

Section of BNSS

190



OFFICE OF THE COMMISSIONER OF POLICE: DELHI.
POLICE HEADQUARTERS, JAI SINGH ROAD, NEW DELHI-110001.

CIRCULAR

No. 02 /2025

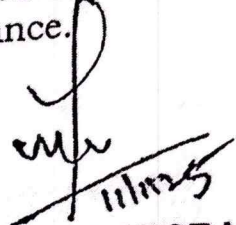
GUIDELINES FOR INVESTIGATING OFFICER TO FILE THE CHARGESHEET UNDER SECTION 190 BNSS WHEN THE ACCUSED IS NOT ARRESTED DURING INVESTIGATION

Till the time Criminal Procedure Code, 1973 (Cr. P.C) was in force, section 170 of the same was often misinterpreted by investigating as well as supervisory officers. This had led to the practice of producing accused individuals before the Trial Court for the purpose of sending them to judicial custody, at the time of filing of the charge sheet against them, even when they had not been arrested during the course of investigation. Section 190 of the BNSS, 2023, addresses and corrects this issue with certainty and finality.

- **Misinterpretation of Section 170 of the Cr. P.C:** The phrase "forward the accused under custody" was misunderstood to imply that the accused must be arrested and then produced before the Magistrate at the time of filing of the charge sheet. The Supreme Court of India, in case titled "**Siddharth Vs. State of Uttar Pradesh**" (16th August 2021), has clarified that "custody" in Section 170 Cr. P.C does not mean police or judicial custody, but, simply presenting the accused before the court while filing the charge sheet.
- **Guidelines for Compliance:** After completing the investigation, but before submitting the police report, the police are not required to arrest the accused, only in order to secure their appearance/presence before the Judicial Magistrate. The investigating agency is not required to arrest the accused at the time of filing the charge sheet, if accused had not been arrested during the course of investigation. It is not obligatory to take the accused into custody, merely for the purpose of filing of charge sheet. Proviso to section 190(1), BNSS, 2023, categorially provides that the Magistrate shall not reject the charge sheet, solely because the accused has not been taken into custody.

- **Security for Appearance:** The Investigating Officer (IO) must take security from every accused who has not been arrested during the course of investigation, but is being charge-sheeted, as per Form 30, provided in schedule 2 of BNSS, 2023 (**Copy enclosed**) for ensuring his appearance before the Judicial Magistrate, at the time of filing of the charge sheet.

The guidelines enumerated above must be briefed to all Investigating Officers and supervising ranks for meticulous compliance.


(SANJAY ARORA)
COMMISSIONER OF POLICE:
DELHI

No. 151-300 /Record Branch/PHQ dated Delhi, the 13/11/2025

Copy forwarded to: -

1. All Special Commissioners of Police, Delhi.
2. All Joint Commissioners of Police, Delhi including Jt. Director, Delhi Police Academy, Delhi/New Delhi.
3. All Additional Commissioners of Police, Delhi.
4. OSD to C.P., Delhi.
5. All Deputy Commissioners of Police, Districts/Units including PHQ, C.P. Sectt., FRRO and Deputy Director/Delhi Police Academy, Delhi/New Delhi.
6. DCP/HQ(IV)/PHQ with the direction to upload the Circular on Intra-DP.
7. LA to CP and FA to C.P., Delhi.
8. All ACsP/Insprs./PHQ.
9. PS/Reader to C.P., Delhi.
10. HAR/PHQ.
11. Inspr./Knowledge Center/PHQ.

OFFICE OF THE STATION HOUSE OFFICER, POLICE STATION..... NEW DELHI.

Case FIR No. _____ U/s _____ Dated _____ PS _____

Diary No. _____ /R/SHO/P.S. _____ Dated _____ New Delhi.

FORM No. 30
BOND TO PROSECUTE OR GIVE EVIDENCE
(As per section 190 of B.N.S.S.)

I,(name) (Mobile No. / WhatsApp.....
.....Email..... of (place), do hereby
bind myself to attend at.....in the
Court of.....at.....o'clock.....on
the.....day of..... next and then and there
to prosecute (or to prosecute and give evidence) (or to give evidence) in the matter of a
charge of.....against one A. B., and, in case of making default
herein, I bind myself to forfeit to Government the sum of rupees.....

Dated, this..... day of....., 20

(Signature)