



THE BHARATIYA NAGARIK SURAKSHA SANHITA, 2023

SHORT NOTES BOOK FOR PRELIMINARY EXAM

CHAPTER I

PRELIMINARY

Section .1 - Title, Extent, and Commencement

1. **Title:**

- This Act is called the Bharatiya Nagarik Suraksha Sanhita, 2023.

2. **Extent:**

- The provisions of this Sanhita, except Chapters IX, XI, and XII, do not apply to:
 - The State of Nagaland.
 - Tribal areas.
- However, the concerned State Government can apply these provisions to Nagaland or tribal areas with modifications via notification.
- Explanation:
 - "Tribal areas" refer to territories included in the tribal areas of Assam before January 21, 1972, excluding those within the municipality of Shillong.

3. **Commencement:**

- It will come into force on a date appointed by the Central Government through a notification.

Section .2 Definitions

1. **In this Sanhita:**

- (a) "Audio-video electronic means" includes any device for video conferencing, recording processes, transmission of communication, etc., as defined by State Government rules.
- (b) "Bail" means the release of a person accused or suspected of an offence, under conditions imposed by a Court or officer.
- (c) "Bailable offence" means an offence listed as bailable in the First Schedule or any other current law; "non-bailable offence" means any other offence.
- (d) "Bail bond" is an undertaking for release with surety.
- (e) "Bond" is a personal undertaking for release without surety.
- (f) "Charge" includes any specific accusation when multiple accusations exist.
- (g) "Cognizable offence" means an offence for which a police officer can arrest without a warrant.
- (h) "Complaint" is an allegation to a Magistrate for action under this Sanhita, excluding police reports.
- (i) "Electronic communication" includes any information transmitted electronically, such as via phone or computer.
- (j) "High Court" means the highest Court of a State or Union territory.
- (k) "Inquiry" is any non-trial investigation by a Magistrate or Court.
- (l) "Investigation" includes all evidence collection procedures by a police officer or authorized person.
- (m) "Judicial proceeding" includes any evidence-taking process on oath.
- (n) "Local jurisdiction" refers to the area within which a Court or Magistrate has authority.
- (o) "Non-cognizable offence" means an offence for which a police officer cannot arrest without a warrant.

- (p) "Notification" means an Official Gazette publication.
- (q) "Offence" includes any punishable act or omission by law.
- (r) "Officer in charge of a police station" includes the next-in-rank officer when the in-charge is absent.
- (s) "Place" includes a house, building, tent, vehicle, or vessel.
- (t) "Police report" is a report forwarded by a police officer to a Magistrate under section 193(3).
- (u) "Police station" is any location declared a police station by the State Government.
- (v) "Public Prosecutor" is any person appointed under section 18, including those acting under a Public Prosecutor.
- (w) "Sub-division" refers to a district sub-division.
- (x) "Summons-case" involves an offence not being a warrant-case.
- (y) "Victim" is a person who suffered loss or injury due to the accused, including guardians or legal heirs.
- (z) "Warrant-case" involves an offence punishable by death, life imprisonment, or imprisonment over two years.

2. **Other Definitions:**

- Terms not defined here but defined in the Information Technology Act, 2000, and the Bharatiya Nyaya Sanhita, 2023, carry their respective meanings from those Acts.

Section .3 Construction of references.

1. **Magistrate References:**

- Any law reference to a Magistrate, without qualifiers, is a reference to a Judicial Magistrate of the first or second class in that area.

2. **Magistrate Functions:**

- (a) Judicial Magistrates handle functions involving evidence assessment, decisions leading to punishment or detention, or trial proceedings.
- (b) Executive Magistrates handle administrative tasks like granting licenses or sanctioning prosecutions.

Section 4. Trial of offences under Bharatiya Nyaya Sanhita, 2023 and other laws.

1. **Procedure for Offences:**

- Offences under the Bharatiya Nyaya Sanhita, 2023, are dealt with according to this Sanhita's provisions.

2. **Other Laws:**

- Offences under other laws follow this Sanhita's provisions unless another law prescribes a different procedure.

Section 5. Saving.

1. **Special and Local Laws:**

- This Sanhita does not override any special or local law in force, or any special jurisdiction, power, or procedure prescribed by any other law, unless specifically stated otherwise.



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CHAPTER II

CONSTITUTION OF CRIMINAL COURTS AND OFFICES

Section 6. Classes of Criminal Courts

- In every State, there will be the following classes of Criminal Courts, apart from the High Courts and any other Courts established by law:
 1. Courts of Session.
 2. Judicial Magistrates of the first class.
 3. Judicial Magistrates of the second class.
 4. Executive Magistrates.

Section 7. Territorial divisions.

Each State will be divided into sessions divisions, which may consist of one or more district.

1. The State Government, after consulting the High Court, change the limits or number of these divisions and districts.
2. The State Government, after consulting the High Court, can divide any district into sub-divisions and alter their limits or number.
3. Existing sessions divisions, districts, and sub-divisions at the commencement of this Sanhita are deemed to have been formed under this section.

Section 8. Court of Session.

1. The State Government will establish a Court of Session for every sessions division.
2. Each Court of Session will have a Judge appointed by the High Court.
3. The High Court may also appoint Additional Sessions Judges for these courts.
4. A Sessions Judge from one division can be appointed as an Additional Sessions Judge in another division and can sit at designated places as directed by the High Court.
5. If the office of the Sessions Judge is vacant, the High Court can arrange for an Additional Sessions Judge or Chief Judicial Magistrate to handle urgent applications.
6. The Court of Session will usually hold its sittings at places specified by the High Court, but can hold them at other places with the consent of the prosecution and the accused for convenience.
7. The Sessions Judge can distribute business among Additional Sessions Judges as needed.
8. The Sessions Judge can arrange for an Additional Sessions Judge or Chief Judicial Magistrate to handle urgent applications during his absence.

Explanation: "Appointment" here does not include initial appointments, postings, or promotions by the Government for any service or post related to the Union or a State.

Section 9. Courts of Judicial Magistrates.

1. The State Government, after consulting the High Court, will establish as many Courts of Judicial Magistrates of the first and second class in each district as needed.
Provided: The State Government can establish Special Courts of Judicial Magistrates for any local area to try specific cases or classes of cases. These Special Courts will have exclusive jurisdiction over those cases.

2. The High Court will appoint the presiding officers of these Courts.
3. The High Court can confer the powers of a Judicial Magistrate of the first or second class on any member of the State's Judicial Service functioning as a Judge in a Civil Court.

Section 10. Chief Judicial Magistrate and Additional Chief Judicial Magistrate, etc.

1. In every district, the High Court will appoint a Judicial Magistrate of the first class as the Chief Judicial Magistrate.
2. The High Court can appoint an Additional Chief Judicial Magistrate with the same powers as a Chief Judicial Magistrate.
3. The High Court can designate any Judicial Magistrate of the first class in any sub-division as the Sub-divisional Judicial Magistrate and can relieve him of these responsibilities as needed.
4. Under the general control of the Chief Judicial Magistrate, the Sub-divisional Judicial Magistrate will supervise and control the work of other Judicial Magistrates in the sub-division as specified by the High Court.

Section 11. Special Judicial Magistrates.

1. The High Court, upon request from the Central or State Government, may grant any government official the powers of a Judicial Magistrate of the first or second class for specific cases or types of cases in a particular area.
 - This can only be done if the person has the qualifications or experience specified by the High Court.
2. These officials will be called Special Judicial Magistrates and can be appointed *for a term not exceeding one year at a time.*

Section 12. Local Jurisdiction of Judicial Magistrates.

The Chief Judicial Magistrate, under the High Court's control, can define the local limits within which Magistrates appointed under sections 9 or 11 can exercise their powers.

- Special Judicial Magistrates can hold sessions anywhere within their local area.
2. Unless otherwise defined, a Magistrate's jurisdiction and powers extend throughout the district.
 3. If a Magistrate's jurisdiction covers areas beyond their usual district, references to the Court of Session or Chief Judicial Magistrate should be understood to refer to the corresponding authorities in the extended area.

Section 13. Subordination of Judicial Magistrates

1. Every Chief Judicial Magistrate is subordinate to the Sessions Judge, and every other Judicial Magistrate is subordinate to the Chief Judicial Magistrate under the general control of the Sessions Judge.
2. The Chief Judicial Magistrate can make rules or special orders about the distribution of work among subordinate Judicial Magistrates, consistent with this Sanhita.

Section 14. Executive Magistrates

1. The State Government can appoint as many Executive Magistrates as needed in each district and must appoint one as the District Magistrate.