

Section of BNSS

43(3)



**ODISHA POLICE
CRIMINAL INVESTIGATION DEPARTMENT
CRIME BRANCH**

CRIME BRANCH CIRCULAR NO. 05 /2024

Sub: Standard Operating Procedure for Handcuffing

1. Introduction

- The statutory provision for handcuffing is a new concept introduced in Sec- 43 (3) of BNSS-2023. There was no specific provision for handcuffing in the Criminal Procedure Code.
- The Supreme Court in various judgements restricted use of handcuffs with directives that require Law Enforcement Agencies will seek Court's permission before handcuffing a person.

2. Process

A. The police officer may, keeping in view the nature and gravity of the offences, use handcuff for the following category of accused person.

- (a) who is a habitual, repeat offender
- (b) who escaped from custody
- (c) Accused of the following offences

Sec in BNS	Nature of Offence under BNS
Sec. 71	Repeat offender
Sec. 145	Habitual offender
Sec. 253,	Escaped from custody
Sec. 111 (1) to (7)	Offence under organized crime
Sec. 113 (1) to (7)	Offence under Terrorist Acts
Sec. 123, 276, 277 & 278	Offence of drug related crime

	Illegal Possession of Arms and Ammunitions
Sec. 63, 67, 68, 69, 70	Offence of Rape
Sec. 101	Offence of murder
Sec. 124 (1) & (2)	Offence of acid attack
Offence under Chapter-X	Offence of Counterfeiting of Coins and Currency Notes
Sec. 111 (1)	Offender of human trafficking
POCSO Act	Sexual Offence against Children
Sec. 147- 157	Offence against the State

B. Handcuffing of the above categories of the accused persons is allowed only in two circumstances.

- i. While making arrest of the person.
- ii. While producing such person before the court.

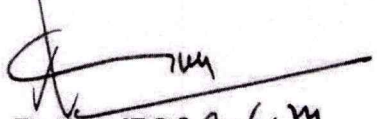
It may be noted that in any other demanding circumstances like taking the accused for medical examination, recovery of weapon or stolen property or crime scene recreation etc. handcuffing can be done only with orders of the court.

3. Guidelines For Handcuffing

- (i) Handcuff should not be used in a routine manner.
- (ii) Handcuffs must not be used in a manner that causes unnecessary pain or injury, as this could constitute excessive force, violating the right to be free from torture and inhumane treatment.
- (iii) Prolonged handcuffing of individuals without sufficient reason must be avoided.
- (iv) Handcuffing must not be used as a form of punishment and to denigrate the dignity of the individual.
- (v) Using handcuffs may be avoided when the individual poses no threat to self or others, including police.

- (vi) Handcuffing individuals with certain medical conditions, where it poses health risks, may violate their right to health and safety and therefore should be ordinarily avoided.
- (vii) While handcuffing, it is to be ensured that the provisions of Article-21 of the Constitution of India is not violated in any manner and all decency and decorum keeping in view the human dignity should be ensured.
- (viii) The provision of use of handcuff u/s-43(3) of BNSS 2023 is not mandatory but obligatory.
- (ix) Whenever handcuffing of a person is required entries should be made in the Station Diary with sufficient justification and clear orders in the command certificate.

Note: This Standard Operating Procedure (SOP) is subject to modification based on feedback from field units, post implementation of the new criminal laws.

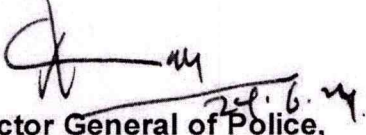

Arun Bothra IPS 29.6.24
Addl. Director General of Police,
CID Crime Branch, Odisha.

Memo No. 7344 /CID-Law
Copy forwarded to:

Date: 29 .06.2024.

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- Spl. D.G of Police, HRPC, Commissioner of Police, Bhubaneswar- Cuttack, ADGP Railways & Coastal Security
- IGP Training, IGP CAW & CW, IGP EOW, IGP STF
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for information and necessary action.


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