

28 AUG 2025

NATIONAL LAW UNIVERSITY, JODHPUR
END TERM EXAMINATION – (April- May)2025

Semester: UG IV Semester

Subject: Crime and Punishment II(Compulsory)

Time: Three Hours

Marks: 100

Instructions:

1. Do not write anything on the question paper.
2. Seeking clarity on the question paper is prohibited.
3. Attempt any five but Question number ONE & FIVE are compulsory.

Q.1) What is the stage at which power under Section 319 Cr.P.C. (corresponding to Section 358 of the BNSS) can be exercised? Does the power under Section 319 Cr.P.C. extend to persons not named in the FIR or named in the FIR but not charged or who have been discharged? Answer with reference to the case of Hardeep Singh v. State of Punjab (2014) 3 SCC 92.

(Marks 20)

Q.2) Explain the reasons for allowing the compounding of certain offences. What is the scheme provided for the same under the BNSS? Also discuss the compounding of non-compoundable offences with reference to decided case laws.

(Marks 20)

Q.3) What is anticipatory bail? Should anticipatory bail automatically cease to operate once the court issues summons to the accused? Answer with reference to the decision in *Sushila Aggarwal v. State (NCT of Delhi)* (2020) 5 SCC 1.

(Marks 20)

Q.4) Explain the nature and scope of the power of the investigating police officer to require the attendance of witnesses and to examine them. To what extent can the statements recorded by the investigating police officer be utilised as evidence?

(Marks 20)

Q.5) In the context of Section 167(2) of the CrPC (corresponding to Sections 187 of the BNSS), can the filing of an additional complaint by the investigating agency nullify the appellant's accrued right to default bail? Examine in light of the Supreme Court's ruling in *M. Ravindran v. The Intelligence Officer, Directorate of Revenue Intelligence* (2021) 2 SCC 485.

(Marks 20)

Q.6) Write notes on any two of the following.

- a. Trial procedure in a summons case
- b. Search of an arrested person
- c. Difference between appellate jurisdiction and revisional jurisdiction

(Marks 10 x 2=20)



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Q.1) Discuss the basic philosophy underlying the law relating to anticipatory bail. Is the protection granted to a person under Section 438 CrPC (corresponding to Section 482 of the BNSS) limited to a fixed period so as to enable the person to surrender before the trial court and seek regular bail? Analyse with reference to *Sushila Aggarwal v. State (NCT of Delhi)* (2020) 5 SCC 1.

(Marks 20)

Q.2) While recording a confession in the course of investigation, what is the procedure the Magistrate must follow in order to ensure that the confession is made voluntarily?

(Marks 20)

Q.3) Discuss in detail the power of the Sessions Court to proceed against persons not included in police reports but appearing to be guilty of offences. Refer to decided cases.

(Marks 20)

Q.4) Critically examine the power of the Supreme Court to transfer criminal cases. Discuss with the help of decided case laws.

(Marks 20)

Q.5) Does the indefeasible right to default bail accruing to the appellant under Section 167(2), CrPC (corresponding to Sections 187 of the BNSS) get extinguished by the subsequent filing of an additional complaint by the investigating agency? Answer in light of *M Ravindran v. The Intelligence Officer, Directorate of Revenue Intelligence* (2021) 2 SCC 485.

(Marks 20)

Q.6) Write notes on any two of the following.

- a. Medical examination of the arrested person
- b. Right to consult a legal practitioner
- c. Trial procedure in a warrant case

(Marks 10 x 2 =20)



11 7 FEB 2025

NATIONAL LAW UNIVERSITY, JODHPUR

Mid Term Examination-2025

Semester: UG IV Semester

Subject: Crime and Punishment II

Time: 90 Mins.

Marks: 50

Instructions:

- I. Do not write anything on the question paper.
- II. No explanation can be sought from anyone on the contents of the question paper.
- III. No books, articles, notes, computer & similar devices, mobile phones and other electronic gadgets, are allowed to be carried during examination.
- IV. Answer all the questions.

Q.1. Discuss in detail the difference between the grounds of arrest and reason for arrest in the light of *Vijay Madanlal Choudhary v. Union of India*, (2023) 12 SCC 1 and *Prabir Purkayastha v. State (NCT of Delhi)*, (2024) 8 SCC 254. (Marks 15)

Q.2. Examine the impact of Section 98 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ["BNSS, 2023"] on the freedom of speech and expression in light the decision in *State of Maharashtra v. Sangharaj Damodar Rupawate*, (2010) 7 SCC 398 and *N. Radhakrishnan v. Union of India*, (2018) 9 SCC 725. Also, elaborate on the legal principles to be kept in mind while dealing with such cases. (Marks 20)

Q.3. Discuss in detail the issues and challenges faced by the public prosecutorial system in India with the help of decided case laws. (Marks 15)

Annexure

Section 18, BNSS, 2023: Public Prosecutors. — (1) For every High Court, the Central Government or the State Government shall, after consultation with the High Court, appoint a Public Prosecutor and may also appoint one or more Additional Public Prosecutors, for conducting in such Court, any prosecution, appeal or other proceeding on behalf of the Central Government or the State Government, as the case may be:

Provided that for National Capital Territory of Delhi, the Central Government shall, after consultation with the High Court of Delhi, appoint the Public Prosecutor or Additional Public Prosecutors for the purposes of this sub-section.

(2) The Central Government may appoint one or more Public Prosecutors for the purpose of conducting any case in any district or local area.

(3) For every district, the State Government shall appoint a Public Prosecutor and may also appoint one or more Additional Public Prosecutors for the district:

Provided that the Public Prosecutor or Additional Public Prosecutor appointed for one district may be appointed also to be a Public Prosecutor or an Additional Public Prosecutor, as the case may be, for another district.

(4) The District Magistrate shall, in consultation with the Sessions Judge, prepare a panel of names of persons, who are, in his opinion, fit to be appointed as Public Prosecutors or Additional Public Prosecutors for the district.

(5) No person shall be appointed by the State Government as the Public Prosecutor or Additional Public Prosecutor for the district unless his name appears in the panel of names prepared by the District Magistrate under sub-section (4).

(6) Notwithstanding anything in sub-section (5), where in a State there exists a regular Cadre of Prosecuting Officers, the State Government shall appoint a Public Prosecutor or an Additional Public Prosecutor only from among the persons constituting such Cadre:

Provided that where, in the opinion of the State Government, no suitable person is available in such Cadre for such appointment, that Government may appoint a person as Public Prosecutor or Additional Public Prosecutor, as the case may be, from the panel of names prepared by the District Magistrate under sub-section (4).

Explanation.—For the purposes of this sub-section,—

(a) “regular Cadre of Prosecuting Officers” means a Cadre of Prosecuting Officers which includes therein the post of Public Prosecutor, by whatever name called, and which provides for promotion of Assistant Public Prosecutors, by whatever name called, to that post;

(b) “Prosecuting Officer” means a person, by whatever name called, appointed to perform the functions of a Public Prosecutor, Special Public Prosecutor, Additional Public Prosecutor or Assistant Public Prosecutor under this Sanhita.

(7) A person shall be eligible to be appointed as a Public Prosecutor or an Additional Public Prosecutor under sub-section (1) or sub-section (2) or sub-section (3) or sub-section (6), only if he has been in practice as an advocate for not less than seven years.

(8) The Central Government or the State Government may appoint, for the purposes of any case or class of cases, a person who has been in practice as an advocate for not less than ten years as a Special Public Prosecutor:

(2) The Central Government may appoint one or more Public Prosecutors for the purpose of conducting any case in any district or local area.

(3) For every district, the State Government shall appoint a Public Prosecutor and may also appoint one or more Additional Public Prosecutors for the district:

Provided that the Public Prosecutor or Additional Public Prosecutor appointed for one district may be appointed also to be a Public Prosecutor or an Additional Public Prosecutor, as the case may be, for another district.

(4) The District Magistrate shall, in consultation with the Sessions Judge, prepare a panel of names of persons, who are, in his opinion, fit to be appointed as Public Prosecutors or Additional Public Prosecutors for the district.

(5) No person shall be appointed by the State Government as the Public Prosecutor or Additional Public Prosecutor for the district unless his name appears in the panel of names prepared by the District Magistrate under sub-section (4).

(6) Notwithstanding anything in sub-section (5), where in a State there exists a regular Cadre of Prosecuting Officers, the State Government shall appoint a Public Prosecutor or an Additional Public Prosecutor only from among the persons constituting such Cadre: Provided that where, in the opinion of the State Government, no suitable person is available in such Cadre for such appointment, that Government may appoint a person as Public Prosecutor or Additional Public Prosecutor, as the case may be, from the panel of names prepared by the District Magistrate under sub-section (4).

Explanation.—For the purposes of this sub-section,—

(a) “regular Cadre of Prosecuting Officers” means a Cadre of Prosecuting Officers which includes therein the post of Public Prosecutor, by whatever name called, and which provides for promotion of Assistant Public Prosecutors, by whatever name called, to that post;

(b) “Prosecuting Officer” means a person, by whatever name called, appointed to perform the functions of a Public Prosecutor, Special Public Prosecutor, Additional Public Prosecutor or Assistant Public Prosecutor under this Sanhita.

(7) A person shall be eligible to be appointed as a Public Prosecutor or an Additional Public Prosecutor under sub-section (1) or sub-section (2) or sub-section (3) or sub-section (6), only if he has been in practice as an advocate for not less than seven years.

(8) The Central Government or the State Government may appoint, for the purposes of any case or class of cases, a person who has been in practice as an advocate for not less than ten years as a Special Public Prosecutor:

Provided that the Court may permit the victim to engage an advocate of his choice to assist the prosecution under this sub-section.

(3) For the purposes of sub-section (7) and sub-section (8), the period during which a person has been in practice as an advocate, or has rendered (whether before or after the commencement of this Saahita) service as a Public Prosecutor or as an Additional Public Prosecutor or Assistant Public Prosecutor or other Prosecuting Officer, by whatever name called, shall be deemed to be the period during which such person has been in practice as an advocate.

Section 19, BNSS, 2023: Assistant Public Prosecutors. — (1) The State Government shall appoint in every district one or more Assistant Public Prosecutors for conducting prosecutions in the Courts of Magistrates.

(2) The Central Government may appoint one or more Assistant Public Prosecutors for the purpose of conducting any case or class of cases in the Courts of Magistrates.

(3) Without prejudice to provisions contained in sub-sections (1) and (2), where no Assistant Public Prosecutor is available for the purposes of any particular case, the District Magistrate may appoint any other person to be the Assistant Public Prosecutor in charge of that case after giving notice of fourteen days to the State Government:

Provided that no police officer shall be eligible to be appointed as an Assistant Public Prosecutor, if he—

(a) has taken any part in the investigation into the offence with respect to which the accused is being prosecuted; or

(b) is below the rank of Inspector.

Section 20, BNSS, 2023: 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.

Section 48, BNSS, 2023: Obligation of person making arrest to inform about arrest, etc., to relative or friend.— (1) Every police officer or other person making any arrest under this Sanhita shall forthwith give the information regarding such arrest and place where the arrested

person is being held to any of his relatives, friends or such other persons as may be disclosed or nominated by the arrested person for the purpose of giving such information and also to the designated police officer in the district.

(2) The police officer shall inform the arrested person of his rights under sub-section (1) as soon as he is brought to the police station.

(3) An entry of the fact as to who has been informed of the arrest of such person shall be made in a book to be kept in the police station in such form as the State Government may, by rules, provide.

(4) It shall be the duty of the Magistrate before whom such arrested person is produced, to satisfy himself that the requirements of sub-section (2) and sub-section (3) have been complied with in respect of such arrested person.

Section 98, BNSS, 2023: Power to declare certain publications forfeited and to issue search-warrants for same.— (1) Where—

- (a) any newspaper, or book; or
- (b) any document,

wherever printed, appears to the State Government to contain any matter the publication of which is punishable under Section 152 or Section 196 or Section 197 or Section 294 or Section 295 or Section 299 of the Bharatiya Nyaya Sanhita, 2023, the State Government may, by notification, stating the grounds of its opinion, declare every copy of the issue of the newspaper containing such matter, and every copy of such book or other document to be forfeited to Government, and thereupon any police officer may seize the same wherever found in India and any Magistrate may by warrant authorise any police officer not below the rank of sub-inspector to enter upon and search for the same in any premises where any copy of such issue, or any such book or other document may be or may be reasonably suspected to be.

(2) In this section and in Section 99,—

(a) “newspaper” and “book” have the same meanings as in the Press and Registration of Books Act, 1867 (25 of 1867);

(b) “document” includes any painting, drawing or photograph, or other visible representation.

(3) No order passed or action taken under this section shall be called in question in any Court otherwise than in accordance with the provisions of Section 99.

Section 99, BNSS, 2023: Application to High Court to set aside declaration of forfeiture.—(1) Any person having any interest in any newspaper, book or other document, in respect of which a declaration of forfeiture has been made under Section 98, may, within two months from the date of publication in the Official Gazette of such declaration, apply to the High Court to set

aside such declaration on the ground that the issue of the newspaper, or the book or other document, in respect of which the declaration was made, did not contain any such matter as is referred to in sub-section (1) of Section 98.

(2) Every such application shall, where the High Court consists of three or more Judges, be heard and determined by a Special Bench of the High Court composed of three Judges and where the High Court consists of less than three Judges, such Special Bench shall be composed of all the Judges of that High Court.

(3) On the hearing of any such application with reference to any newspaper, any copy of such newspaper may be given in evidence in aid of the proof of the nature or tendency of the words, signs or visible representations contained in such newspaper, in respect of which the declaration of forfeiture was made.

(4) The High Court shall, if it is not satisfied that the issue of the newspaper, or the book or other document, in respect of which the application has been made, contained any such matter as is referred to in sub-section (1) of Section 98, set aside the declaration of forfeiture.

(5) Where there is a difference of opinion among the Judges forming the Special Bench, the decision shall be in accordance with the opinion of the majority of those Judges.

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Marks: 50

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- IV. Answer all the questions.*

Q.1. What is the rational basis for the distinction between arrest with warrant and arrest without warrant? (Marks 15)

Q.2. Examine the impact of Section 98 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ["BNSS, 2023"] on the freedom of speech and expression. Also examine the legal principles the courts should keep in mind while dealing with cases under these sections. (Marks 20)

Q.3 Discuss the rights of the arrested person with the help of decided case laws. (Marks 15)

