



# The Criminal Justice System



**National Human Rights Commission  
India**



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TRAINING & RESEARCH DIVISION  
**NATIONAL HUMAN RIGHTS COMMISSION  
INDIA**

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# THE CRIMINAL JUSTICE SYSTEM




## ELEMENTS OF THE CRIMINAL JUSTICE SYSTEM

### *Purpose of Criminal Law*

The main purpose of criminal law is to keep order in society and lessen the harm people may cause each other. Towards this end, some harmful acts (e.g. murder, injury, theft, etc) are made punishable by law i.e. they are called crimes.

The criminal justice system refers to the entire system that deals with crime – the laws that define crimes and lay down procedures to deal with them, the investigating authorities (police), the trial process (courts, lawyers, judges), and the facilities to deal with those who commit crimes (prisons, correctional centres).

The IPC lists the various crimes that are punishable by law in India. Some offences are punishable under other laws as well e.g. The Dowry Prohibition Act



		
Section 300 of IPC defines murder; Section 302 gives the punishment for murder	Section 378 IPC defines theft; Section 379 punishes theft	Section 2 of the Dowry Prohibition Act defines dowry; Section 3 punishes giving or taking of dowry

## Relevant Legislations in the Criminal Justice System

The 3 key laws relevant to the criminal justice system are:

**The Indian Penal Code (IPC):** The IPC lists the various crimes (or offences) that are punishable by law. Murder and rape are crimes in India because the IPC lists them as crimes. The IPC also mentions what the punishment is for various offences. Most of the offences are mentioned in the IPC, but not all. Some offences are punishable under other laws e.g. The Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS), Prevention of Corruption Act, Food Adulteration Act, Dowry Prohibition Act, the Defence of India Act, etc.

**The Criminal Procedure Code (Cr.P.C.):** The Cr.P.C lays down what is to be done if a crime takes place – whom to complain to, who can investigate the offence and how, the procedure for arrest, the trial process, etc.

<p>The Criminal Procedure Code lays down what is to be done if a crime takes place</p>	<p>The Indian Evidence Act lays down the rules for judging the guilt of an accused e.g. what can or cannot be used as evidence</p>
	

**The Indian Evidence Act:** This lays down the rules for how to decide whether a person is guilty of an offence or not e.g. how much evidence is required, what evidence is more reliable than others, what can or cannot be used as evidence, etc.

## CRIME AND PROSECUTION

### *Crime or Offence*

The Indian Penal Code defines most crimes in India, and lays down the punishment for these crimes. However, there are some actions which may seem to be crimes, but are not. This is because these actions are exempt from punishment under the chapter called 'General Exceptions' of the IPC.

*The following acts are not crimes under the IPC:*

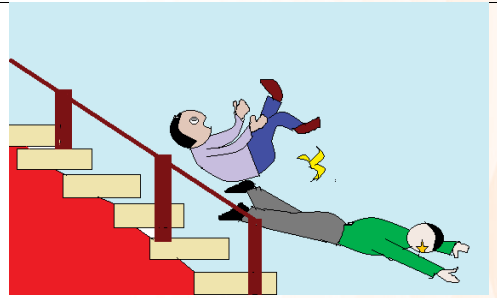
✓ **Act done by a person bound by law to do something:** It is not an offence to do anything that one is *required to do by law*. Even if a person makes a genuine mistake while doing this, it will not be an offence.

Anup, a traffic constable tows away a car parked in a 'No Parking Zone'. John, the owner of the car had kept an expensive glass object in the back seat. When the car is towed, the object rolls down and breaks. John accuses Anup of damaging his property. But Anup has committed no crime - he was merely doing what the law required him to do as a traffic policeman.

Ram is suspected of an offence and is arrested by the police. Later it is proved in a court of law that Ram is innocent. The police had done no wrong when they arrested him.



The police arrest Ram Chauhan, suspecting him of murder. On trial, Ram Chauhan is found innocent. The police had done no wrong when they arrested him, as it is **not an offence to do what the law requires one to do**



Adarsh slips on a banana peel on the stairs. As he falls he collides against Prem who also falls down and gets bruised. This is an accident. Adarsh has committed no crime. **An act is not a crime if it occurs purely by accident**

✓ **An act is not a crime if it occurs purely by accident** i.e. someone does something they are entitled to do, but some mishap occurs completely by chance and without any wrong intent.

Sarala is walking down the stairs. She accidentally slips and falls. As she is falling, she knocks against Madhu who was on the stairs ahead of her. As a result Madhu also falls and gets injured. Sarala has not committed any crime.

✓ **An act likely to cause harm is not a crime if it is done to prevent other harm**, and it is done without criminal intent.

Mahesh is driving a car at moderate speed. Suddenly a ball bounces in front of him and he sees a child running to catch the ball. If Mahesh does not stop immediately, he is likely to run over the child. He brakes hard to stop his car. Sanket, riding a scooter behind Mahesh, is unable to stop in time. The scooter hits against Mahesh's car and Sanket falls down, scraping his arm. Mahesh has committed no crime as he stopped to save the child's life.



**No act done by a child under the age of 7 years is an offence**

✓ **No act done by a child under the age of 7 years is an offence.** No act of a child above 7 years of age but below 12 years is an offence if the child is not mature enough to understand the nature and consequences of the action.

Madhav is 11 years old. He steals a necklace worth 2 lakh rupees and sells it to Ram Manohar for ten thousand rupees. Madhav has committed an offence because although he did not know the value of the necklace, he knew that he was taking the necklace to get money by selling it. [Children below the age of 18 years are tried by a special law called the Juvenile Justice (Care and Protection of Children) Act.]



✓ **No act is an offence if it is done by a person who, at the time of doing it, because of unsoundness of mind, is incapable of knowing what he is doing, or that what he is doing is wrong.**

Adarsh is a paranoid schizophrenic. He often has hallucinations about people trying to attack him. One day his brother Ravi came toward him with his medicines and a metal spoon. As a result of his condition, Adarsh saw the spoon as a knife and thought his brother was trying to kill him. He picked up an ashtray nearby and threw it at Ravi. The ashtray struck Ravi on the head causing him serious injury. This is not a crime as Adarsh has acted out of unsoundness of mind.

✓ **No act is an offence if it is done to defend oneself or one's property. This is the right of private defence.** This right has its limits though – *the action should not be excessive or unreasonable*. The act must be in proportion to the threat to one's life or property. If one goes beyond by inflicting more harm than what is necessary to defend oneself, it could amount to an offence.

Ankur is carrying a briefcase to work. Two men try to snatch it. He resists, and in the scuffle that follows, he hits one of his attackers with his briefcase. Because of this the man falls and hurts his head on the footpath. Ankur has committed no crime as he was only trying to defend himself and his property.



**No act is an offence if it is done to defend oneself or one's property.** This right of private defence has its limits – *the action should not be excessive or unreasonable*.

Birijlal owns a grocery store. One day he catches a thief trying to steal from his shop. He and two other shop assistants beat up the man severely. The man dies as a result of his injuries. Birijlal and his shop assistants have committed a crime because they have used more force than was required to protect their lives or their property.

## ***Reporting an Offence***

When an offence occurs, the first thing to do is inform the police. An offence can be reported in writing or orally. The police are bound by law to register this information. **In the case of serious offences such as theft, murder, rape, etc. the police register the information as an FIR (First Information Report).**

Zeenat Ali's brand new TV set, DVD player and laptop were stolen from her house. She went to the local police station to report the matter. The police ask her to give details of when the incident took place, the articles that have been stolen, whom she suspects of the crime, and any other relevant information. The police must register an FIR and give Zeenat a copy free of charge.

An offence should be reported to the nearest police station. However, if this is not possible, it can be reported to any other police station that is convenient. *It is the duty of the police to record the FIR and forward it to the concerned police station.*

It could happen that an assault happened within the area of one police station but was reported in the police station nearest to the victim's home. In this case it is the duty of the police station receiving the complaint to transfer the matter to the station where the crime took place. In such cases the FIR will bear the number 0 (zero).



When an offence occurs, the first thing to do is inform the police. An offence can be reported in writing or orally. The police register this information as an FIR (First Information Report).

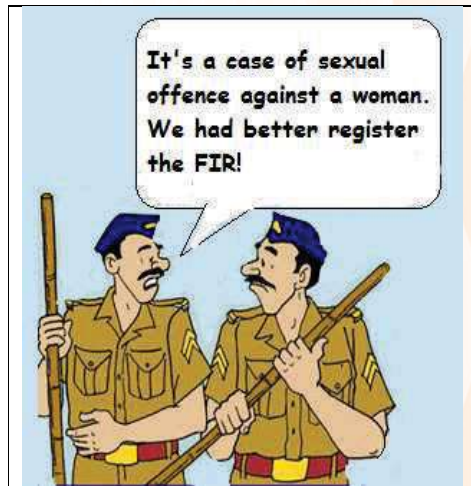
**This is called a Zero FIR.**

Archana lives in Ahmedabad. She was harassed by her in-laws for dowry. As she was not able to provide the money they were demanding, they turned her out of the house. Archana returned to her parents' house in Surat. The acts done by her in-laws are offences under the IPC. But when she went with her mother to lodge a report in her local police station in Surat, the police told her that she would have to file the FIR in Ahmedabad. **THIS IS WRONG.** Archana has the right to have the FIR registered in Surat as a Zero FIR, which will then be forwarded to the concerned police station in Ahmedabad (where a proper number will be given to the FIR).

**It is the duty of the police to register an FIR. The police must also give a copy of the FIR free of charge to the informant immediately.** They cannot

charge a fee for this, nor can they ask the informant to collect it later. If they refuse to register an FIR, or charge a fee for giving a copy, the informant should write down details of the incident and send it to the Superintendent of Police (SP) of the area by registered post. The SP will either investigate the matter himself, or direct some other police officer to do this.

The informant can also file a complaint before a Judicial Magistrate. The Magistrate will either hold an enquiry, or direct the concerned police station to do so.

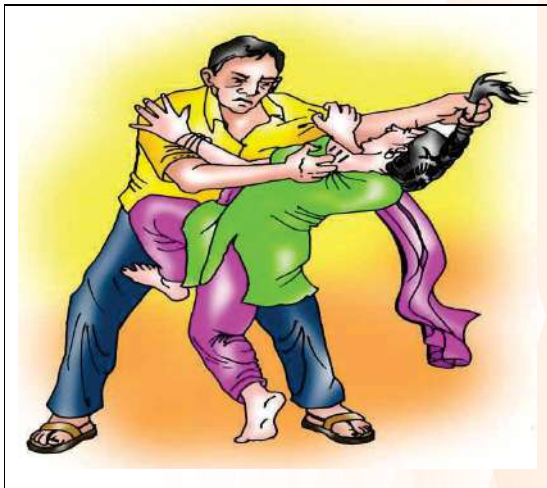


A police officer who refuses to register an FIR in a case of sexual offence committed on a woman, or acid attack, can be punished with imprisonment of minimum 6 months and up to 2 years.

**A police officer who refuses to register an FIR in a case of sexual offence committed on a woman or acid attack, can be punished with imprisonment of minimum 6 months and up to 2 years.**

While there is no time limit for filing an FIR, it should be done as soon as possible. Undue delay in filing an FIR tends to weaken the case, but this depends on the circumstances. For example, due to the stigma attached to women who report the offence of rape in India, delay in filing an FIR in these cases is understandable and acceptable.

Madhu, a 10 year old girl, is kidnapped and raped by two men on her way back from school. The next morning, the men drop her off in a field place near her village. She manages to make her way home, and tells her mother what happened. Madhu's father is away on work and is due to return in a few days. Madhu's mother waits for the father to return, as the police station is some distance away, and she is afraid to go there alone with her daughter. Only when Madhu's father returns four days later is the FIR lodged. Such delay is acceptable under the circumstances.



In most cases, any person can report an offence to the police. However, there are a few offences that can be reported only by a certain category of people (e.g. person directly affected, family members of person affected).

Crimes should be reported to the police as soon as possible. However, due to the stigma attached to the offence of rape, delay in reporting such an offence is understandable

Abdul saw an accident on the road. He called up the police and informed them. The police have to record the report and take action. They cannot say that because Abdul doesn't have anything to do with the accident, they cannot take his report.

Lalita's husband often quarrels with her and sometimes in a fit of rage also beats her up. Lalita feels distressed and helpless. One day she tells her friend Mayuri about her situation. Mayuri goes to the police station to report the matter. The police tell her that the matter comes under Section 498A of the IPC (cruelty to wife), which cannot be reported by a third party - either Lalita herself, or her family members on her behalf, have to report the matter.

### ***Cognizable and Non- Cognizable Offences***

An offence can be *cognizable* or *non - cognizable*. Cognizable offences are crimes of a serious nature, such as rape, murder or theft. In such cases the police will register the FIR in the *register for cognizable offences*. They can investigate the matter immediately and even make an arrest without a warrant from a court.

In non - cognizable offences the police cannot arrest without a warrant from a court. Offences such as defamation and bigamy are non-cognizable offences. In such cases the police will record a 'non-cognizable report' (NCR). The informant is given a copy of the report and referred to the Magistrate for further action. The police can investigate a non - cognizable offence only after being directed to do so by a Magistrate.

There is a list of classification of offences in the Criminal Procedure Code (First Schedule) which mentions



In cognizable offences (e.g. murder, rape), the police can act immediately, and even arrest a suspect without an order from the court. In non - cognizable offences (e.g. defamation), the police will only register a non - cognizable FIR and can investigate the matter only with an order from the court.

which offences under the IPC are cognizable and which are not. This can also be specified in a particular legislation e.g. the Dowry Prohibition Act specifies which offences under the Act are cognizable.

### ***Investigation***

The next step is investigation. The police must try to find the culprit. They will inspect the scene of the crime to gather information on the case. They can talk to various people who might know something about the incident. **The police can take down notes of what people tell them, but they cannot make people sign these statements.**

The investigating officer can give a written order calling any person to the police station for questioning in connection with the case. But if the police want to question a woman, the police have to go to her residence at a reasonable time. **Women, people with disabilities, boys under 15 and men over sixty five cannot be directed to be present in a police station for questioning.**



When Zeenat Ali returns home one day from work she finds that her TV, DVD player and laptop are missing. After registering a case of theft in her case, the police begin their investigation. They go to where the crime took place (Zeenat Ali's residence) to look for clues. They suspect the watchman Ashok, as he was on duty on the day that the theft took place. The investigating officer gives an order in writing that Ashok should come to the police station for questioning. The police have the right to do this.

When Ashok does not turn up for questioning, the police tell his wife, Karuna, to come to the police station instead. This is illegal as a woman cannot be called to the police station for questioning.

Zeenat Ali gets a call from the officer-in-charge of the police station telling her to meet him urgently. She hurriedly goes to the police station, where she is told that she should take more interest in her case (involving theft of her TV, laptop, DVD player). The police also tell her that they have found the thief, but he is in another state, and Zeenat must bear the cost for making the arrest.

This is in gross violation of the law. It is the duty of the police to complete the investigation, and make whatever arrests are necessary. The expense for all this is borne by the state. Zeenat Ali does not have to pay any money to the police for this. Nor can she be directed to go to the police station. If the police wish to ask her something, they have to visit her at a reasonable time at her home.

### **Arrest**

As they investigate a case, the police may suspect one or more persons to have committed the crime. **It is not up to the police to declare someone guilty of a crime – that power rests with the court that will try the case.** But it is the duty of the police to bring probable offenders to the court to face justice.

When the police suspect someone of having committed a crime, they must investigate the matter thoroughly and gather evidence of the person's guilt. The more evidence they are able to gather, the stronger will be their case when the suspect (accused) is tried in court.

On the other side, the person or persons who have committed a crime will most likely do whatever they can to show that they are innocent. They may threaten witnesses, plant false



evidence, and do other things to create difficulties for the investigating police. It is for this reason that the police have been given the power to arrest a person suspected of a crime.

The power of the police to arrest is clearly specified in law. The Constitution of India, the Criminal Procedure Code and several Supreme Court judgments (e.g. D. K. Basu v. State of Bengal) have spelt out what the police can and cannot do when they carry out an arrest.

*The legal provisions related to arrest include:*



The police have the power to arrest anyone who might have committed a cognizable offence.



Police personnel carrying out the arrest and handling the interrogation of the arrestee should bear accurate, visible and clear identification and name tags with their designations. The particulars of all such police personnel who handle interrogation of the arrestee must be recorded in a register.



The arrestee must be told of the grounds of arrest at the time of being arrested. S/he must be made aware of the right to have someone informed of the arrest. .



If the arrestee accompanies the police willingly, no force should be used. Only minimum restraint should be used on an arrestee resisting arrest. **Handcuffing is not permitted, except in very exceptional circumstances.** It is only allowed when the person in custody is so dangerous or desperate that there is no other practical way of preventing the arrestee's escape. Prior permission of a Magistrate is required for handcuffing.



The arrestee must be told the grounds of arrest. Handcuffing is allowed only in exceptional cases, and with prior permission from a Magistrate





The police must prepare an **Arrest Memo** at the time of arrest. The Arrest Memo must mention the name of the accused, the offence for which the arrest is being made, the date and time of arrest, and the place of arrest. It should be attested by at least one witness, who may be either a family member of the arrested person or a respectable person of the locality from where the arrest is made. It should also be counter signed by the arrested person.



At the time of arrest the police should prepare an Arrest Memo which should be signed by the arrestee's relative or any respectable member of the locality and the arrestee



If the arrested person so requests, s/he should be examined at the time of arrest for any major or minor injury. If any such injuries are visible, they should be recorded in the **Inspection Memo**. This must be signed both by the arrested person and the police officer making the arrest. A copy of

the Inspection Memo will be given to the arrestee.



A trained doctor will medically examine the arrested person every 48 hours during custody. Medical examination of a woman arrestee can be carried out only in presence of a female medical practitioner.



A trained doctor appointed to do so by the government, should medically examine the arrested person every 48 hours during custody. Medical examination of woman can be carried out only in presence of a female medical practitioner.




The arrestee is entitled to have a family member, relative, friend or other concerned person

informed, as soon as practicable, of the arrest. Of course, this is not necessary if the attesting witness in the Arrest Memo is such a relative or friend of the arrestee.



**Women cannot be arrested between sunset and sunrise.** In exceptional cases, a woman police officer can arrest a woman during this time, but only with the permission of a judicial magistrate. **A woman police officer must be present at the time of arrest of a woman.** If for some reason there are no female police personnel available, the arresting officer has to record this in writing. Police records should show that the police could not secure a female police officer despite their best efforts, and delaying the arrest till such presence of female police would harm the investigation. Only then can a woman be arrested in the absence of a female police person. **If there is any need to search an arrested woman, this can be done only by a female police officer.**



Women cannot be arrested between sunset and sunrise.

In exceptional cases, a woman police officer can arrest a woman during this time, but only with the permission of a judicial magistrate.

A woman police officer must be present at the time of arrest of a woman.



The arrest must be recorded at the police station in a special register and the District Control Room must be informed about it. A Police Control Room must be provided at all district and state headquarters. Information regarding the arrest and the place of custody should be communicated by the

arresting officer to this Control Room within 12 hours of the arrest. The information should also be displayed on an easily noticeable board in the Police Control Room.



Copies of all the documents relevant to the arrest (e.g. memo of arrest) must be sent to the local Magistrate.



An arrested person must be produced before a Magistrate within 24 hours of the arrest. This is compulsory and no excuse can be made for non-production. Serious action can be taken against the police if an arrested person is not produced within 24 hours. This is why recording the date and time of arrest correctly is essential. However, the travel time taken to reach the court is not included in the 24 hours.



An arrested person must be produced before a Magistrate within 24 hours of the arrest (excluding travel time)

**Holidays are no exception and cannot be a reason for delaying production of the arrestee before a Magistrate.**



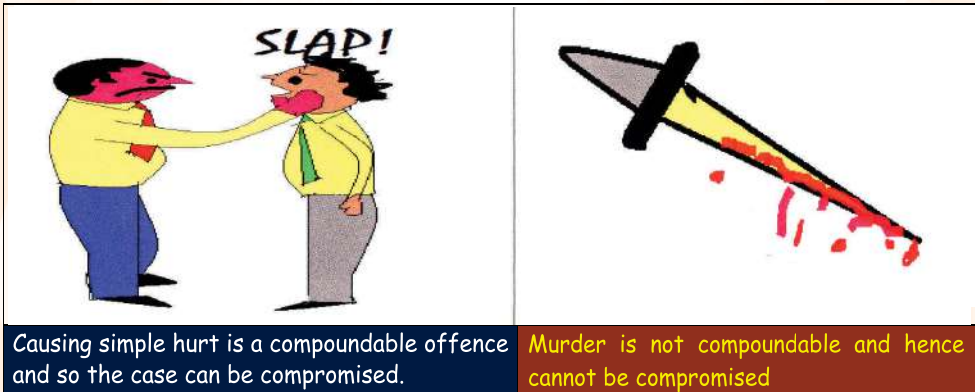
The arrested person has the right to meet his lawyer during interrogation, but not throughout the interrogation.

Mahato was arrested on Friday night. The police said they would take him to the court on Monday, as Saturday and Sunday are holidays. This is not correct. There is always a Magistrate on duty on all days for this purpose. If the arrested person is brought from a distant place and reaches the court after hours, the arrestee should be produced at the Magistrate's house.

## Compoundable Offences

Compoundable offences are those offences where the victim is allowed to enter into a compromise with the accused. The charges against the accused are then dropped. However, the compromise must be genuine, without the use of force, and not as a result of a bribe. The Criminal Procedure Code (Cr. P. C) lists the offences that can be compounded.

Some offences can be compounded (compromised) without permission from the court, while others require the court's permission.



The court's permission is not required for compounding such offences as adultery, causing hurt, hurting religious feelings, etc. However, some compoundable offences can only be compromised with the permission of the court e.g. theft, criminal breach of trust, causing grievous hurt, etc.

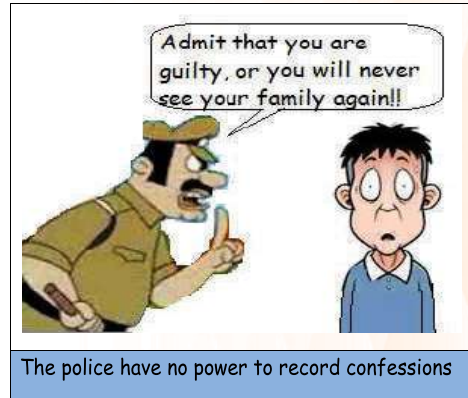
*Once an offence is compounded it has the same effect as if the accused has been acquitted of the charges.*

Offences which have not been listed in the Cr. P. C. as compoundable cannot be compromised. Thus offences such as murder, rape, dacoity, etc. cannot be compounded. Even the court does not have the power to compound such offences.

### ***Confession by Arrested Person to Police***

Indian law does not recognize 'confessions' made to the police. *Confessions can only be recorded by a Magistrate after following certain strict procedures* (e.g. explaining to the person making the confession that he is not bound to do so, informing that it can be used as evidence against him, making sure it is voluntary).

No policeman should be present while a confession is being recorded. A crime admitted to under torture, or any force, or any bribe or inducement, is not a confession in law.



Maluwa was arrested as a murder suspect. The Officer In - Charge is convinced that Maluwa is guilty. He insists that Maluwa admit his guilt. When Maluwa refuses, the Officer In - Charge abuses and thrashes him. Terrified for his life, Maluwa signs a paper which says that he admits to have committed the crime.

*This is not a confession, and such a statement has no value as evidence in a court of law.*



In fact, torture of persons in custody is prohibited by law.

Persons responsible for committing torture can be punished for breaking the law.

The victim is also entitled to compensation in case of torture.

## Bail

When a person is arrested, it does not automatically mean that the person is guilty. It only means that the arrested person is suspected to have committed some crime. Arrests during investigation are not made to punish suspects.



In case of a bailable offence (e.g. giving false evidence), bail is a matter of right. In case of a non-bailable offence (e.g. murder), bail can only be granted by a court of law

with the investigation process. If these conditions are not kept, the bail will be cancelled and the person will again be taken into custody.

*In some offences, bail is a matter of right. These offences are called bailable offences. In other offences, bail is not a matter of right - bail can be granted only at the discretion of a court. These offences are called non - bailable offences<sup>1</sup>. Examples of bailable offences include being a member of an unlawful assembly, giving false evidence, obstructing a public*

They are made to get further information from the suspect and prevent him or her from hampering the investigation or tampering with the evidence. This is why the law provides for suspects to be released on bail.

Bail means the temporary release of a person while they are awaiting trial. It does not mean that the person who gets bail is innocent or that the case against him or her will stop. It only means that the arrestee has been released on certain conditions and is expected to cooperate



If a person is released on bail it does not mean that s/he is innocent or that the case against him or her will stop. It only means that the arrestee has been released on certain conditions.

<sup>1</sup> The First Schedule to the Criminal Procedure Code mentions which offences are bailable and which are non-bailable

servant on duty, etc. Examples of non – bailable offences include murder, rape, kidnapping, etc.

A person accused of a bailable offence is automatically entitled to be released on bail after furnishing the required surety or bond. In the case of a non-bailable offence, bail cannot be demanded as a matter of right. An application for bail has to be filed in court. The court will decide if bail can be granted or not.



Offences such as selling obscene books, giving false evidence, etc are bailable offences

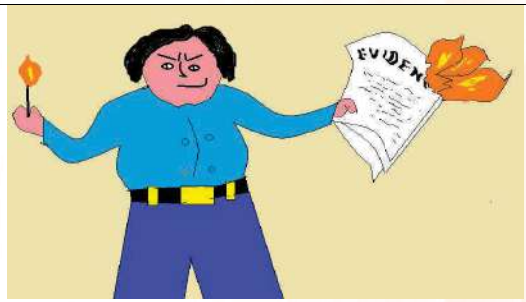


Offences like murder, rape and dowry death are non-bailable offences

Bail can be granted in various forms e.g. cash bail, surety bond, property bond, etc. In simple terms, a sum of money or property documents are required to be deposited to guarantee that the arrested person will cooperate with the investigation, be available for questioning, and not run away or abscond when released on bail. *These are only deposits however, and money or property is not permanently parted with. It is only if there is a breach of bail conditions that the bail amount is forfeited.*

When the accused is too poor to pay for bail a ‘personal bond’ (a signed promise) can be accepted by the Magistrate instead.

The person granted bail must fulfil all the bail conditions, and cooperate with the investigation process. If this is not done (e.g. the accused obstructs the investigation or tries to destroy evidence), the bail will be cancelled. The person will then be re-arrested and the bail amount forfeited.

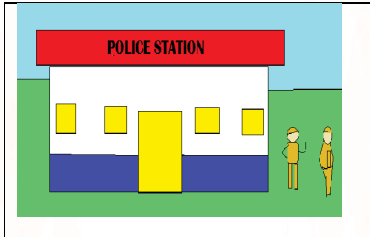
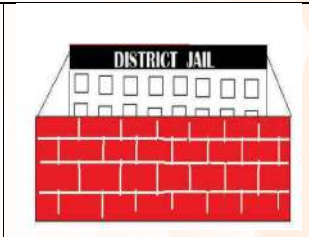


Another type of bail is 'anticipatory bail'. If a person fears arrest in a case involving a non-bailable matter, they can approach the High Court or Sessions Court for anticipatory bail even before arrest. If this is granted by the court, the person will be released on bail immediately after arrest.

### ***Police Custody and Judicial Custody***

The police can question the arrested person in the police station. If the police need to interrogate the arrested person beyond 24 hours, they have to get permission from a Magistrate. As mentioned earlier, the police must produce the arrested person before a Magistrate within 24 hours of arrest. The Magistrate can grant

custody to the police for up to another 14 days. This is called **police custody or police remand**. While in police custody the arrested person is kept in the police lock up.

	
<p>The Magistrate can grant custody of an arrestee to the police for 14 days. This is called <b>police custody or police remand</b>.</p>	<p>After this period the arrested person can be kept in <b>judicial custody (jail)</b> for more time.</p>

After this period, the arrested person (unless already released on bail) can be kept in **judicial custody** for more time. While in judicial custody the arrested person is kept in a jail and not in a police lock up.

### ***Chargesheet***

After completing investigation, the police are required to file a challan or chargesheet before the court. After hearing both the prosecution (the police version) and the accused, the court can frame charges against the accused. If the accused is charged, the trial will begin. If the court finds the charge against the accused to be groundless, and that there is no evidence at all against the accused, the court can proceed to **discharge** the accused. If the accused is discharged it means that the case against him will not continue.

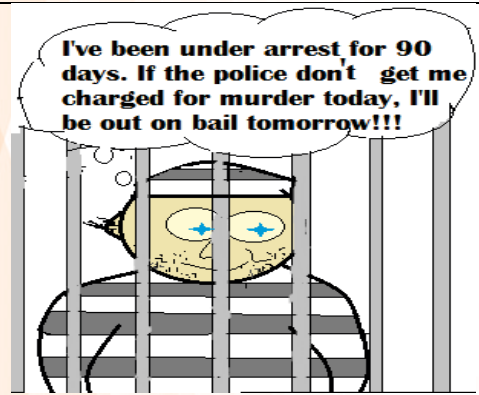


Presenting a charge sheet before the court does not mean that the accused will be tried for all the offences mentioned there. The accused, through his lawyer, can argue before the court that the charges are not correct. Sometimes charges are deleted at this stage and sometimes more charges are added. At the time of the chargesheet being presented, the court can also include other people for being charged with the offence. The court can also order their arrest.

Sanjay was involved in a case of dacoity. After investigation, the police filed a chargesheet. On the basis of the investigation report, the court found that two other people, Ramesh and Hasmukhbhai, were also involved in the crime. The court ordered proceedings to be started against them even though their names were not mentioned in the FIR.

### *Statutory or Default Bail*

An arrested person cannot be kept in judicial custody indefinitely. For offences where the maximum punishment is less than 10 years of imprisonment, an arrested person cannot be kept in custody for more than 60 days. If not already out on bail or charge sheeted, they have the right to be released on bail on the 61<sup>st</sup> day.

	<p>If a person is arrested for an offence which has a maximum punishment of <b>more than 10 years</b> (e.g. murder), the arrestee cannot be kept in jail for more than 90 days, unless formally charged with the offence.</p> <p>If a person is arrested for an offence which has a maximum punishment of <b>less than 10 years</b> (e.g. theft), the arrestee cannot be kept in jail for more than <b>60 days</b>, unless formally charged with the offence.</p>
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For offences where the maximum punishment is more than 10 years of imprisonment, an arrested person cannot be kept in custody for more than 90 days. If not already out on bail or charge sheeted, they have the right to be released on bail on the 91<sup>st</sup> day.

### ***Trial and Punishment***

Once an accused is formally charged under an offence or offences, the trial will begin to determine guilt. After hearing the prosecution as well as the accused, and considering all the evidence, the court will pass *judgment*. If found guilty, the accused is said to be **convicted**. The court will then decide what punishment to impose on the convicted person. This is called **sentencing**. The court cannot impose whatever punishment it pleases. It is bound by the punishment specified in the IPC (or whatever law has specified the offence).

If the accused is found to be not guilty, they are said to be **acquitted**.

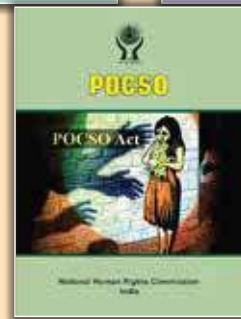
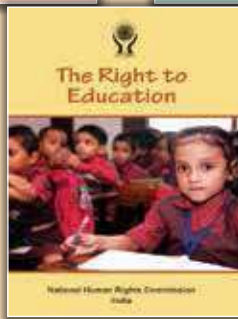
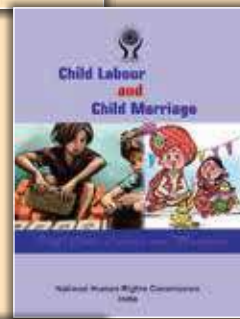
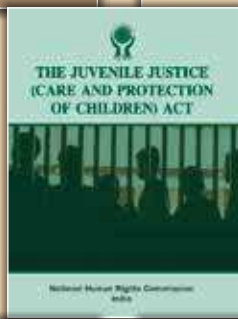
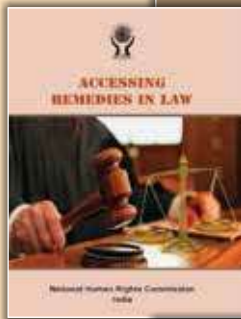
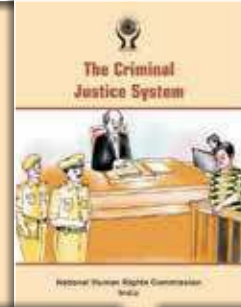
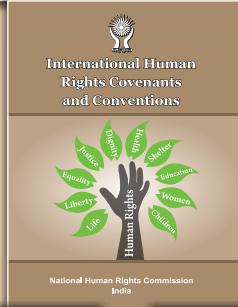
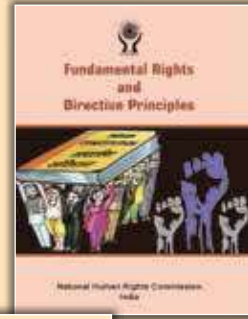
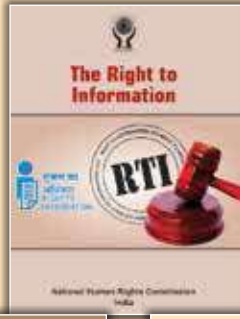
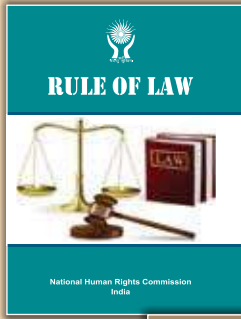
If either party to the case is not satisfied with the judgment, they can appeal to a higher court.

Ramu was arrested on suspicion of having committed theft. The police later filed a chargesheet before the court. The court accepted the chargesheet and framed charges against Ramu under Section 379 of the Indian Penal Code (which punishes the offence of theft).

Ramu is then tried and found guilty by the court. This means that Ramu is convicted under Section 379 of the IPC. He is no longer just an accused in a case. The court sentences Ramu to 3 years of imprisonment, which is the maximum sentence allowed under Section 379. Ramu will now spend the next 3 years in jail.

If Ramu is unhappy with the decision of the court, he can appeal to a higher court.





## NATIONAL HUMAN RIGHTS COMMISSION

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