** at the expense of the State.

(4) Where the Court, competent to try the case or commit for trial, has examined any witnesses for prosecution and recorded their depositions, such depositions shall be given in evidence against such proclaimed offender on the inquiry into, or in trial for, the offence with which he is charged:

Provided that **if the proclaimed offender is arrested** and produced or appears before the Court during such trial, the Court may, in the interest of justice, **allow him to examine any evidence** which may have been taken in his absence.

(5) Where a trial is related to a person under this section, the **deposition and examination of the witness**, may, as far as practicable, be **recorded by audio-video electronic means** preferably

mobile phone and such recording shall be kept in such manner as the Court may direct.

(6) In prosecution for offences under this Sanhita, **voluntary absence of accused** after the trial has commenced under sub-section (1) shall **not prevent continuing the trial including the pronouncement of the judgment** even if he is arrested and produced or appears at the conclusion of such trial.

(7) **No appeal shall lie against the judgment under this section unless the proclaimed offender presents himself before the Court of appeal: Provided that no appeal against conviction shall lie after the expiry of three years from the date of the judgment.**”

63. Section 356 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 introduces “Trial in Absentia”, allowing courts to try, inquire into, or judge a proclaimed offender who has absconded to evade justice. This provision ensures that the trial proceeds even if the accused cannot be arrested, and is aimed at reducing delays.

64. Section 356 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, is a landmark provision that introduces the concept of Trial in Absentia into the Indian criminal justice system. It allows a court to proceed with the inquiry, trial, or judgment of an accused person who has been declared a proclaimed offender and is deliberately evading arrest.

65. Thus to prosecute an absconder accused and to complete trial, certain conditions are mentioned under Section 356 BNSS must be followed. The conditions are depicted herein below :

1. If a proclaimed offender absconds to evade trial and there is no immediate prospect of arrest, it is legally deemed a **waiver of their right** to be present and tried in person.
2. The court can record evidence, examine witnesses, and pronounce a judgment even if the accused is not physically present.
3. To ensure transparency and accuracy, depositions and examinations of witnesses should be recorded using **audio-video electronic means**, such as mobile phones.

4. If the absconding accused does not have lawyer, the court **must provide an advocate** for their defence at the expense of the State.
 5. The trial cannot commence until at least **90 days** have passed since the framing of charges.
 6. At least **two consecutive arrest warrants** must be issued with an interval of at least 30 days between them.
 7. A notice must be published in a **national or local daily newspaper** circulating in the area of the accused's last know residence.
 8. The court must **inform the accused's relatives** or friends about the commencement of the trial.
 9. Trial **information** must be displayed at a **conspicuous part** of the accused's house and at the local police station.
66. Appeal is continuation of trial, therefore, as per Section 356(7) of BNSS, an appeal against a judgment under this section is permitted only if the **offender presents himself** before the appellate court. **No appeal** against conviction can be filed **after three years** from the date of the judgment.
67. The concerned court at any stage of criminal proceeding should ensure that effective measures have been adopted to inform the accused about criminal proceedings and that is also reflected by the order-sheets as well as records of the case, thus, after filing of a charge-sheet if the Court is taking cognizance and summoning the accused, the concerned court must ensure that the accused must have proper knowledge of the summons. Service of summons may be effected at conspicuous places such as the accused's residence, public areas like roadways or railway stations, and through official records including DCRB and NCRB and its entry shall be made in the General Diary (G.D.) of the police station and must be submitted to the Court to ensure that the best effort has been made to serve the summons, so that the court may record it in the order

sheet and thereafter issue Non Bailable Warrants twice, at interval of 30 days, as provided under Section 356 BNSS to proceed to declare the accused as proclaimed offender.

68. If the concerned court is satisfied that a summon has been duly served and the accused fails to appear, the Court concerned may issue a Non-Bailable Warrant (NBW). Service attempts and information must be recorded in writing as it has been served personally to the accused or relative or affixed on conspicuous places such as the accused's residence, public areas, or through official records including DCRB and NCRB, with a G.D. entry at the police station to bring it to the Court's notice. However, if the accused has furnished a bail bond with sureties and was released on bail, the process of issuing an NBW shall be carried out in accordance with Section 92 of BNSS (corresponding Section 89 Cr.P.C.).

69. If the accused appears within two dates after the issuance of a Non-Bailable Warrant (NBW) under Section 92 of the BNSS, the Court may recall the NBW upon his appearance. The General Diary (G.D.) entries of the police, documenting their efforts to execute the NBW and attempt to arrest the accused, must be submitted to the Court. These entries should also be recorded in the order sheet of the case to enable the Court to take further proceedings in accordance with law.

70. As per Section 84 of BNSS (corresponding section 82 of Cr.P.C.), if a Court believes that a person against whom a warrant has been issued is absconding or hiding to avoid arrest, it may issue a written proclamation as per the conditions mentioned under Section 356 BNSS requiring the person to appear at a specified place and time, **at least thirty days from publication**. The proclamation must be publicly read and affixed at conspicuous places in the person's residence or locality circulating in the place in which such person ordinarily resides and the Court, and may also be published in a national or daily local newspaper. A written statement by the Court confirming publication is conclusive evidence of compliance.

71. If the accused is not appearing before the court concerned in compliance of order of proclamation issued under section 84 BNSS (corresponding Section 82 Cr.P.C.) the police shall take action under Section 209 BNS (corresponding Section 174 A IPC) as per Section 215 BNSS (corresponding Section 195 Cr.P.C.).

72. In case of an accused released on bail on furnishing personal bond and surety and declared proclaimed offender, the Court may declare a bail bond forfeited and, thereafter in accordance with **Section 491 of BNSS** (corresponding section 446 of Cr.P.C.), take steps to recover the penalty from the accused and the sureties. Under this section, if a bond is found to be forfeited, the Court records the reasons for such finding and directs the person bound by the bond to either pay the penalty or show cause why it should not be paid. If no sufficient cause is shown, the penalty may be recovered as a fine, and in default, the surety may be liable to imprisonment in civil jail for a term of up to six months. The Court also has discretion to remit part of the penalty after recording reasons. Furthermore, a surety's liability ceases upon their death.

73. As per Section 492 of BNSS (corresponding section 446-A of Cr.P.C.), the Court may cancel the bail bond of the accused as well as the bonds of the sureties due to breach of the bond conditions. Following such cancellation, the accused cannot be released on personal bond alone if no sufficient cause is shown for the failure to appear. However, the Court or the police officer may allow release upon the execution of a fresh personal bond with adequate sureties, as deemed necessary.

74. The concerned court or the police shall inform to the other court about cancellation of bail bond and sureties where any other criminal case is pending of the absconding accused person.

75. After the issuance of a proclamation against an absconding person, if the accused does not appear, the Court concerned in view of Section 85 of BNSS (Corresponding Section 83 Of Cr.P.C.), can order attachment of his movable or immovable property. Such attachment may be effected

within or outside the district and carried out by seizure, appointment of a receiver, or prohibitory orders, as applicable. The Court may also order sale of perishable property, and any receiver appointed shall exercise powers as under the Code of Civil Procedure, 1908.

76. As per Section 335 BNSS (corresponding Section 299 of Cr.P.C.) the concerned court can record the evidence in absence of accused and thereafter permanent Non-Bailable Warrant shall be issued and it shall be monitored on 30 days by the court concerned and its effort of arrest shall be brought to the knowledge of the court concerned through G.D. entry of the police station and it shall also be placed in the every District crime meeting and its effort shall be mentioned in the minutes of the meeting and shall be brought in the knowledge of the court concerned, and the permanent NBW shall continue till its execution.

77. In respect of the absconded accused declared proclaimed offender, new provision of law i.e. Section 356 has been introduced with mandatory provision to conduct a criminal case in absence of an accused and complete the trial and pronounce the judgment and in case of conviction, his appeal shall not be entertained until and unless he surrenders and the limitation period to file an appeal is three years in case of absconded and convicted accused. The complete procedure to conduct a criminal case has been provided under section 356 of Bhartiya Nagarik Suraksha Sanhita, 2023.

78. For speedy trial, Section 389 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (corresponding Section 350 Cr.P.C.) empowers criminal courts to summarily punish non-attending witnesses with fine upto five hundred rupees, without initiating lengthy legal proceedings. It applies to any witness who has been duly summoned by a criminal court but fails to attend or departs prematurely without sufficient justification. The provisions of section 389 BNSS (corresponding Section 350 Cr.P.C.) is delineated below:-

“Section 389 of BNSS:- Summary procedure for punishment for non-attendance by a witness in obedience to summons.—(1) If any witness being summoned to appear before a Criminal Court is

legally bound to appear at a certain place and time in obedience to the summons and without just excuse neglects or refuses to attend at that place or time or departs from the place where he has to attend before the time at which it is lawful for him to depart, and the Court before which the witness is to appear is satisfied that it is expedient in the interests of justice that such a witness should be tried summarily, the Court may take cognizance of the offence and after giving the offender an opportunity of showing cause why he should not be punished under this section, sentence him to fine not exceeding five hundred rupees.

(2) In every such case the Court shall follow, as nearly as may be practicable, the procedure prescribed for summary trials.”

“Section 350 of Cr.P.C.:- Summary procedure for punishment for non-attendance by a witness in obedience to summons.—(1) If any witness being summoned to appear before a Criminal Court is legally bound to appear at a certain place and time in obedience to the summons and without just excuse neglects or refuses to attend at that place or time or departs from the place where he has to attend before the time at which it is lawful for him to depart, and the Court before which the witness is to appear is satisfied that it is expedient in the interest of justice that such a witness should be tried summarily, the Court may take cognizance of the offence and after giving the offender an opportunity of showing cause why he should not be punished under this section, sentence him to fine not exceeding one hundred rupees.

(2) In every such case the Court shall follow, as nearly as may be practicable, the procedure prescribed for summary trials.”

79. If any hindrance is caused in speedy enquiry or trial, the person causing hindrance or holding the enquiry or trial for unreasonable period may be prosecuted treating as helping to the accused as his past/subsequent conduct as mentioned under Section 6 of Bharatiya Sakshya Adhiniyam, 2023 (corresponding Section 8 of Indian Evidence Act, 1872). Thus, for unreasonable period, order of sanction or any forensic test etc. cannot be held by the concerned authority or person otherwise, the court concerned may treat it as hindrance in imparting speedy justice.

80. The concerned court at the stage of enquiry or trial shall for speedy trial/justice shall follow the mandate as provided under section 346 BNSS, otherwise, it shall be mentioned by the concerned court of enquiry or trial in respect of delay in the orders or judgement so that accountability of the concerned court may be determined whether, delay

occurred due to unavoidable circumstances or ignorance of the concerned court.

81. Section 346 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (corresponding section 309 Cr.P.C.) mandates that criminal inquiries and trials should, as far as practicable, be conducted on a **day-to-day** basis until all witnesses are examined. It restricts adjournments, allowing them only when necessary and only if the court records its reasons in writing, thereby preventing unnecessary delays. In cases of sexual offences under Sections 64 to 71 of the Bharatiya Nyaya Sanhita, the trial should, as far as possible, be completed within two months from the date of filing of the charge sheet. Further, when proceedings are adjourned or postponed, the court may remand the accused to custody, but such remand shall not exceed fifteen days at a time. The provision also limits adjournments by allowing only a restricted number in circumstances beyond the control of a party, generally not exceeding two in certain situations, to ensure the expeditious disposal of cases. The provisions of Section 346 of BNSS (corresponding section 309 Cr.P.C.) is delineated below:

“Section 346 of BNSS. Power to postpone or adjourn proceedings.—(1) *In every inquiry or trial the proceedings shall be continued from day-to-day basis until all the witnesses in attendance have been examined, unless the Court finds the adjournment of the same beyond the following day to be necessary for reasons to be recorded:*

*Provided that when the inquiry or trial relates to an offence under section 64, section 65, section 66, section 67, section 68, section 70 or section 71 of the Bharatiya Nyaya Sanhita, 2023 (45 of 2023) the inquiry or trial **shall be completed within a period of two months from the date of filing of the chargesheet.***

(2) *If the Court, after taking cognizance of an offence, or commencement of trial, finds it necessary or advisable to postpone the commencement of, or adjourn, any inquiry or trial, it may, from time to time, for reasons to be recorded, postpone or adjourn the same on such terms as it thinks fit, for such time as it considers reasonable, and may by a warrant remand the accused if in custody:*

*Provided that no Court shall **remand an accused** person to custody under this section for a **term exceeding fifteen days** at a time: Provided further that when witnesses are in attendance, no adjournment or postponement shall be granted, without examining them, except for special reasons to be recorded in writing:*

Provided also that no adjournment shall be granted for the purpose only of enabling the accused person to show cause against the sentence proposed to be imposed on him:

Provided also that—

*(a) **no adjournment** shall be granted at the request of a party, except where the circumstances are beyond the control of that party;*

*(b) where the circumstances are beyond the **control** of a party, not more than **two adjournments may be** granted by the Court after hearing the objections of the other party and for the reasons to be recorded in writing;*

*(c) the fact that the **advocate of a party is engaged in another Court, shall not be a ground for adjournment;***

(d) where a witness is present in Court but a party or his advocate is not present or the party or his advocate though present in Court, is not ready to examine or cross-examine the witness, the Court may, if thinks fit, record the statement of the witness and pass such orders as it thinks fit dispensing with the examination-in-chief or cross-examination of the witness, as the case may be.

Explanation 1.—If sufficient evidence has been obtained to raise a suspicion that the accused may have committed an offence, and it appears likely that further evidence may be obtained by a remand, this is a reasonable cause for a remand.

Explanation 2.—The terms on which an adjournment or postponement may be granted include, in appropriate cases, the payment of costs by the prosecution or the accused.”

82. To ensure speedy proceedings under the Bharatiya Nagarik Suraksha Sanhita, a time limit (Luxman Rekha) has been fixed for every stage, including enquiry, investigation, summons, warrants, proclamation, supply of copies, committal, framing of charges, completion of evidence and pronouncement of judgment, even in the absence of an absconded accused.

83. The Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, which replaced the CrPC on July 1, 2024, introduces several strict timelines to ensure a speedier criminal justice process. The time limits and periods mentioned in various sections are delineated below:

1. Investigation & FIR

Preliminary Enquiry : Must be completed within 14 days under Section 173(3) for offences punishable with 3 to 7 years of imprisonment. {Section 173(3) BNSS}

E-FIR Registration : Information sent electronically must be signed by the informant within 3 days to be formally recorded as an FIR {Section 173(1)(ii) of BNSS}.

Medical Examination (Sexual Offences): The report must be forwarded to the Investigating Officer within 7 days. (Section 184 BNSS)

Investigation Progress Update : The police must update the informant or victim on the progress of the investigation within 90 days. {Section 193(3)(ii) BNSS}.

Default Bail : If the accused person is in custody during investigation for a total period exceeding 90 days, where the investigation relates to an offence punishable with death, imprisonment for life, or imprisonment for a term of ten years or more, or 60 days, where the investigation relates to any other offence, the accused is entitled to bail {Section 187(3) BNSS}.

Sexual Offence Investigation : Must be completed within 2 months from the date the FIR was registered {Section 193(2) BNSS}.

Further investigation : Generally capped at 90 days requires court permission during trial {Section 193(9) BNSS}

2. Summons, Warrants & Proclamations

Supply of Documents : Copies of the police report and documents must be supplied to the accused within 14 days of their first appearance (Section 230 BNSS).

Proclamation for Absconding Person. Must specify a time not less than 30 days from the date of publication for the person to appear (Section 84 BNSS).

Attachment of Property: Claims or objections to attached property must be made within 6 months from the date of attachment (Section 87 BNSS).

Sale of Attached Property : The state cannot sell attached property until 6 months have passed from the date of attachment. {Section 88(2) BNSS}

3. Committal and Framing of Charges

Committal Proceedings : Must be completed within 90 days from the date of taking cognizance (extendable to 180 days with recorded reasons). (Section 232 BNSS)

Discharge Application:

Sessions Cases : Must be filed within 60 days from the date of committal. {Section 250(1) BNSS}

Warrant Cases : Must be filed within 60 days from the date of supply of documents. {Section 262(1) BNSS}.

Framing of Charge : Must be completed within 60 days from the first hearing on the charge {Sections 251(1)(b) and 263(1) BNSS}

4. Trial and Judgment

Plea Bargaining : An application must be filed within 30 days from the date of framing charges. (Section 290 BNSS)

Trial Completion (Sexual Offences): Rape trials must be completed within 2 months from the date of filing the charge sheet (Section 254 BNSS)

Section 356 BNSS primarily deals with the trial in absentia of “proclaimed offenders.” It provides the following important provisions regarding the time period.

1. Commencement of Trial

The court cannot commence trial in the absence of the proclaimed offender until 90 days have elapsed from the date of framing of charge. {Section 356(1) Proviso BNSS}

2. Gap between Warrants

Before the trial in absentia can begin, the court must issue two consecutive warrants of arrest at least 30 days apart. {Section 356(2)(i) BNSS}

3. Newspaper Publication

The court must publish a notice in a newspaper in the area of the offender’s last known address. This notice given the offender 30 days to appear. If they fail to appear within this time, the trial can be conducted in their absence. {Section 356(2)(ii) BNSS}

4. Limitation for Appeal

If the offender is convicted under this section, he cannot appeal against the sentence after the expiry of 3 years from the date of the judgment. {Section 356(7) BNSS}

Pronouncement of Judgment :

General : Must be pronounced within 30 days of the conclusion of final arguments (extendable to 45 days with reasons) {Section 392(1) BNSS}

Sessions Trial : Verdict within 30 days (extendable to 45 days) (Section 258 BNSS)

Uploading of Judgment : Must be uploaded to the official portal within 7 days of its pronouncement {Section 392(1) BNSS}

84. Although the BNSS came into force on 1 July 2024 and the alleged offence took place prior to the date of its enforcement, it is a settled principle of law, that the procedure that is more beneficial to the accused must be adopted. In the case of **Deepu and Ors. v State of U.P. and Ors., (2024) 8 ILRA 903 (Crl. Misc. Writ Petition No.12287 of 2024)**, the Division bench of this Court in paragraph no.16 (iii) held that on or after 01.07.2024, the procedure mentioned under the Bharatiya Nagarik Suraksha Sanhita, 2023, shall be applicable to offences committed under the Indian Penal Code or other Special Act. The paragraph No. 16 is delineated below:

“16 .On the basis of above analysis, this Court is also summarising the law regarding effect of repealing the IPC and Cr.P.C. by BNS and BNSS respectively and same is being mentioned as below:

(i) If an FIR is registered on or after 1.7.2024 for the offence committed prior to 1.7.2024, then FIR would be registered under the provisions of IPC but the investigation will continue as per BNSS.

(ii) In the pending investigation on 01.07.2024 (on the date of commencement of New Criminal Laws), investigation will continue as per the Cr.P.C. till the cognizance is taken on the police report and if any direction is made for further investigation by the competent Court then same will continue as per the Cr.P.C.;

(iii) The cognizance on the pending investigation on or after 01.07.2024 would be taken as per the BNSS and all the subsequent proceeding including enquiry, trial or appeal would be conducted as per the procedure of BNSS.

*(iv) Section 531(2)(a) of BNSS saved only pending investigation, trial, appeal, application and enquiry, **therefore, if any trial, appeal, revision or application is commenced after 01.07.2024, the same will be proceeded as per the procedure of BNSS.***

(v) *The pending trial on 01.07.2024, if concluded on or after 01.07.2024 then appeal or revision against the judgement passed in such a trial will be as per the BNSS. However, if any application is filed in appeal, which was pending on 01.07.2024 then the procedure of Cr.P.C. will apply.*

(vi) *If the criminal proceeding or chargesheet is challenged before the High Court on or after 01.07.2024, where the investigation was conducted as per Cr.P.C. then same will be filed u/s 528 of BNSS not u/s 482 Cr.P.C.”*

85. The usage of word ‘Trial’ in a criminal proceeding has been mentioned in Section 2(1)(k) of the BNSS, which reads as under :-

2. Definitions.(1)(k) BNSS. *“inquiry” means every enquiry, other than a trial, conducted under this Sanhita by a Magistrate or Court;*

86. In the case of **Hardeep Singh vs. State of Punjab and others, AIR 2014 SC 1400**, the Hon’ble Supreme Court has held that the *stage of trial begins after the framing of the charge.* The relevant paragraphs no.35 and 43 of the aforesaid judgment is being quoted below :-

*“35. In view of the above, the law can be summarised to the effect that as ‘trial’ means determination of issues adjudging the guilt or the innocence of a person, the person has to be aware of what is the case against him and it is only at the stage of framing of the charges that the court informs him of the same, **the ‘trial’ commences only on charges being framed.** Thus, we do not approve the view taken by the courts that in a criminal case, trial **commences on cognizance being taken.***

X X X X

*43. **Since after the filing of the charge-sheet, the court reaches the stage of inquiry and as soon as the court frames the charges, the trial commences,** and therefore, the power under Section 319(1) Cr.P.C. can be exercised at any time after the charge-sheet is filed and before the pronouncement of judgment, except during the stage of Section 207/208 Cr.P.C., committal etc., which is only a pre-trial stage, intended to put the process into motion. This*

stage cannot be said to be a judicial step in the true sense for it only requires an application of mind rather than a judicial application of mind.”

87. On failure to comply with the process, the dealing assistant/clerk shall be responsible for the same. Further, the GD entry in respect of service or compliance of the order of the court shall be uploaded on the portal of the concerned police station to ascertain its execution by the concerned court to maintain order sheet of the case and to proceed further, and if the police official fails to follow this procedure, it will be deemed that the concerned police official of the concerned police station, as well as the nodal officer of the police, shall be answerable or responsible to the concerned court for further necessary action under Section 199 of the BNS (corresponding to section 166-A IPC), as well as under Section 29 of the Police Act, 1861. The provisions of Section 199 BNS is delineated below:-

“Section 199. Public servant disobeying direction under law.—
Whoever, being a public servant,—

(a) knowingly disobeys any direction of the law which prohibits him from requiring the attendance at any place of any person for the purpose of investigation into an offence or any other matter; or

(b) knowingly disobeys, to the prejudice of any person, any other direction of the law regulating the manner in which he shall conduct such investigation; or

(c) fails to record any information given to him under subsection (1) of section 173 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in relation to cognizable offence punishable under section 64, section 65, section 66, section 67, section 68, section 70, section 71, section 74, section 76, section 77, section 79, section 124, section 143 or section 144, shall be punished with rigorous imprisonment for a term which shall not be less than six months but which may extend to two years, and shall also be liable to fine.”

88. Section 29 of the Police Act, 1861 outlines the penalties for police officers, who fail to perform their duties, disobey orders, or act negligently, all such officers shall be liable for punishment in accordance with law. The provisions of Section 29 of the Police Act, 1861 are delineated below:-

Section 29. Penalties for neglect of duty, etc.

Every police-officer who shall be guilty of any violation of duty or wilful breach or neglect of any rule or regulation or lawful order made by competent authority, or who shall withdraw from the duties of his office without permission, or without having given previous notice for the period of two months, or who, being absent on leave, shall fail, without reasonable cause, to report himself for duty on the expiration of such leave, or who shall engage without authority in any employment other than his police-duty, or who shall be guilty of cowardice, or who shall offer any unwarrantable personal violence to any person in his custody, shall be liable, on conviction before a Magistrate, to a penalty not exceeding three months pay, or to imprisonment with or without hard labour, for a period not exceeding three months, or to both.

89. The Public Prosecutors are under an obligation to assist the Court in the manner as well as within the time frame as mentioned in the BNSS at every stage of the proceedings, therefore, to ensure the expeditious disposal of criminal cases in the District, responsibility to monitor cases has been given to the Director of Prosecution, Deputy Director of Prosecution and Assistant Director of Prosecution under Section 20(7)(8)(9) and (10) of the BNSS. Thereafter, as per Section 20(3)(4)(5)(6) of the Bharatiya Nagarik Suraksha Sanhita, 2023, the Additional Chief Secretary, Home Department, Government of U.P., the concerned Director of Prosecution, and the concerned Public Prosecutors are to be held accountable for ensuring expeditious disposal of the criminal cases pending in district courts. Section 20 of the BNSS is delineated below for ready reference :-

“20. Directorate of Prosecution.—(1) *The State Government may establish,—*

(a) a Directorate of Prosecution in the State consisting of a Director of Prosecution and as many Deputy Directors of Prosecution as it thinks fit; and

(b) a District Directorate of Prosecution in every district consisting of as many Deputy Directors and Assistant Directors of Prosecution, as it thinks fit.

(2) *A person shall be eligible to be appointed,—*

(a) as a Director of Prosecution or a Deputy Director of Prosecution, if he has been in practice as an advocate for not less than fifteen years or is or has been a Sessions Judge;

(b) as an Assistant Director of Prosecution, if he has been in practice as an advocate for not less than seven years or has been a Magistrate of the first class.

(3) *The Directorate of Prosecution shall be headed by the Director of Prosecution, who shall function under the **administrative control of the Home Department** in the State.*

(4) *Every Deputy Director of Prosecution or Assistant Director of Prosecution shall be subordinate to the Director of Prosecution; and*

every Assistant Director of Prosecution shall be subordinate to the Deputy Director of Prosecution.

(5) Every Public Prosecutor, Additional Public Prosecutor and Special Public Prosecutor appointed by the State Government under sub-section (1) or sub-section (8) of section 18 to conduct cases in the High Court shall be subordinate to the Director of Prosecution.

(6) Every Public Prosecutor, Additional Public Prosecutor and Special Public Prosecutor appointed by the State Government under sub-section (3) or sub-section (8) of section 18 to conduct cases in District Courts and every Assistant Public Prosecutor appointed under sub-section (1) of section 19 shall be subordinate to the Deputy Director of Prosecution or the Assistant Director of Prosecution.

*(7) The powers and functions of the **Director of Prosecution** shall be to **monitor cases** in which offences are punishable for ten years or more, or with life imprisonment, or with death; to **expedite the proceedings** and to give opinion on filing of appeals.*

*(8) The powers and functions of the **Deputy Director** of Prosecution shall be to examine and scrutinise police report and monitor the cases in which offences are punishable for seven years or more, but less than ten years, for **ensuring their expeditious disposal**.*

*(9) The functions of the **Assistant Director** of Prosecution shall be to monitor cases in which offences are punishable for less than seven years.*

*(10) Notwithstanding anything contained in sub-sections (7), (8) and (9), the Director, Deputy Director or Assistant Director of Prosecution shall have the power to deal with and **be responsible for all proceedings under this Sanhita**.*

(11) The other powers and functions of the Director of Prosecution, Deputy Directors of Prosecution and Assistant Directors of Prosecution and the areas for which each of the Deputy Directors of Prosecution or Assistant Directors of Prosecution have been appointed shall be such as the State Government may, by notification, specify.

(12) The provisions of this section shall not apply to the Advocate General for the State while performing the functions of a Public Prosecutor.”

90. In view of the above facts and circumstances and in the interest of justice as well as for a speedy trial, this Court has reached to a conclusion, based upon the findings above that:-

91. The Government has invested huge public money to develop online process portals namely, (NSTEP) National Service and Tracking of Electronic Processes and (CIS) Court Information System; therefore, processes must be sent through the ongoing online portal and its record must be maintained by the dealing officer or court clerk/assistant. In the event of non-compliance thereof, the concerned official assigned the

duties to do so, shall be held responsible and the consequences would follow.

92. On failure to comply with the process, the dealing assistant/clerk shall be responsible for the same. Further, the GD entry in respect of service or compliance of order of the court shall be uploaded on the portal of the concerned police station to ascertain its execution by the concerned court to maintain order sheet of the case and to proceed further, and if the police official fails to follow this procedure, it will be deemed that the concerned police official of the concerned police station, as well as the nodal officer of the police, shall be answerable or responsible to the concerned court for further necessary action under Section 199 of the BNS (corresponding section 166-A IPC), as well as under Section 29 of the Police Act, 1861.

93. The court concerned is directed that in case of an inquiry, trial or judgment in absentia of a proclaimed offender/absconded accused, notwithstanding anything contained in the Sanhita or any other law, for the time being in force, when a person, declared as a proclaimed offender, whether or not charged jointly, has absconded to evade trial and there is no immediate prospect of arresting him, it shall be deemed to operate as a waiver of the right of such person to be present and tried in person. The Court shall, after recording reasons in writing and in the interest of justice, proceed with the trial in the same manner and with the same effect, as if he was present and/or has participated in trial under this Sanhita and pronounce the judgment; accordingly.

94. It is directed that the new provision of law introduced under Section 356 of the BNSS, in cases of an absconding accused, shall be followed by the Court concerned, as well as by the Public Prosecutor and the police, while conducting a criminal case.

95. It is directed that, if the presiding officer adjourns the case without any cogent reason as prescribed by law, and the adjournment so given results in an unnecessary delay in respect of an absconder/accused, in

that event the concerned court/presiding officer shall be dealt with departmentally, and appropriate proceedings may be conducted for such negligence or dereliction of duty, while discharging judicial work.

96. It is directed that when a public servant fails to discharge his duty, as prescribed by the law or a court order within the stipulated time or in accordance with the provision of the BNSS, such inaction on the part of the concerned official may attract the provisions of Disciplinary Rules, and contempt of court proceedings on the judicial side.

97. The Investigating Officer, the Public Prosecutor and the Presiding Officer are directed, that they shall proceed with the criminal proceedings in a systematic manner and within the time frame, as provided under the BNSS as observed in the preceding **paragraphs no.13 and 83** of this order for a speedy justice and trial in the interest of both the accused as well as the victim.

98. It is directed that in cases of non-compliance with summons, warrants, or the provisions of Sections 84 and 85 of the BNSS (corresponding Sections 82 and 83 Cr.P.C.) or Section 174-A IPC (corresponding Section 209 BNS), within time frame and in the manner as specified under the law, the Presiding Officer shall immediately inform the concerned Superintendent of Police (S.P.), Senior Superintendent of Police (S.S.P.), or Commissioner of Police, as the case may be and the District Magistrate, so that appropriate departmental and/or criminal proceedings may be initiated against the erring officers or personnel, who cause a hindrance in imparting a speedy trial/justice to the aggrieved party in accordance with the Conduct and Disciplinary Rules, as applicable under the law.

99. It is directed that, if the public prosecutors do not assist the Court for the expeditious disposal of the criminal cases, as per the provisions of law within the time frame or in the manner prescribed under the law or, as directed by the Court, in cases of absconding accused etc., the concerned authorities mentioned under Section 20 of the BNSS i.e.

Additional Chief Secretary, Home Department, U.P. Govt., the concerned Director of Prosecution and the District Magistrate, may take appropriate action against the erring Public Prosecutors, as provided under law.

100. It is directed that all summons, warrants, and orders be executed by the concerned person/authority in accordance with the procedure, prescribed by law. Evidence of such execution/non-execution of summons, warrants or orders shall be entered into the order sheet, as the case may be, to establish that the accused was afforded an opportunity to be heard prior to passing an order of conviction, regardless of whether the proceedings were conducted in person or as an absconder.

101. The Director General of Police (D.G.P.) and the Director of Prosecution are directed to circulate this order within 60 days to all concerned authorities to co-operate in concluding enquiry, investigation and trial for speedy justice in the manner as well as within the prescribed time under the Bharatiya Nagarik Suraksha Sanhita, 2023 and other laws.

102. It is directed that the concerned District Judge shall take up the matter/issue in every monthly meeting of the Judicial Officers and further in the Monitoring Cell meeting of the district, which is held every month.

103. The Registrar General of this Court is directed to transmit a copy of this order to the Judicial Training and Research Institute, U.P., Lucknow (JTTRI), for the academic purposes of judicial officers.

104. The Government Advocate is directed to communicate this order to the Chief Secretary, Govt. of U.P.; Additional Chief Secretary, Home Department, Govt. of U.P.; the Additional/Principal Secretary of Law Department, Govt. of U.P.; the Director General of Prosecution and Director of Prosecution, State of U.P.; the District Magistrates, the Senior Superintendents of Police, the Superintendents of Police, the Commissioners of Police of all districts of the State of U.P., to take

necessary action **within 60 days** from the date of this order so as to conclude the trial of proclaimed offenders, as provided under Section 356 BNSS and other provisions of law.

105. This application is **disposed of** with the direction that the impugned order dated 18.10.2024 shall be kept in abeyance for a period of two months from the date of this order, thereafter, the trial court shall be at liberty to pass an appropriate order in the event the accused does not cooperate in the trial at every stage i.e. such as framing of charges, recording of statements under Section 351 BNSS (*corresponding to Section 313 Cr.P.C.*) and at the time of pronouncement of the judgment etc.

(Praveen Kumar Giri,J.)

May 5, 2026
Manish Himwan