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Ministry of Home Affairs
Bureau of Police Research & Development
(Training Division)

SSP/UT

NH-48 Mahipalpur,
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DGP

3/8/2026

To

The Chief Secretaries
All States/Union Territories

DSP/Admn.
HCC Computer Section

JSP
04/8/26

Subject: Circulation of Standard Operating Procedure (SOP) on Trial in Absentia under BNSS, 2023

Sir/Madam,

The Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 has introduced provisions enabling Trial in Absentia of proclaimed offenders, with a view to address delays in the criminal justice process caused by absconding accused persons.

2. In order to support effective and uniform implementation of these provisions, a Standard Operating Procedure (SOP) on Trial in Absentia has been developed. The SOP delineates the procedural requirements, safeguards, and responsibilities of various stakeholders, including police and prosecution agencies.

3. You are requested to kindly:

- o Circulate the enclosed SOP to all concerned departments, particularly Home, Police, Prosecution, and Training Institutions;
- o Ensure capacity building and sensitization of field-level functionaries; and
- o Take necessary steps for compliance with the procedural safeguards outlined in the SOP.

4. The adoption of these procedures will contribute significantly to improving efficiency, accountability, and timely disposal of cases under the new criminal law framework.

Encl.: SOP on Trial in Absentia under BNSS, 2023

Yours Sincerely,


(Chhaya Sharma, IPS)
Director (Training)

Standard Operating Procedure (SOP)

On

Trial in Absentia and Related Issues

Scope and Objectives:

Questions frequently arise regarding the legality of continuing criminal proceedings when the accused is absent at the stage of charge framing or remains absent during inquiry, trial or judgment. These situations are clearly addressed under Section 356 of the Bharatiya Nagarik Suraksha Sanhita, 2023, which permits inquiry, trial, and judgment in absentia. This provision is applicable on any accused who absconds at any stage. This SOP deals with following issues:

- To understand and efficiently implement provisions under Section 356 of the Bharatiya Nagarik Suraksha Sanhita,
- Procedural mandates for Proclamation U/S 84 of the Bharatiya Nagarik Suraksha Sanhita,
- To understand and efficiently implement provisions under Sections 209, and 269 of the Bharatiya Nyaya Sanhita, etc. in interest of the justice.

Section 356 is reproduced in its entirety below for ready reference:

Inquiry, trial or judgment in absentia of proclaimed offender

356.(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.
- 8. The State may, by notification, extend the provisions of this section to any absconder mentioned in sub-section (1) of section 84.

1. Preconditions for Trial in Absentia [356(1) and first proviso]

- 1.1 Confirm that the accused has been declared a proclaimed

offender.

1.2 Establish that he has absconded to evade trial and there is no immediate prospect of arrest.

1.3 Ensure that ninety days have lapsed from the date of framing of charge for commencement of trial.

2. Mandatory Procedural Safeguards

Before commencement of trial, ensure compliance with Section 356(2):

2.1 **Issuance of Warrants-** Execute two consecutive warrants of arrest, each separated by an interval of at least thirty days.

2.2 **Newspaper Publication-** Publish a notice in a national or local daily newspaper circulating at the last known address, requiring appearance within thirty days and informing that trial shall commence in absence.

2.3 **Intimation to Relatives/Friends-** Inform any known relative or friend of the proclaimed offender regarding commencement of trial.

2.4 **Affixation and Display at Police Station-Affix** notice of information about the commencement of the trial on some conspicuous part of the last known house or homestead in which person ordinarily resides and display the same in the police station of the district of his last known address of residence.

3. Legal Representation

3.1 If the proclaimed offender is not represented by an advocate, he shall be provided with an advocate for his defence at State expense as mandated under Section 356(3).

4. Recording of Evidence

4.1 Ensure that depositions of prosecution witnesses are properly recorded.

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:

4.2 Facilitate audio-video electronic recording, preferably by mobile phone, wherever practicable, and preserve recordings as directed by the Court (Section 356(5)).

5. Effect of Arrest or Appearance during Trial

5.1 If competent Court has already examined any witness for prosecution and recorded their disposition If the proclaimed offender appears or is arrested during trial:

The Court may in allow accused for examination of evidence already recorded, if required in the interest of justice (Proviso to Section 356(4)).

5.2 Voluntary absence of accused after commencement of trial shall not prevent continuation of trial or pronouncement of judgment even if he is arrested and produced or appears at the conclusion of such trial under Section 356(6).

6. Post-Judgment Compliance

6.1 Inform the proclaimed offender, upon arrest or surrender, regarding limitations on appeal under Section 356(7) i.e. no appeal shall lie against the judgment under this section unless the proclaimed offender presents himself before the Court of appeal. No appeal against conviction shall lie after the expiry of three years from the date of judgment.

7. Statutory empowerment of the States to extend the provisions of this Section

Sub-section (8) has enabled the State to extend the provisions of this Section to any absconder mentioned in Sub-section (1) of Section 84 of the Bharatiya Nagarik Suraksha Sanhita.

For example, Mizoram has extended these provisions to persons who have absconded as per Section 84(1) of the Bharatiya Nagarik Suraksha Sanhita, vide Notification No. C.31017/2/2024 dated 15th Sept., 2025.

8. It is evident that the provisions for trial in absentia are directly based upon the proclamation issued under Section 84 of the Bharatiya Nagarik Suraksha Sanhita. Therefore, strict compliance with Section 84 is a *sine qua non* for such proceedings. To this end, the following statutory requirements must be adhered to with the utmost diligence:

8.1 Ensure that a warrant of arrest has been duly issued by a competent Court.

8.2 Place such facts before the Court to enable it to form a reason to believe as required under Section 84(1).

8.3 Record efforts showing that the accused has absconded or is concealing himself so that the warrant cannot be executed

8.4 The Court to publish the written proclamation requiring the accused to appear

at a specified place and time. [Section 84(1)]

8.5 Verify that the date fixed for appearance is not less than thirty days from the date of publication. [Section 84(1)]

The Investigating Officer shall ensure publication strictly as per Section 84(2):

8.6 Cause the proclamation to be publicly read in a conspicuous place of the town or village where the person ordinarily resides. [Section 84(2)(i)(a)]

8.7 Affix a copy to a conspicuous part of the house or homestead where such person ordinarily resides, or to a conspicuous place of such town or village. [Section 84(2)(i)(b)]

8.8 Ensure a copy is affixed to a conspicuous part of the Court-house. [Section 84(2)(i)(c)]

8.9 Where directed by the Court, publish the proclamation in a daily newspaper circulating in the place of ordinary residence. [Section 84(2)(ii)]

8.10 The Court to prepare a statement of proclamation in writing certifying the date and manner of publication under section clause (i) of sub section (2) of section 84. [Section 84(3)]

8.11 Such statement shall be treated as conclusive evidence of compliance under Section 84(3).

8.12 If the proclamation relates to an offence punishable with imprisonment of ten years or more, life imprisonment, or death, and the accused fails to appear-

The Court may after making the inquiry, pronounce him a proclaimed offender under Section 84(4).

8.13 Upon declaration of a person as a proclaimed offender by the competent court under sub-section (4), it is to be ensured that sub-sections (2) and (3) of Section 84 are duly complied [Section 84(5)].

9. Other important provisions

9.1 To curb the tendency of evading arrest and trial, the legislature, via Act 25 of 2005, introduced two independent substantive offenses into the penal framework. These provisions have been retained *in toto* within the Bharatiya Nyaya Sanhita.

Section 209 Bharatiya Nyaya Sanhita (formerly Section 174A IPC) criminalizes 'non-appearance in response to a proclamation under Section 84 of the Bharatiya Nagarik Suraksha Sanhita'. It prescribes punishment of up to three years or seven years with a fine, depending on the relevant subsection [84(1) or 84(4)] of the

procedural Sanhita. These provisions have been judicially upheld in several landmark judgments, including:

1. *Sanjay Sarin v. State (UT, Chandigarh)*, 2013 Cr LJ 408;
2. *Iqbal v. State of UP*, 2013 Cr LJ 1332;
3. *A. Krishna Reddy v. CBI*, 2017 SCC Online Del 7266; and
4. *State v. Proclaimed Offenders of Delhi and others*, CrI. M.C. No. 2021/2010.