

BNSS-2023

In India

⇒

Two types of Law

Civil Laws

eg:- SOAG Act

Proceedings:- CPC

Criminal Laws

eg:- BNS

Crime

Punishment

↓

Criminal Proceedings

↓

BNSS-2023

Sec-1(1):- This act may be called BNSS-2023.

1(2) :- This provision of BNSS (except-ch-IX, XI & XII) shall not apply to (a) Nagaland (b) Tribal Areas.

1(3) :- It shall come into force on such date as notified by Central Government.

Section-2 ⇒ Definition :-

2(1)(a) :- Offence :- Any act / omission made punishable under any law :-

(a) BNS

(b) Money Laundering.

There are two types of offence :-

2(1)(g) BNSS

Cognizable offence
↓

Police officer may arrest
without warrant.

↓

More Serious.

⇒ Generally ⇒ Non-Bailable

↓

2(1)(c) where accused get
bail on Discretion
of Court.

2(1)(2)

⇒ Generally ⇒ Warrant
case

↓

Punishment

↓

- ① Death.
- ② Life Imprisonment.
- ③ > 2 years.

2(1)(o) BNSS

Non-Cognizable offence.
↓

Police officer may arrest
with warrant

↓

less serious.

⇒ Generally ⇒ Bailable

↓

2(1)(c) where accused get
bail as matter of Right.

2(1)(x)

Generally ⇒ Summon case.

↓

Any case other than
warrant case.

↓

Punish ⇒ ≤ 2 years.

Sec-6:- Classes of Criminal Courts :-

In every state :-

- ① High Court
 - ② Session Court / Court of Session
 - ③ Chief Judicial Magistrate
 - ④ Magistrate of 1st Class
 - ⑤ Magistrate of 2nd Class
 - ⑥ Executive Magistrate
- sec-14 कार्यपालक ⇒ Administration

Sec-6 + Sec-22 + Sec-23

Power of Criminal Courts.

1:- High court :- Sec-22 :- High court may any sentence as he think fit.

2:- Court of session ⇒ Session Judge / Additional Judge
↓
Sec-22 :- Any sentence as Authorised by law.

But ⇒ Sentence of Death ⇒ With Confirmation of High Court.

3 :- Chief Judicial Magistrate (Sec-22) :-

↓
may pass any sentence except :-

max - 7 years.

(i) Death

(ii) Life Imprisonment

(iii) > 7 years.

(4) Magistrate of 1st Class :- may pass sentence

↓

max ⇒ 3 years Imp or 50,000 ₹ fine or
Both or Community service.

(5) Magistrate of 2nd Class :- may pass sentence

↓

max ⇒ 1 year Imp. or 10,000 ₹ fine or
Both or community service.

Section 21 is about which court can **try** offenses

This section explains which courts have the authority to try different types of offenses.

Key points:

1. Offenses under the **Bharatiya Nyaya Sanhita, 2023** can be tried by:
 - High Court
 - Court of Session
 - Other courts specified in the First Schedule
2. Offenses under other laws can be tried by:
 - The court specified in that law
 - If not specified, then the High Court or other courts mentioned in the First Schedule

In short, Section 21 outlines which courts have **jurisdiction** to try different types of offenses under BNSS and other laws.

Section-24 - Sentence of imprisonment in default of fine-

This Section is about what happens when someone doesn't pay a fine.

The court can decide that **if someone doesn't pay the fine**, they have to go to jail for a certain period of time.

There are some rules:

1. The jail time can't be more than what the court is allowed to give.
2. If the person is already serving a jail sentence, the additional jail time for not paying the fine **can't be more than 1/4** of the original jail sentence.

In short, **Section 24** explains **how courts handle situations where someone doesn't pay a fine** and has to serve jail time instead.

Section - 25 - Sentence in cases of conviction of several offence at one trial

This Section is about punishment for **multiple offenses**

If someone is **found guilty of two or more crimes** in a single trial, this section explains how the court decides the punishment.

Key points:

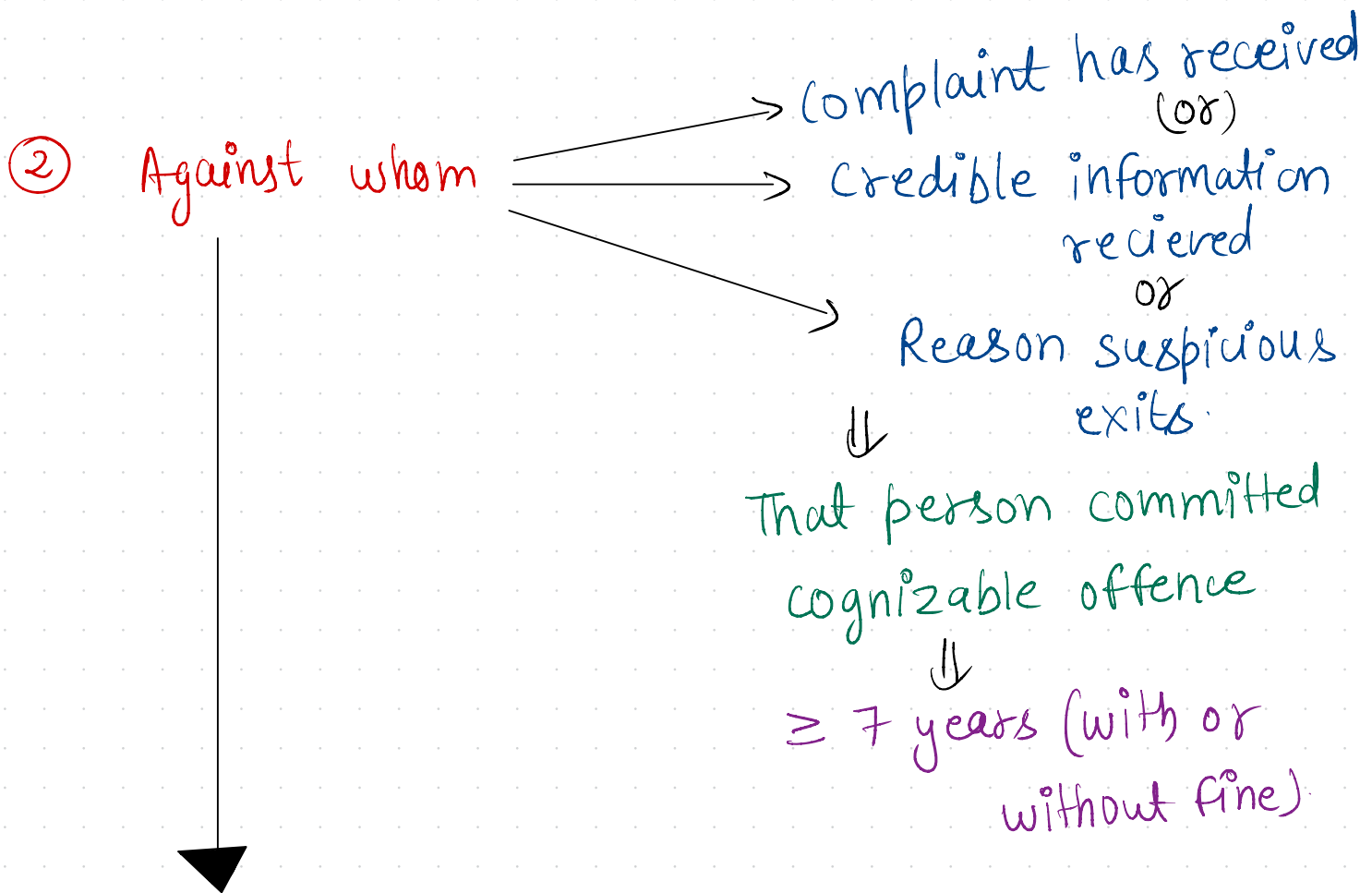
1. The court can give separate punishments for each crime.
2. The punishments can run one after the other (**consecutive**) or at the same time (**concurrent**), depending on the court's decision.
3. For **appeals**, the total punishment is **considered as one sentence**.

In short, Section 25 outlines how courts handle punishments when someone is convicted of multiple crimes at once.

⇒ Arrest of a person :- Sec-35

35(1) :- Any Police officer may without warrant arrest any person

① Who commit in presence officer a cognizable offence.



Conditions has to be satisfied :-

(i) Police has reason to believe on basis of complaint that such person commit offence. (Police officer reason to believe in written).

(and)

(ii) Police officer is satisfied that arrest is necessary for any of following reasons.

- (a) To prevent any further offence. (or)
- (b) for proper investigation. (or)
- (c) prevent such person to Dis-appear evidence. (or)
- (d) prevent such person from threatening any person. (or)
- (e) without arrest his presence in court cannot be ensured.

③ Who has proclaimed offender :-

④ In whose possession stolen property found.

⑤ who obstructs any police officer in execution of his duties.

⑥ who is reasonable suspected of being deserter from Armed forces.

⑦ who has committed offence o/s India which if committed in India treated as offence and he is liable to arrest under any agreement of Extradition

⑧ Who has released convict commit any breach of Rule.

⑨ For whose arrest any request is made by any other police officer.

↓
3 conditions :- ① Name.
② Offence
③ Reason to believe he might be arrested without warrant.

35(2) :- Person ⇒ Non Cognizable offence
↓
Arrest ⇒ With warrant only.

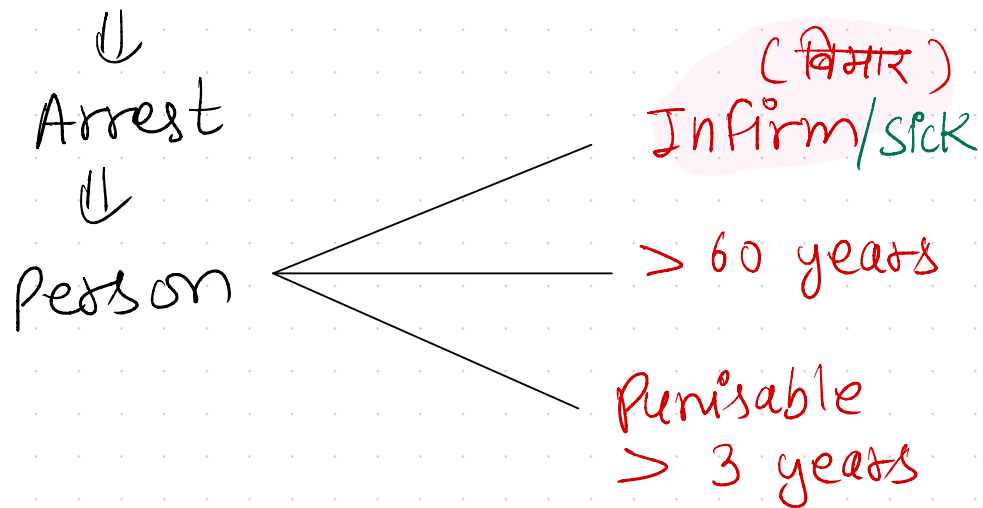
35(3) :- Police $\xrightarrow{\text{① Notice to appear before Police}}$ Person
↓
Cognizable offence
↓
35(1) ✗

35(4) :- Person ⇒ Duty ⇒ Comply notice.

35(5) :- Person ⇒ Notice Comply (✓) ⇒ Arrest ✗

35(6) :- Person ⇒ Notice not Comply ⇒ Arrest ✓
✗

35(7) :- Police officer want to arrest



Then have to take permission of
Deputy Superintendent of Police (DSP)

Sec-36 :- Procedure of Arrest :-

Police officer $\xrightarrow{\text{Arrest}}$ Accused
↓

- (a) Shall bear accurate, visible and clear identification of his name.
- (b) prepare memorandum of arrest which shall be
 - (i) Attested by 1 witness \Rightarrow family member
or
respectable member of society
 - (ii) Signed by person arrested.

Sec-38 :- When any person is arrested and interrogated by police, he shall be entitled to meet advocate of his choice during interrogation.

Case Law :- Armesh Kumar vs State of Bihar.



Supreme Court ⇒ Arrest ⇒ Conditions ⇒ Police officers has to comply.

⇒ As power of arrest is source of Corruption.

⇒ The Attitude to arrest and then with Rest is Despicable.

Sec-39 :- Arrest on Refused to give name & Residence

① Person ⇒ In presence of Police



Commit ⇒ Non Cognizable offence

② Police officers

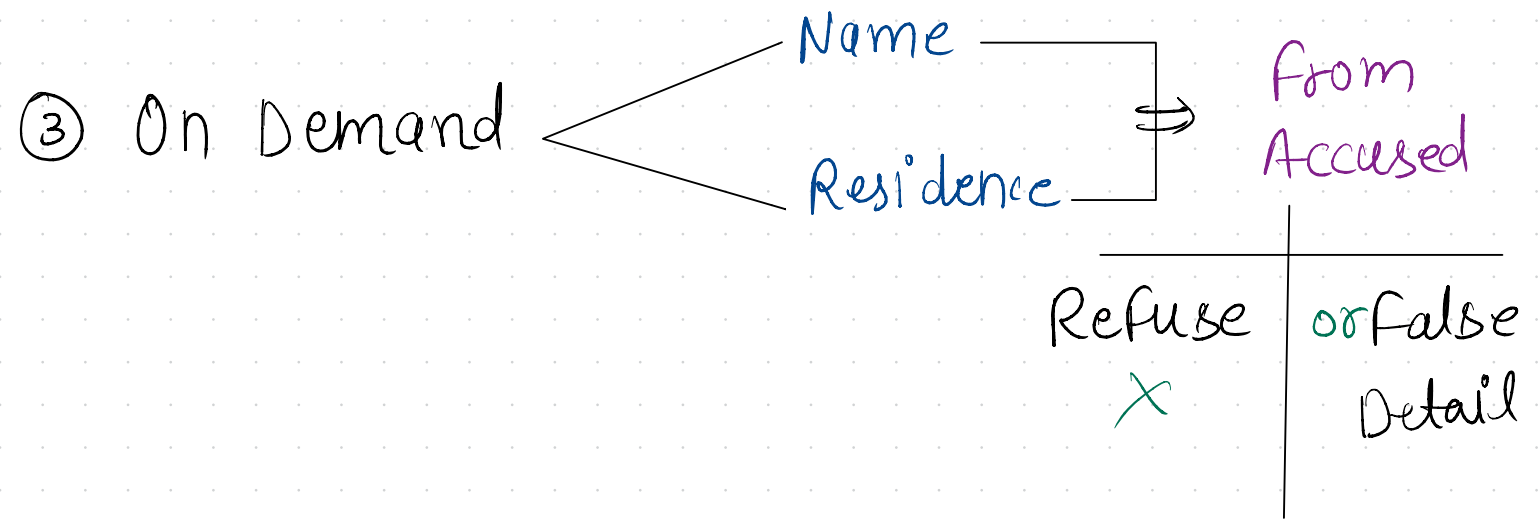
(i) Arrest x

→ Accused

(ii) Demand

→ Name

→ Residence.



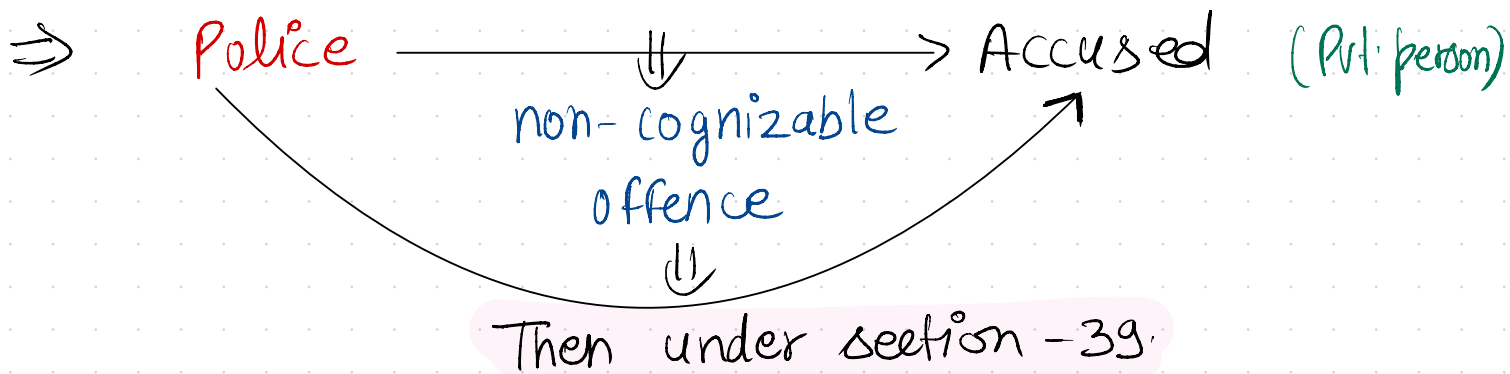
④ Then police officer may arrest such person for Ascertaining his true name and Residence.

⑤ Police \Rightarrow Identify \Rightarrow True name/ Residence
 \Downarrow
 Accused will be Released \Rightarrow on existing Bond.

⑥ Police \Rightarrow not able to identify \Rightarrow True name & Residence
 \Downarrow
 Present Before Magistrate.

Sec-40 :- Arrest by private Person :-

- ⇒ Any private person may arrest or cause to be arrested any person who in his presence commit any cognizable offence or any proclaimed offender and handover such person within 6 hours to police officer or police station.
- ⇒ If there reason to believe that such person comes under sec-35 then police officer shall take in custody.

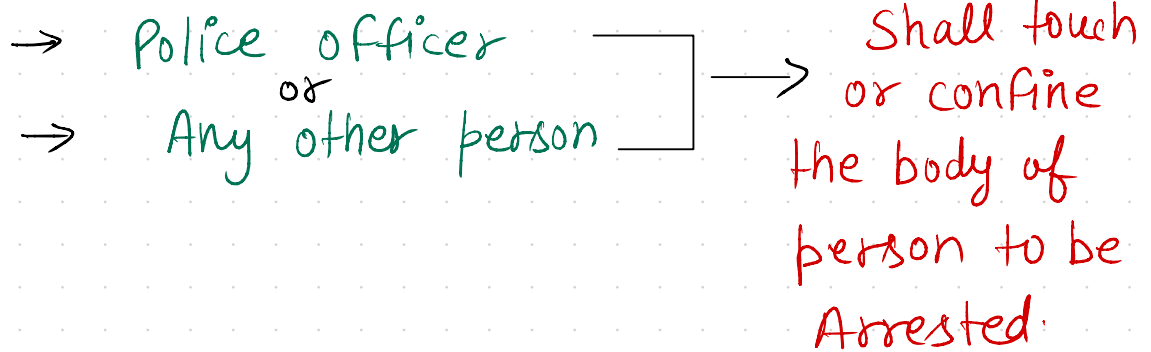


Sec-41 :- Arrest by Magistrate :-

- ⇒ Any person commit any offence.
- ↓
- ⇒ Arrest Himself / order to arrest.

Sec-43 :- Arrest How made :-

Sec-43(1) :- In making arrest



unless there be submission to custody by word or action :-

Proviso :- When women is arrested

↓

Her Submission to custody on oral intimation of arrest shall be presumed.

↓

Unless circumstances indicate to contrary or police officer is female.

43(2) :- If Such person resist police to arrest him then police officer may use all means to effect Arrest.

43(3) :- Police officer may use Hand-cuff while making Arrest in following cases:-



- (a) Who is habitual offender
- (b) Who escape from custody.
- (c) Person \Rightarrow organised crime / Terrorist / Acid Attack /
Drug related crime / sexual offence
against children / counterfeiting coins / murder /
Rape / Human Trafficking.
- (d) Il. Legal Possession of Arm.
- (e) offence Against state.

43(4) :- Nothing in this section gives a right to cause death of person in course of arrest.

\Downarrow

2 Exemption.

\Downarrow

Accused offence \Rightarrow
 / Death
 or
 life Imprisonment

43(5) :- Save in exceptional cases :-

\Downarrow

No women shall be arrested after sunset and before sunrise.

\Downarrow

Exception :- women police arrest

\Downarrow

obtain permission from Magistrate.

Sec-44 :- It is an enabling provision and is used by police officer.

⇒ As per this section police may enter and search place where accused has entered.

Sec-78 :- Police officer executing warrant of arrest bring arrested person before court within 24 hours.

⇒ If a person arrested without warrant still police has to present such accused in front of magistrate within 24 hours.



Same ⇒ Article-22 of Constitution of India.

Sec-59 :- Officer in charge of Police station

Report details of all person arrested without warrant.



District Magistrate

Sec-60 :- No person who has arrested by police shall be discharged except his bond.

Sec-61 :- Accused \Rightarrow Escape \Rightarrow then the person from whose custody he escape Pursue and arrest him in any place in India.

Sec-62 :- No Arrest shall be made except in accordance with provision of BNSS.

Summon & Warrant

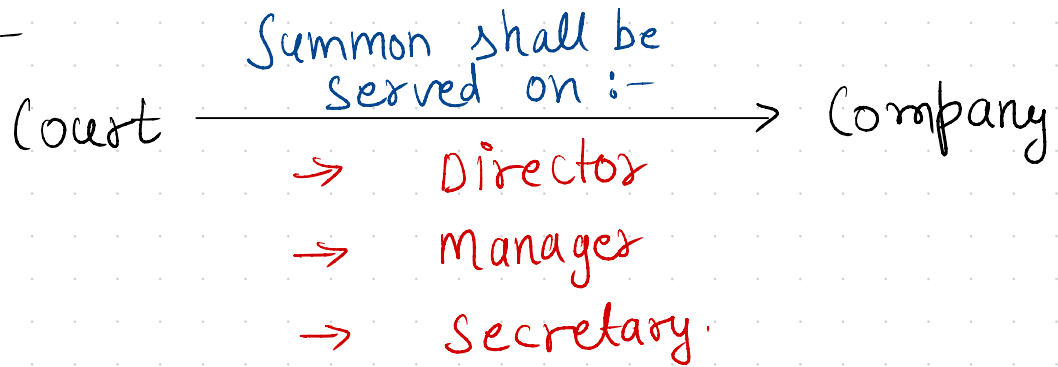
Sec-63 :- Summon :-

Court $\xrightarrow{\text{Summon}}$ Accused

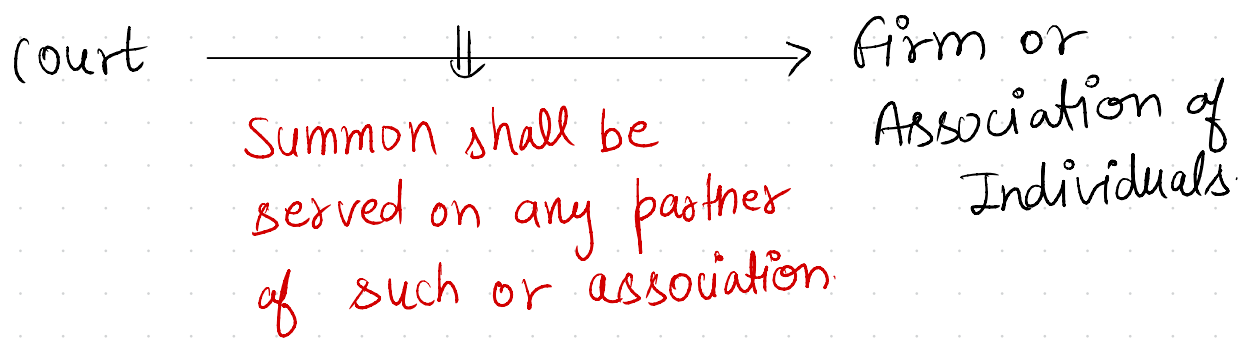
- (a) writing
- (b) Sign by officer of Court or any officer direct by high court
- (c) Seal of Court
- (d) E-form \Rightarrow then contain
 \downarrow
Digital signature.

Sec-64 :- Every Summons shall be served by police officer or officer of court issuing it or any other public servant.

Sec-65 (1) :-



Sec-65 (2) :-



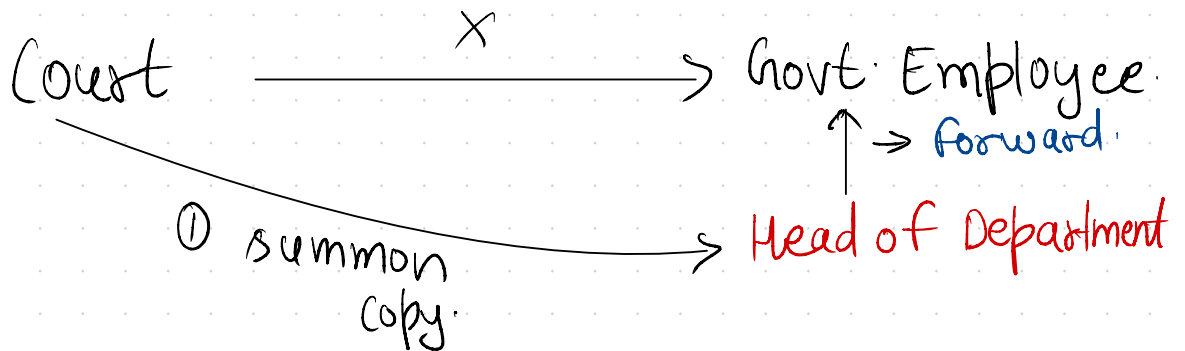
Sec-66 :- Where the person summoned cannot by exercise Due-Diligence be found then Summons may be served by leaving 1 copy with some adult member of his family residing with him.

↓
Servant is not family.

Sec-67 :- If service cannot exercise Due-Diligence be effected as provided under Sec-64/65/66, then officer shall affix 1 copy of summon to some conspicuous part of house in which person so summoned reside.

**Notes By - Gaurav Chaudhary
(CS Anoop Jain Classes)**

Sec-68 :-



Sec-69 :- When court desire that summon issued by it shall be served at any place outside its jurisdiction, it shall send such summon in duplicate to magistrate in whose jurisdiction the person summon resides.

Sec-71 :- Service of Summon on witness :-

Court $\xrightarrow{\text{Summon}}$ witness

Reed. Post. or E-communication

At place where such person ordinarily reside or carries on business or personally work for gain.

**Notes By - Gaurav Chaudhary
(CS Anoop Jain Classes)**

⇒ Proclamation and Attachment :- Sec-84

⇒ If court has reason believe that any person against whom a warrant has been issued has been absconded or concealing himself so that such warrant can be executed then court may publish a written proclamation require him to appear at specified place and time not less than 30 days from date of publishing such proclamation.

(+)

Sec-85 :- Court ⇒ after issuing written proclamation

↓
order attachment of any property belonging to proclaimed person.

Such order may also be given by court at the time issuing proclamation if courts is satisfied :-

↓
That such person

is about to
Dispose the
property.

(or) is about to
remove such
property.

Court \Rightarrow Property \Rightarrow Attach (Property attached)

At the time of issuing written Proclamation.

After issuing written Proclamation.

Sec-96 :- Search warrant :-

May be issued in following cases :-

- (a) Where court has reason to believe that person to whom summon has issued to produce Document (u/s 94) shall not produce such Document.
- (b) If Such Document is not Known to the Court to be in possession of any person.
- (c) The Court Consider that the purpose of any enquiry and Trial under BNSS will be serving.

Sec- 97 :-



that any place is used for deposit or Sale of Stolen property or Sale or Deposit of objectional Article then they may authorise :-

- (i) Counterfeit coins.
- (ii) Pieces of metal made in Contravention of Coinage Act.
- (iii) Counterfeit Currency.
- (iv) forged Document.
- (v) false Seal.
- (vi) obscene objects
- (vii) Instruments or material used for Production of above Articles.

\rightarrow Police officer :-

\rightarrow Constable :-

- (a) Enter Such property.
- (b) Search place.
- (c) To take possession of property
- (d) To convey such property before Magistrate.
- (e) To take in custody and carry before magistrate every person found in such place.

Sec-100 :- Search of person wrongly Confined:-

Any DM/SDM/Magistrate of 1st class:-

Reason to believe that any person is confined under such circumstances that confinement amount to offence, He may issue search warrant

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(CS Anoop Jain Classes)

Summary Trial :- Section-283

- ① It is called Speedy Trial.
- ② Chief Judicial Magistrate / Magistrate of 1st class

following case ⇒ Summary trial.

- (a) Theft ⇒ value upto 20,000 ₹
- (b) Receiving / Retaining theft property value ⇒ upto ₹ 20,000.
- (c) Concealment of Stolen property ⇒ upto 20,000 ₹
- (d) Offence under section 331 of BNS.
- (e) Insult to provoke Breach of peace.
- (f) Criminal Intimidation.
- (e) abetment of forgoing offence.
- (f) Attempt of forgoing offence.
- (g) Any offence constituted offence under cattle-Trespass

Act 1871.

③ Summary trial \Rightarrow X

\Downarrow
we cannot do

\Downarrow which are

Punishable :-
Death
life Imprisonment
Imp. > 3 years

④ Punishment \Rightarrow max :- 3 months of Imprisonment

⑤ Magistrate think during the Summary trial that particular case of summary trial should not happen :- then magistrate may Re-Hear case in normal manner.

Compounding of offence :-

① Crime \Rightarrow is against Society.

② Following are cases \Rightarrow Compounding \Rightarrow Allowed.

(a) 115(2) \Rightarrow Voluntary Causing Hurt.

(f) 135 \Rightarrow Assault

(b) 126(2) \Rightarrow Confining person

(c) 131/133/136 \Rightarrow Assault

(g) 306 \Rightarrow Theft by Clerk.

(d) 303(2) \Rightarrow Theft

(h) 316(2) \Rightarrow Criminal Breach of Trust.

(e) 117(2) \Rightarrow Voluntary Causing Grievous Hurt

But has to take consent of person :-

- ① Person ⇒ Hurt
- ② Person ⇒ Confined
- ③ Person ⇒ Assault
- ④ Person ⇒ Theft
- ⑤ Person ⇒ Grievous Hurt
- ⑥ Person ⇒ Assault
- ⑦ Person ⇒ Theft
- ⑧ Person ⇒ Criminal Breach of Trust

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Bail :- Sec-479

(Sec-479)

① Bail means released of accused person of an offence from custody of law upon certain conditions imposed by court including execution by such person

→ Bond :- It means personal or undertaking for release without payment of any surety.

→ Bail Bond :- It means undertaking for release with payment of Surety.

② Sec-480 :- When any person other than person accused of non-bailable offence arrested without warrant by police officer or is brought before the court, such person shall be released on Bail.

③ If any person is ^{→ गरीब} indigent and is unable to furnish surety instead of taking bail bond from such person discharge him on executing bond for his appearance.

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(CS Anoop Jain Classes)

④ Section- 482 :-

When any person suspected of commission of non-bailable offence is arrested or detained without warrant then he may be released on Bail.

⑤ According to section 482 when any person reasons to believe that he may be arrested on Accusation of commission non bailable offence, He may apply to High Court or Session Court for Bail. (Anticipatory Bail)

⑥ Conditions imposed by High Court
Supreme Court } Anticipatory Bail.

- (a) Such person make himself available for interrogation.
- (b) Such person shall not make inducement or threat to any person Acquainted with facts.
- (c) Such person shall not leave India.
- (d) Such other conditions as may be imposed u/s 480(3).

Limitation Period :-

Limitation period
↓

- ① Such offence where imposed fine only :- 6 months
- ② Such offence where Imp upto 1 years :- 1 years.
- ③ Such offence where Imp more than 1 year and upto 3 year :- 3 years.

→ Commencement of limitation period :-

↓
limitation period shall commence :-

- (a) on Date of offence
- (b) where commencement was not known to person or police officer then limitation period start when such offence comes to knowledge of such person or police officer → Earlier.
- (c) where it is not known who is offender then limitation period starts when identity of offender is known.

→ Exclusion of time in limitation period :-

- (a) The period of stay order
- (b) where notice of prosecution is given, then period of notice.
- (c) where previous approval for proceedings is necessary, the period required in obtaining such approvals.
- (d) period during which offender absent from India.
- (e) Period during when offender is abiding or concealing himself.

-: Continuing offence :-

- ① It means offence which is committed for a very long period.
- ② It is not clearly defined under BNS
BNSS
- ③ Offence which is happening and continuing against and again comes into category of Continuing offence.
- ④ eg:- (a) Trespassing Live stock.
(b) Nuisance.
(c) Unauthorized Construction.

Notes By - Gaurav Chaudhary
(CS Anoop Jain Classes)

⑤ Case Laws :-

(a) Uday Shankar vs State of U.P.

(b) Gokak Patel Valkart Ltd vs Dundayya.
Guru Shiddaiah
hire-math.

↓
Supreme court



whether an offence continuing or not depend on language of Law.

(c) State of Bihar vs Deokaran nenshi



Continuing offence is one which susceptible of continuance and distinguish from one which is committed once for All.