

Trial of Warrant-Cases Instituted On a Police Report under the Bharatiya Nagarik Suraksha Sanhita, 2023: A Critical Analysis

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ABSTRACT

The Bharatiya Nagarik Suraksha Sanhita, 2023 (“BNSS”) superseded the Code of Criminal Procedure, 1973 (“CrPC”) as of July 1, 2024, establishing a reorganised framework for criminal procedure in India. Key provisions include Sections 261–266, which outlines the trial process for warrant-cases instituted based on police reports before a Magistrate. These sections detail compliance with disclosure obligations, discharge processes, charge framing, plea of guilty, prosecution evidence and defence evidence. While the BNSS preserves many procedural elements from the CrPC, it introduces specific time constraints and enhances the role of technology in criminal proceedings. This article provides a critical analysis of warrant-cases trials instituted through police reports, focusing primarily on discharge processes and charge framing. It assesses the ongoing significance of established jurisprudence under Sections 239 and 240 of the CrPC while evaluating contemporary scholarship that questions whether these new statutes signify transformative reform or merely procedural adjustments. Moreover, it explores how statutory deadlines relate to speedy justice and the constitutional guarantee of fair procedure under Article 21. Recent judicial rulings, particularly *Dr. Anand Rai v. State of Madhya Pradesh*, (2026 INSC 141), reaffirm that courts should refrain from conducting mini-trial during charge framing stages. The article contends that the BNSS signifies a continuation with carefully calibrated procedural reforms rather than a complete doctrinal shift. Its efficacy will ultimately be determined by how well it balances expediency with judicial oversight, meaningful defence participation and constitutional safeguard of personal liberty.

Keywords: BNSS; warrant-case; police report; discharge; framing of charge; criminal trial; speedy justice; fair trial; Article 21.

1. INTRODUCTION

Criminal procedure is integral to regulating state coercive power and directly impacts individual freedoms. Its purpose extends beyond securing convictions it aims to ensure fairness, transparency and legal regulation in prosecutions. Thus, it is essential that this procedural framework addresses victim’s right alongside those accused of crimes.

The enactment of the Bharatiya Nagarik Suraksha Sanhita, 2023 aims to align and refine criminal processes starting from July 1, 2024¹. This legislation replaces the CrPC that has governed Indian criminal

¹ Bharatiya Nagarik Suraksha Sanhita, No. 46 of 2023, Gazette of India, Extraordinary, Part II, sec. 1 (2023).

procedure for over fifty years as a part of broader reforms aimed at making access to justice more straightforward while incorporating technological advancements within defined timelines.

However, discussions regarding the extent of this transformation remains ongoing. An evolution by Kumar, Jain and Sharma within six months post-implementation questions whether these changes mark a pivotal shift or is foundational institutional practices persist unchanged within these laws and procedures². This inquiry holds particular relevance for warrant-cases due to Sections 261–266 being structured similarly to prior regulations under CrPC.

BNSS Section 2(1)(z) characterises warrant-case as one involving offences punishable with death, imprisonment for life, or imprisonment for a term more than two years³. Such cases demanding more formalized processes due to their serious repercussions.

Sections 261–266 delineate sequential procedure concerning document disclosure requirements alongside stages such as discharge applications, framing of charge, plea of guilty, prosecution evidence and defence evidence⁴. The provisions therefore serve as a series of procedural checks and balances between investigation and the adjudication.

The most important steps are discharge and framing of charge. They require the Magistrate to assess whether the prosecution has crossed the threshold to justify a trial, without prematurely determining disputed questions that are in the evidentiary stage. The BNSS thus poses a crucial question: can this speed of justice be reconciled with the current system of judicial checks and balances on initial suspicion? In this article we will argue that the BNSS is just a **continuation of the calibrated reform**. Its main innovations are in time-bound procedure and technological consolidation, but the relevant principles behind discharge and framing of charge are still firmly rooted in criminal law.

2. COMMENCEMENT OF TRIAL AND DISCLOSURE OF MATERIAL

Section 261 mandates that when an accused appears before a Magistrate at the initiation of a warrant-case based on a police report, said Magistrate must satisfy himself that the requirements of Section 230 have been complied with⁵. Section 230's stipulations – requiring provision of both police reports along with any other mandated documentation to accused parties involved in proceedings.

Disclosure is not a mere procedural formality. A good defence is not possible without reasonable access by the accused to the evidence the prosecution is using. Therefore, the disclosure requirement is in-line with the principles of the fair procedure under Article 21.

It is particularly important in the cases involving electronic records, forensic reports and extensive documentary material. The technological access to material has to be not only formal but also meaningful. The defence must have a reasonable opportunity to look at and use the material before the case moves on. Recent scholarship of the BNSS also highlights the ever-increasing importance of judicial oversight and due process. Bandu and Parmar argue that the new procedural framework should reconcile the State's

² Pawan Kumar, Kashish Jain & Bhavya Sharma, India's New Criminal Statutes: Turning Point or Mere Window Dressing? An Assessment of the First Six Months, 63 *Int'l Annals Criminology* 165, 165–78 (2025), doi:10.1017/cr.2025.11.

³ Bharatiya Nagarik Suraksha Sanhita, No. 46 of 2023, § 2(1)(z).

⁴ Id. §§ 261–266.

⁵ Id. §§ 230, 261.

investigative powers with personal liberty and procedural fairness⁶. They work with warrant trials, but that principle is very much applicable to the Magistrate's role at the start of trial.

Section 261 should thus be seen as the first judicial checkpoint in the warrant-trial process. A defective or incomplete disclosure process may prejudice the accused throughout the proceedings.

3. DISCHARGE UNDER SECTION 262: THE FIRST JUDICIAL FILTER

Section 262 BNSS provides for discharge of an accused in a warrant-case instituted on a police report. From the date of supply of documents an application for discharge may be made within sixty days under Section 230⁷. Once, after looking into the police report and accompanying documents and then hearing the prosecution and accused, the Magistrate must discharge the accused where the charge is considered groundless, recording reasons for doing so⁸.

The discharge stage serves an important filtering function. Criminal prosecution imposes substantial consequences even before conviction, including financial costs, reputational injury, restrictions on liberty and prolonged uncertainty. Therefore, compelling an accused to undergo a fair trial when the prosecution material is illegally insufficient would be contrary to the interests of justice.

The Court must nevertheless avoid turning discharge into a trial. The judicial inquiry is directed towards whether the prosecution material provides a sufficient basis for proceeding, not whether the prosecution has already established guilt beyond reasonable doubt.

The Supreme Court established this distinction under the CrPC in *State of Bihar v. Ramesh Singh*, holding that at the initial stage the Court need not determine whether the evidence will ultimately result in conviction⁹. Followed by *Union of India v. Prafulla Kumar Samal*, the Court also recognised that the judge may sift and weigh material for the limited purpose of determining whether a prima facie case exists, while cautioning against an exhaustive evaluation of the evidence¹⁰.

This jurisprudence remains relevant under Section 262. Ahmed's 2026 study specifically examines discharge under the BNSS and distinguishes the statutory function of discharge from the exceptional inherent jurisdiction of the High Court¹¹. The analysis reinforces the view that discharge is an ordinary statutory screening mechanism rather than an abbreviated trial.

The proper approach is therefore one of **meaningful but limited scrutiny**. The Magistrate must use judicial mind to the prosecution material, however questions requiring detailed appreciation of credibility and disputed facts ordinarily belong to the trial.

4. FRAMING OF CHARGE UNDER SECTION 263

Where the accused is not discharged, Section 263 BNSS governs framing of charge. The Magistrate considers the prosecution material and the submissions of the parties and, where there is ground for

⁶ Rashtra Bandu & Aradhana Parmar, Police Powers, Judicial Oversight and Due Process Under the New Criminal Procedural Law in India, 23(3) *J. Advances & Scholarly Rschs. Allied Educ.* 834, 834–55 (2026), doi:10.29070/11xb2x76.

⁷ Bharatiya Nagarik Suraksha Sanhita, No. 46 of 2023, § 262(1).

⁸ Id. § 262(2).

⁹ *State of Bihar v. Ramesh Singh*, (1977) 4 SCC 39, 45.

¹⁰ *Union of India v. Prafulla Kumar Samal*, (1979) 3 SCC 4, 9.

¹¹ Kabir Ahmed, Between Statutory Screening and Inherent Jurisdiction: Reassessing the Relationship Between Discharge Applications and Quash Petitions Under the Bharatiya Nagarik Suraksha Sanhita, 2023, 9(III) *Int'l J.L. Mgmt. & Human.* 2853, 2853–74 (2026).

presuming that the accused has committed an offence triable under the provision, frames a written charge. The charge is to be framed within sixty days from the date of the first hearing on charge¹².

The statutory threshold is substantially lower than the standard required for conviction. The Court is not required to establish guilt beyond reasonable doubt. It must determine whether the material provides sufficient justification for requiring the accused to face trial.

The Supreme Court's decision in *Amit Kapoor v. Ramesh Chander* remains instructive. The Court emphasised that although judicial application of mind is necessary at the stage of charge, the Court should not undertake an exhaustive adjudication of disputed evidence¹³.

More recently, *Dr. Anand Rai v. State of Madhya Pradesh* reaffirmed the principle that disputed questions concerning the presence of an accused, credibility of medical evidence and the precise role attributed to an accused require appreciation of evidence at trial. The Supreme Court cautioned against converting the charge stage into a mini-trial¹⁴. Although the case arose under the CrPC, its reasoning remains relevant to the corresponding preliminary function under the BNSS.

The expression “ground for presuming” should therefore be understood as requiring a judicially sufficient foundation for trial, rather than proof of ultimate guilt.

5. CONTINUITY OF CRPC JURISPRUDENCE UNDER THE BNSS

The replacement of the CrPC by the BNSS calls into question whether the precedents established under Sections 239 and 240 CrPC are still relevant. Where the statutory structure and underlying judicial function stay essentially the same, existing jurisprudence provides important guidance.

The 2026 decision in *Dr. Anand Rai* is particularly relevant in this regard in that Supreme Court has reaffirmed the limits on judicial scrutiny at the stage of charge¹⁵. This is the bases of the distinction between preliminary scrutiny and trial adjudication and it is an important one in the current criminal law. It is also apparent in the academic literature. Kumar, Jain and Sharma note that despite the presentation of the new criminal statutes as comprehensive reform, there is still great institutional continuity and procedural continuity¹⁶. The warrant-trial provisions are an excellent example.

This does not mean that the BNSS can simply be called the CrPC under a new name. Its explicit timelines and technology-connected provisions need to be considered as independent processes. So the appropriate interpretation is **continuity where the legal function remains the same, and adaptation where the BNSS introduces a genuine procedural change**.

Such a system provides stability to criminal allows the new statute to be able to accomplish its reformative objectives.

6. PLEA OF GUILTY AND PROSECUTION EVIDENCE

After framing the charge, Section 263(2) requires the charge to be read and explained to the accused, who is asked whether he pleads guilty or claims to be tried¹⁷. Section 264 leaves the Magistrate, a free hand to, convict on a plea of guilty.

¹² Bharatiya Nagarik Suraksha Sanhita, No. 46 of 2023, § 263(1).

¹³ *Amit Kapoor v. Ramesh Chander*, (2012) 9 SCC 460, 477–78.

¹⁴ *Dr. Anand Rai v. State of Madhya Pradesh*, 2026 INSC 141 (Feb. 10, 2026).

¹⁵ Id.

¹⁶ Kumar, Jain & Sharma, *supra* note 2, at 165–78.

¹⁷ Bharatiya Nagarik Suraksha Sanhita, No. 46 of 2023, § 263(2).

Obviously, there is a duty to do so but a plea of guilt is an admission of serious legal consequences and the court must not treat it as a simple administrative action. The Court must ensure that the plea is clear, voluntary and properly understood.

In the case of the accused, Section 265 governs prosecution evidence. The prosecution produces witnesses and documentary material, and the accused has the right to cross-examine witnesses¹⁸.

The BNSS also gives much greater respect to audio-video electronic mechanisms. Such mechanisms can help reduce logistics and help to ensure the presence of witnesses and other.

But, technology must be held back by fair trial. Electronic examination is only useful if the accused can hear and see the witness, can communicate with counsel and conduct meaningful cross-examination. Technological convenience cannot justify procedural disadvantage.

Recent research on BNSS reform highlights technological integration as a crucial factor, but also points out that institutional capacity and the digital divide will determine if such reforms are beneficial¹⁹.

The appropriate standard is one of **functional equivalence** that electronic proceedings should preserve, as far as possible, the procedural opportunities in a physical hearing.

7. DEFENCE EVIDENCE AND THE RIGHT TO PARTICIPATE

Section 266 BNSS governs defence evidence after completion of the prosecution case. The accused may enter upon the defence, produce evidence and seek the attendance of witnesses or production of documents subject to the statutory safeguards²⁰.

This is an additional provision that further strengthens the adversarial nature of criminal proceedings. While, the prosecution is generally charged with proving guilt, the accused should have opportunity to respond to the prosecution case in a legitimate way.

This is particularly important since the factual challenges are not always settled at discharge or framing of charge. Witness credibility, contradictions, alibi, medical evidence and competing factual explanations may necessitate formal evidence and cross-examination.

Hence the court's restraint at the initial stage should be balanced by meaningful procedural opportunity at the evidentiary stage. In order to have a fair trial, not only must we protect ourselves against a premature conviction but also an opportunity for justice to be served.

8. TIME-BOUND PROCEDURE AND SPEEDY JUSTICE

The sixty-day periods for discharge applications and framing of charge reflects the BNSS's emphasis on procedural efficiency²¹. These provisions seek to prevent criminal cases from remaining indefinitely at preliminary stages.

The purpose is constitutional. The Supreme Court has recognised the importance of speedy trial in Article 21, particularly in *Hussainara Khatoon v. State of Bihar* and subsequent cases.

Sharma's 2025 study points that time-bound processes and technology integration are core features of the BNSS's plan to overcome chronic delay²². At the same time, the study emphasises that statutory reform

¹⁸ Id. § 265.

¹⁹ Rudransh Sharma, *Bharatiya Nagarik Suraksha Sanhita, 2023 & Reforms in Criminal Procedure: Towards Speedy Justice?*, 5(1) *Int'l J. Civ. L. & Legal Res.* 150, 150–56 (2025), doi:10.22271/civillaw.2025.v5.i1b.132.

²⁰ *Bharatiya Nagarik Suraksha Sanhita*, No. 46 of 2023, § 266.

²¹ Id. §§ 262(1), 263(1).

²² Sharma, *supra* note 19, at 150–56.

cannot solve judicial vacancies, investigative deficiencies, infrastructure shortages and insufficient legal-aid systems.

So, the Sixty-day provisions should help expedition and not mechanical adjudication. A deadline should encourage judicial attention, not force Court to sacrifice adequate hearing.

The same is true about adjournments. Unnecessary adjournments undermine speedy justice, but reasonable opportunities required for effective defence cannot be characterised as procedural delay. The goal should therefore not be **speedy justice but rather the speedy disposal of a person**.

9. JUDICIAL OVERSIGHT AND PROCEDURAL FAIRNESS

The legitimacy of the warrant-trial framework hinges heavily on the quality of judicial scrutiny. The Magistrate is not merely an administrative intermediary between investigation and trial. At the stages of discharge and framing of charge, the Magistrate plays a key filtering role.

Recently studied police powers and due process under the BNSS point to the continuing constitutional role of judicial oversight in controlling State coercive power²³. The principle is equally applicable to trial proceedings: efficiency cannot eliminate judicial responsibility.

There are two attendant risks. Too much judicial intervention can transform discharge or charge proceedings into mini-trials and thus further delay. A lack of scrutiny can lead to legally unsustainable prosecutions that continue.

So, the right balance is judicial restraint and true application of mind. The Court should check whether the statutory threshold has been crossed but it should not decide on issues that require evidence.

This method also preserves institutional boundaries. The Magistrate decides if the facts of the case and the appellate courts intervene in the context of the law.

10. CONTINUITY WITH CALIBRATED REFORM

The warrant-case provisions convey the broader nature of the BNSS. They are not a complete departure from the CrPC nor a change of terminology.

The sequence of the proceedings still follows: disclosure, discharge, charge, plea, prosecution evidence and defence evidence. The major changes related to these stages are more detailed timelines and greater statutory support of technology.

The literature recently is also full of such tensions. Kumar, Jain and Sharma question the extent of transformative change in the new criminal statutes²⁴; Sharma emphasises the potential of time-bound procedure while highlighting implementation barriers²⁵; Ahmed explores discharge as statutory screening²⁶; Bandu and Parmar emphasise due process and judicial oversight²⁷.

These perspectives demonstrate that the success of the BNSS cannot be based only on how many provisions change. Its real test is whether criminal proceedings get better at being **fair or worse**.

For warrant-cases, that requires full disclosure, rigorous preliminary scrutiny, effective defence participation, effective use of technology and compliance with constitutional standards.

²³ Bandu & Parmar, *supra* note 6, at 834–55.

²⁴ Kumar, Jain & Sharma, *supra* note 2, at 165–78.

²⁵ Sharma, *supra* note 19, at 150–56.

²⁶ Ahmed, *supra* note 11, at 2853–74.

²⁷ Bandu & Parmar, *supra* note 6, at 834–55.

11. CONCLUSION

Sections 261–266 of the Bharatiya Nagarik Suraksha Sanhita, 2023 presents a formal framework for warrant-cases made on police documents. These documents govern the progression from the beginning of investigations to trial through disclosure, discharge, framing of charge, plea, prosecution evidence and defence evidence.

The BNSS has been the most successful in introduction more procedural discipline through statutory timelines and technology-enabled processes so far. But these innovations are not entirely new to the ideas discharge and framing of charge that were established in the CrPC.

The Supreme Court's decision, in 2026 in *Dr. Anand Rai*, reaffirms the basic point of distinction between preliminary scrutiny and trial. A Court must consider whether there are sufficient grounds to proceed but not in a mini-trial by settling conflict in the charge.

The recent literature shows that legislative reform alone does not eliminate systemic delay. Good implementation will take judicial capacity, well-established infrastructure, solid examinations, technological reliability and good legal representation.

So, the warrant-trial model in the BNSS can be viewed as **continuity with calibrated reform**. Its success will be measured by the balance made between statutory effectiveness and constitutional fairness.

We are not just after justice; we are after justice. And the purpose of criminal procedure is not to get things done quickly. It is to ensure that criminal justice is done **fairly, efficiently and in compliance with law**. The BNSS is only going to deliver on its promise if procedural speed is not substituting for it.

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