

Section of BNSS

356(8)



ODISHA POLICE
CRIMINAL INVESTIGATION DEPARTMENT
CRIME BRANCH

CRIME BRANCH CIRCULAR No. 16/2024

Sub: Standard Operating Procedure on Proclaimed Offenders

1. Objective

In the BNSS, under section 84 and 85, new provisions have been added about proclaimed offenders and the identification, attachment and forfeiture of their property situated even outside India. The BNSS also has the procedure for in - absentia trial of proclaimed offenders u/s 356 BNSS. Now the process of trial will not be halted waiting for the proclaimed offender to join the trial process.

2. Process for Issue of Proclamation Order

- a) The I.O. investigating into a cognizable offence shall take steps for arrest of the accused.
- b) If the accused evades arrest and does not cooperate with the investigation or conceals his presence, the I.O. shall pray the court to issue a Non-Bailable Warrant (NBW) against him.
- c) After making the prayer the I.O. shall personally appear in the court and brief the Magistrate explaining for justification of the issuance of NBW.
- d) The I.O. should preferably pray for an open ended NBW.
- e) After obtaining the NBW the I.O. may endorse the same to any other Police Officer for execution.
- f) The I.O. will mention in the case diary the detailed steps taken for execution of the NBW.
- g) If NBW remains unexecuted for more than a month (30 days) despite sincere efforts of the I.O., he will make a prayer before the judicial Magistrate for issuance of proclamation.

- h) The notice of proclamation issued by the court requiring appearance of the accused shall be served by the I.O.

3. Service of Court Notice:

The notice may be served in one of the following manners:

- a) By personal service.
- b) By service on one of the adult members of the family of the accused person.
- c) By affixture on the outer entrance gate of the accused person's house and in other conspicuous places like the court building, Panchayat Office etc. in presence of at least two independent witnesses.
- d) The notice may also be published in a daily newspaper circulating in the place in which, such person ordinarily resides.
- e) If notice is served on the accused persons or on his family members, due acknowledgement shall be taken.
- f) Despite service of notice in any of the aforesaid manner if the accused fails to appear, the I.O. will pray for proclamation orders in the court.
- g) While praying for proclamation order, documents and case diary pertaining to notice service shall be filed in the court.
- h) If the court is satisfied, it will pass a proclamation order against the accused.
- i) If the proclamation order is passed against an accused involved in commission of offence punishable for more than 10 years imprisonment, he shall be proclaimed as a "Proclaimed Offender".
- j) IO will obtain the order declaring the accused as "Proclaimed Offender" from the court and shall serve the same in the same manner as mentioned above about the proclamation notice.
- k) The compliance of service of proclamation shall be submitted by the I.O.
- l) When the proclamation order is notified, and the accused fails to appear in the court on the date fixed the offence u/s 209 will be added against the accused in the charge sheet if the investigation is continuing.
- m) If the investigation is complete, the I.O. shall draw a plain paper FIR and register a fresh case u/s 209 BNS, 2023 against the accused person.

4. Process for Attachment of the Property (Section 85 of BNSS)

- a) Proclamation order or property attachment order can be issued simultaneously, or it can be issued one after another.
- b) Simultaneous prayers for Proclamation order/Attachment of property should be made with justification i.e. anticipation of quick disposal of any property by the accused.
- c) The property may be movable or immovable or both.
- d) Court can issue Attachment Order after getting the report from the Investigating Officer/OIC.
- e) Before prayer IO should identify the movable and immovable properties exclusively belonging to the accused person and submit a detailed list thereof in the court.
- f) The court may authorize attachment of any property belonging to such person within or outside the district.
- g) In case of property is situated outside the district an endorsement of the District Magistrate of that district is necessary prior to attachment.

A. Procedure of seizure of movable property

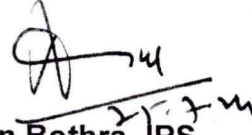
- i. If the property is a debt or other movable property it can be seized by the IO.
- ii. Court may appoint a receiver for the said properties.
- iii. Court may prohibit delivery of such property to the proclaimed offender or to any person on his behalf.

B. Procedure of seizure of immovable properties

- i. If it is an immovable property, the attachment will be made through Collector of the district in which the land is situated.
- ii. And in all other cases :-
 - a. by taking possession or
 - b. by appointment of receiver or
 - c. by order in writing prohibiting any proceeds like rent etc., to go to proclaimed person or
 - d. by all or any of the above two methods.

- iii. If the property consisting of livestock or is of perishable nature immediate sale can be made after obtaining order from the court. The sale proceeds shall be deposited in the court immediately.
- iv. The attached property will be disposed of by order of the court on conclusion of trial.

Note: ***This Standard Operating Procedure (SOP) is subject to modification based on feedback from field units.***

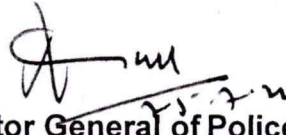


Arun Bothra, IPS
Addl. Director General of Police
CID Crime Branch, Odisha.

Memo No. 8480 /CID-Law
Copy forwarded to:

Date: 25.07.2024.

- All Dist. SsP including DCsP, Bhubaneswar / Cuttack, SsRP Cuttack/ Rourkela, SsP HRPC/ CAW & CW/ EOW/ STF
 - IGP Training, IGP CAW & CW, IGP EOW, IGP STF
 - All Range IsGP / DIsGP
- for information and necessary action.

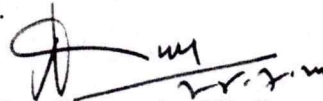


Addl. Director General of Police,
CID Crime Branch, Odisha.

Memo No. 8481 /CID-Law

Date: 25.07.2024.

Copy forwarded to Spl. D.G of Police/ Director SCRB/ HRPC, Commissioner of Police, Bhubaneswar- Cuttack, ADGP Railways & Coastal Security for kind information and necessary action.



Addl. Director General of Police,
CID Crime Branch, Odisha.

Annexure-I

PROFORMA ON PROCLAIMED OFFENDER

Whereas, a complaint has been made before me that
(name, description and address) has committed (or is suspected to have committed)
the offence of (mention the offence concisely) and a warrant has
been issued to compel the attendance of (name, description and
address of the witness) before this Court to be examined, relating the matter of the
said complaint; and whereas, it has been returned, the said person proclaimed
..... cannot be served, and it has been shown to my satisfaction that,
he has absconded (or is concealing himself to avoid the service of the said warrant);
Proclamation is hereby made that the said
(name) is required to appear at Court
..... on the day
of..... examined touching the offence
complained of.

(Signature)

Dated, this..... Day of, 20.....

(Seal of the Court)