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TIMELINES, TECHNOLOGY AND ACCESS TO JUSTICE: A CRITICAL EVALUATION OF THE BHARATIYA NAGARIK SURAKSHA SANHITA, 2023

T. Vaishali[1] & R. Lohan Sharma[2]

I. ABSTRACT

Delay remains one of the most persistent failures of Indian criminal justice. Undertrial prisoners form more than three-quarters of the prison population, and investigations and trials often outlast what fairness permits. The Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), which replaced the Code of Criminal Procedure, 1973 on 1 July 2024, subject to its savings provisions, responds to this problem by prescribing statutory timelines and by authorising proceedings in electronic mode. This article examines whether these reforms can reduce delay without diluting the guarantees of fair trial, equality and access to justice under Articles 14, 21, 22 and 39A of the Constitution. Adopting a doctrinal method, it analyses Section 193 (completion of investigation), Section 479 (maximum period of detention of undertrial prisoners) and Section 530 (proceedings in electronic mode), together with related provisions on default bail, framing of charge, judgment and forensic investigation. It reads these provisions against four Supreme Court decisions, Hussainara Khatoon v. Home Secretary, State of Bihar, State of Maharashtra v. Praful B. Desai, Anuradha Bhasin v. Union of India and Mohd. Muslim @ Hussain v. State (NCT of Delhi), and against High Court rules and orders implementing the BNSS. The article finds that the timeline provisions advance accountability, but that some are treated as directory and carry no consequence for breach; that Section 479 confers a substantive and partly mandatory entitlement whose effectiveness has depended on continuing Supreme Court supervision; and that Section 530 has been given content by High Court rules whose safeguards are neither uniform nor consistently enforced. It recommends monitoring and consequences for avoidable delay, uniform safeguards for

[1] B. A (Eng lit)., B.L(Hons)., LLM, Assistant professor of Law, Department of criminal law and criminal justice administration, School of Excellence in law, The Tamil Nadu Dr: Ambedkar Law University (India). Email: lohansharma9@gmail.com

[2] Final Year; BBA LLB (hons), School of Excellence in law, The Tamil Nadu Dr: Ambedkar Law University (India). Email: profvaishalinathan@gmail.com

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virtual hearings, assisted digital access, stronger legal aid and outcome-based evaluation. It concludes that timelines and technology strengthen justice only when they operate within constitutional safeguards for liberty and fairness.

II. KEYWORDS

Bharatiya Nagarik Suraksha Sanhita, 2023, Procedural Timelines, Technological Integration, Access to Justice, Criminal Justice Reform

III. INTRODUCTION

More than three-quarters of the persons confined in Indian prisons are undertrial prisoners who have not been convicted of any offence,[3] and the district judiciary continues to carry a heavy backlog of pending criminal cases.[4] Prolonged pre-trial detention and delayed trials impair personal liberty, family life and the ability of the accused to prepare a defence, and they equally deny victims a timely outcome. These conditions raise a central question: can criminal justice become more efficient without compromising fairness?

The administration of criminal justice in India has historically faced numerous challenges including delayed investigations, a large number of pending cases, a shortage of judicial officers and difficulty in ensuring timely trials. These issues affect accused persons, victims, witnesses and society as a whole. While delay does not stem from a single source, improvements in criminal procedure can help alleviate some of these challenges.

The Bharatiya Nagarik Suraksha Sanhita, 2023, is an effort to reform the procedural framework governing criminal cases. It replaces the Code of Criminal Procedure, 1973 (CrPC),[5] and includes provisions relating to electronic communication, video conferencing, investigation, forensic procedures and statutory timelines in certain circumstances.

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[3] National Crime Records Bureau, *Prison Statistics India 2023* (Ministry of Home Affairs 2025).
[4] National Judicial Data Grid (District and Taluka Courts) <https://njdg.ecourts.gov.in> accessed 2 November 2026.
[5] Bharatiya Nagarik Suraksha Sanhita 2023 (BNSS), s 531.

However, the success of a criminal procedure law cannot be measured solely by the speed of proceedings. A speedy trial that denies a person a fair opportunity to defend themselves cannot be considered successful justice. Similarly, a digital system that works well for urban litigants but excludes people without internet access can create a new form of inequality.

This article critically evaluates whether the BNSS can balance efficiency, technological development and constitutional protection. Its central argument is that timelines and technology are valuable tools of justice; however, they cannot replace fairness, accountability and equal access to legal remedies.

A. Research Objectives

This study pursues three objectives:

1. First, to examine the principal timeline provisions of the BNSS, in particular Sections 187, 193 and 479, and their treatment by the courts;
2. Secondly, to evaluate whether these provisions and the technology provisions, chiefly Section 530, advance the guarantee of a speedy and fair trial under Article 21 and of equal justice under Article 39A; and
3. Thirdly, to propose measures that would enable these provisions to reduce delay without weakening fair-trial safeguards.

B. Research Questions

The study addresses three questions. First, can Sections 193, 479 and 530 of the BNSS reduce delay in criminal proceedings without weakening fair-trial safeguards? Secondly, to what extent do the courts treat the statutory timelines as enforceable, and with what consequences for accused persons and victims? Thirdly, do the rules framed by the High Courts to give effect to Section 530 adequately protect confidentiality, effective legal representation and equal access to electronic proceedings?

C. Research Methodology

The study is doctrinal. It analyses primary sources, namely the text of the BNSS as published on India Code, the Constitution of India, decisions of the Supreme Court and the High Courts, and rules and orders issued by the High Courts. It also draws on secondary sources, including commentaries, government publications and reports of the Law Commission of India. The analysis is qualitative and normative and does not rely on empirical fieldwork.

IV. BACKGROUND AND LEGAL FRAMEWORK

A. The introduction of the BNSS

The BNSS is Act No. 46 of 2023, enacted on December 25, 2023, and implemented on July 1, 2024.[6] It consolidates and amends the law relating to criminal procedure in India. It is part of a legislative package that also includes the Bharatiya Nyaya Sanhita, 2023, which primarily deals with criminal offences, and the Bharatiya Sakshya Adhiniyam, 2023, which deals with evidence.[7]

The previous CrPC established the procedural framework for police investigations, arrests, bail, trials and appeals. The BNSS retains many of the established procedural principles while introducing changes designed to reflect technological advancements and improve the administration of criminal justice.

One of its key features is the explicit recognition of electronic processes in various stages of criminal proceedings. It also contains provisions regarding investigation timelines, forensic examinations in certain cases and the release of certain undertrial prisoners.

Nevertheless, replacing legislation does not automatically eliminate the practical causes of delay. Courts still need sufficient staff, prosecutors need adequate resources, and investigating agencies need training and equipment. The BNSS must therefore be evaluated as both a legal reform and an implementation challenge.

B. Constitutional provisions

[6] BNSS, s 1(3).
[7] Bharatiya Nyaya Sanhita 2023 (Act 45 of 2023); Bharatiya Sakshya Adhiniyam 2023 (Act 47 of 2023).

Several constitutional provisions provide the basis for evaluating the BNSS.

1. **Article 14: Equality before the law:** Article 14 guarantees equality before the law and equal protection of the laws.[8] Criminal procedure must operate fairly and without unjustified discrimination. If electronic hearings become the preferred method of conducting proceedings, authorities must ensure that people who do not have devices, internet access or digital knowledge are not disadvantaged.

2. **Article 21: Protection of life and personal liberty:** Article 21 states that no person shall be deprived of life or personal liberty except according to procedure established by law. Judicial interpretation has established that this procedure must be fair, just and reasonable.[9] The right to a speedy trial is included in the protection provided under Article 21.[10]

3. **Article 22: Protection against arrest and detention:** Article 22 provides constitutional safeguards regarding arrest and detention, including the right to consult and be defended by a legal practitioner of one's choice, subject to its constitutional provisions.[11] Procedural efficiency must not undermine these safeguards.

4. **Article 39A: Equal justice and free legal aid:** Article 39A directs the State to promote equal justice and provide free legal aid so that opportunities for securing justice are not denied due to economic or other disabilities.[12] This provision is particularly relevant when considering whether digital criminal proceedings are accessible to disadvantaged litigants.

These constitutional principles establish an important standard: criminal procedure should promote efficiency while preserving liberty, fairness and equality.

V. TIMELINES UNDER THE BNSS

[8] Constitution of India, art 14.
[9] Constitution of India, art 21; *Maneka Gandhi v Union of India* (1978) 1 SCC 248.
[10] *Hussainara Khatoon v Home Secretary, State of Bihar* (1980) 1 SCC 81.
[11] Constitution of India, art 22(1).
[12] Constitution of India, art 39A.

A. Section 193: Completion of investigation

Section 193 of the BNSS governs the police report on completion of investigation. It requires every investigation to be completed without unnecessary delay[13] and prescribes a period of two months, from the date on which the information is recorded, for completing investigations into offences under Sections 64 to 68, 70 and 71 of the Bharatiya Nyaya Sanhita, 2023 and Sections 4, 6, 8 and 10 of the Protection of Children from Sexual Offences Act, 2012.[14]

The provision also recognises electronic communication in forwarding the police report to the competent Magistrate.[15] It further requires the police officer, within a period of ninety days, to inform the informant or the victim of the progress of the investigation by any means, including electronic communication.[16]

These requirements can increase accountability by encouraging investigating officers to complete their work within the prescribed periods, and the duty to report progress can reduce the uncertainty experienced by victims and informants. Judicial interpretation, however, has qualified the force of the two-month period. In *Govinda v. State of Karnataka*, the Karnataka High Court described Section 193(2) as a "legislative exhortation" to ensure alacrity in investigation and held that, although couched in mandatory language, the provision is directory and victim-centric; its breach gives the accused no right to default bail, which remains governed by Section 187.[17]

The decision does not bind courts outside Karnataka, but it shows that the accountability the provision promises depends on monitoring rather than on any statutory consequence. The implementation gap is real: in *Zuber Ali v. Union of India*, a public interest petition before the Delhi High Court pointed to POCSO investigations continuing beyond the statutory period, and the Court, without deciding any point of law on Section 193(2), directed the Commissioner of Police to

[13] BNSS, s 193(1).
[14] BNSS, s 193(2).
[15] BNSS, s 193(3)(i).
[16] BNSS, s 193(3)(ii).
[17] *Govinda v State of Karnataka* 2026 LiveLaw (Kar) 151 (Karnataka HC, WP No 5248 of 2026).

consider the petitioner's suggestions, including dedicated POCSO investigation teams, within three months.[18] This supports the argument in 7.6 below that deadlines require monitoring and consequences.

However, statutory timelines must be implemented carefully. Some investigations require forensic analysis, examination of multiple witnesses, collection of digital evidence or cooperation between agencies. The goal should be timely and competent investigation, not simply completion on paper.

The existence of a deadline cannot guarantee that evidence has been properly collected or that every relevant lead has been examined. Effective investigation requires sufficient personnel, laboratory facilities and professional training.

B. Section 479: Maximum period of detention of undertrial prisoners

Section 479 governs the maximum period for which an undertrial prisoner may be detained and replaces Section 436A of the CrPC.[19] It operates at three levels.

First, where an undertrial prisoner has been detained during investigation, inquiry or trial for a period extending up to one-half of the maximum term of imprisonment specified for the offence, the person "shall be released" by the court on bail.[20]

Secondly, under the first proviso, a first-time offender, that is, a person never previously convicted of any offence, "shall be released" on bond once detention extends up to one-third of that maximum term; the Supreme Court applied this proviso in *Badshah Majid Malik v. Directorate of Enforcement*.[21]

Thirdly, the court may, after hearing the Public Prosecutor and for reasons recorded in writing, order continued detention beyond one-half of that term or release the person on bail bond instead of bond, although no person may be detained beyond the maximum term of imprisonment provided for the offence.[22]

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[18] *Zuber Ali v Union of India* (Delhi HC, order dated 23 September 2026).
[19] BNSS, s 479; Code of Criminal Procedure 1973, s 436A.
[20] BNSS, s 479(1).
[21] BNSS, s 479(1), first proviso; *Badshah Majid Malik v Directorate of Enforcement* Criminal Appeal No 4258 of 2024 (SC, 18 October 2024).
[22] BNSS, s 479(1), second and third provisos.

The section contains further qualifications. It does not apply to offences for which death or imprisonment for life is one of the punishments specified.[23] Where an investigation, inquiry or trial is pending in more than one offence or in multiple cases, the court shall not release the person on bail under sub-section (1).[24] The Explanation excludes from the computation of the period any detention attributable to delay in proceedings caused by the accused.[25] Its application must therefore be determined on the statutory text and the facts of each case.

This provision is significant because an accused person is presumed innocent until proven guilty in accordance with law. Prolonged pre-trial detention can cause substantial hardship, especially when the final sentence may be shorter than the period already spent in custody.

At the same time, the court retains a power to refuse release, but that power may be exercised only after hearing the Public Prosecutor and recording reasons in writing. This qualification does not dilute the mandatory language of the provision: once the prescribed period is reached and no exclusion applies, release is the rule and continued detention the reasoned exception.

The broader objective should be to prevent unnecessary detention while addressing legitimate concerns about the administration of justice.

1. Judicial implementation of Section 479

Section 479 is the latest step in a line of constitutional development. In *Hussainara Khatoon*, the Supreme Court recognised the right to a speedy trial as part of Article 21 and exposed the prolonged detention of undertrial prisoners.[26] Section 436A was later inserted into the CrPC to cap such detention,[27] and Section 479 extends that protection, notably through the one-third rule for first-time offenders. By its order dated 23

[23] BNSS, s 479(1).
[24] BNSS, s 479(2).
[25] BNSS, s 479, Explanation.
[26] *Hussainara Khatoon* (n 8).
[27] Code of Criminal Procedure (Amendment) Act 2005 (Act 25 of 2005).

August 2024 in *In Re: Inhuman Conditions in 1382 Prisons*, the Supreme Court, recording the Union's submission, held that Section 479 applies to undertrial prisoners in cases registered before 1 July 2024, and directed jail superintendents to process applications for eligible prisoners.[28]

By its orders of 22 October and 19 November 2024, the Court required District Undertrial Review Committees to coordinate with jail superintendents in identifying eligible prisoners, directed States and Union Territories to report in a uniform format, and called for special efforts to identify eligible women prisoners.[29] These directions give practical effect to Section 479(3), which obliges the superintendent of the jail, on completion of one-half or one-third of the period, to apply forthwith in writing to the court for release.[30] The continuing supervision shows that the entitlement depends as much on the administrative identification of eligible prisoners as on the statutory text.

C. Other provisions supporting time-bound procedure

The BNSS contains other provisions designed to make criminal proceedings more structured and efficient. These include procedural requirements relating to investigation, supply of documents, trials and communication between authorities.

For example, Section 230 requires the Magistrate to furnish, free of cost, copies of the police report and other documents to the accused and, where represented by an advocate, to the victim, without delay and in no case beyond fourteen days from the date of production or appearance of the accused; supply in electronic form is treated as due supply.[31]

The principal timelines of the BNSS are set out by stage in Table 1, together with the treatment each has so far received from the courts.[32]

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[28] *In Re: Inhuman Conditions in 1382 Prisons* WP (C) No 406 of 2013 (SC, order dated 23 August 2024).
[29] ibid, orders dated 22 October 2024 and 19 November 2024.
[30] BNSS, s 479(3).
[31] BNSS, s 230.
[32] BNSS, ss 187(3), 193(2), 193(3)(ii), 230, 251(1)(b), 258(1) and 263(1); *Govinda* (n 15); *M Ravindran v Intelligence Officer, Directorate of Revenue Intelligence* (2021) 2 SCC 485 (on the corresponding s 167(2) of the CrPC).

Table 1: Principal BNSS timelines by stage

Stage	Provision	Period	Mandatory or directory
Investigation of specified sexual offences	s 193(2)	Two months from the date of recording of information	Held directory; breach gives no right to default bail (*Govinda*, Karnataka HC)
Progress information to informant or victim	s 193(3)(ii)	Within ninety days	No consequence for breach prescribed
Custody and default bail	s 187(3)	Ninety days (offences punishable with death, life imprisonment or imprisonment of ten years or more); sixty days (other offences)	Mandatory; default bail is an indefeasible right if no report is filed in time (*M Ravindran*, under CrPC s 167(2))
Supply of documents	s 230	Not beyond fourteen days from production or appearance of the accused	No consequence for breach prescribed; no authoritative ruling traced
Framing of charge	s 251(1)(b) (Sessions); s 263(1) (warrant cases)	Sixty days from the date of first hearing on charge	No consequence for breach prescribed; no authoritative ruling traced

Stage	Provision	Period	Mandatory or directory
Judgment (Sessions trial)	s 258(1)	Thirty days from completion of arguments, extendable to forty-five days for reasons recorded in writing	No consequence for breach prescribed; no authoritative ruling traced

Such provisions matter because access to justice depends not only on the final judgment but also on whether parties receive the information necessary to participate meaningfully in proceedings. However, timelines should not be viewed as isolated rules. They require coordination among police officers, forensic laboratories, prosecutors, defence lawyers and courts. A delay at one stage can affect the entire process.

VI. TECHNOLOGY AND DIGITAL CRIMINAL JUSTICE

A. Section 530: Proceedings in electronic mode

Section 530 is one of the most significant technology-related provisions of the BNSS. It allows trials, inquiries and other proceedings, including the issuance and service of summons, examination of witnesses, recording of evidence and appellate proceedings, to be conducted through electronic communication or audio-video electronic means.[33]

This statutory recognition can enable courts to utilize technology more systematically rather than relying solely on physical appearances.

Video conferencing can reduce travel expenses and the time required for witnesses to attend court. It may also be beneficial when a witness is located far away, has difficulty traveling or requires protection from unnecessary contact with other participants.

[33] BNSS, s 530.

For courts, electronic processes may improve coordination and reduce some administrative burdens. Digital communication can also assist in transmitting information to relevant parties more rapidly.

Nevertheless, Section 530 should not be interpreted as requiring every proceeding to occur online. The method utilized must remain consistent with applicable law, the circumstances of the case and the rights of the parties.

1. Implementation of Section 530 by the High Courts

The content of Section 530 has been supplied largely by rules framed by the High Courts. The Delhi High Court's Electronic Evidence and Video Conferencing Rules, 2025, notified on 4 July 2025, require the physical presence of an accused in judicial custody at the first appearance,[34] oblige the court to give an accused adequate opportunity to consult an advocate before and after a video-conferencing session,[35] permit the court to direct measures to protect the privacy of the person examined,[36] and require platforms equipped with end-to-end encryption.[37]

In Tamil Nadu, the Madras High Court Video Conferencing Rules, 2026 provide that the first appearance of an accused shall ordinarily be physical unless the court records reasons, require adequate opportunity for consultation with an advocate, and call for end-to-end encryption only "as far as practicable".[38] The courts have also accepted electronic process: in *State of Maharashtra v. Satish*, the Bombay High Court held that summons served through electronic communication are validly served under Sections 70 and 530.[39]

These instruments show that several safeguards proposed in this article, concerning confidentiality (7.3), effective participation (7.5) and alternatives to digital proceedings (8), already exist in some jurisdictions. The differences between them,

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[34] Electronic Evidence and Video Conferencing Rules 2025 (High Court of Delhi, Notification No 36/Rules/DHC, 4 July 2025), r 4.3.
[35] ibid, r 13(2).
[36] ibid, r 13(4).
[37] ibid, r 5(iv).
[38] Madras High Court Video Conferencing Rules 2026 (High Court of Madras, Notification No SRO C-24/2026, Tamil Nadu Government Gazette, 12 August 2026), rr 3.6(2), 7.3(2) and 8.2.
[39] *State of Maharashtra v Satish* 2026 SCC OnLine Bom 1419 (Bombay HC, 12 February 2026).

such as Delhi's mandatory encryption and Madras's best-efforts standard, indicate that the remaining question is whether such safeguards are uniform and enforced, rather than whether they exist.

B. Section 105: Audio-video recording of search and seizure

Section 105 addresses the recording of search and seizure procedures through audio-video electronic means, preferably using a mobile phone, including the preparation and signing of the relevant record.[40]

The purpose of such recording is to enhance transparency and accountability during crucial investigative steps. Properly maintained recordings may assist courts in determining whether procedures were followed and may help reduce disputes regarding how a search or seizure occurred.

However, recording alone cannot ensure lawful conduct. The authenticity, completeness and secure preservation of electronic records remain essential. Authorities must also ensure that technical failures do not serve as an excuse for failing to comply with statutory duties.

Technology can support accountability; however, only if its use is reliable and subject to meaningful scrutiny.

C. Section 176(3): Forensic investigation

Section 176(3) provides that, on receipt of information relating to an offence punishable with imprisonment for seven years or more, the officer in charge of the police station shall, from such date as the State Government may notify within a period of five years, cause a forensic expert to visit the crime scene to collect forensic evidence and cause the process to be videographed on a mobile phone or any other electronic device.[41]

Under the proviso, where forensic facilities are not available in respect of an offence, the State Government shall notify the use of such facility of another State until its own

[40] BNSS, s 105.
[41] BNSS, s 176(3).

facility is developed or made available.[42] Implementation may therefore vary across States in both timing and capacity. At the time of writing, no notification by the Government of Tamil Nadu fixing the date under Section 176(3) could be traced.[43] The videography duty also overlaps with Section 105, which requires audio-video recording of search and seizure: where one investigative step engages both provisions, a single recording may serve both, but each statutory requirement must be satisfied on its own terms.

This approach can enhance scientific investigation by promoting the collection and preservation of physical and forensic evidence.

However, its success depends on the availability of trained experts, properly equipped laboratories and efficient reporting systems. If forensic facilities are insufficient, the requirement may impose additional pressure on already limited resources.

The use of forensic methods must also be accompanied by proper documentation and opportunities for the defence to challenge evidence. Scientific evidence is valuable; however, it must still be critically examined within a fair trial.

VII. IMPORTANT JUDICIAL DECISIONS

Although these decisions were rendered under previous laws or different legal contexts, their constitutional principles remain relevant to evaluating criminal procedure under the BNSS.

1. **Hussainara Khatoon v. Home Secretary, State of Bihar (1979)**
    - **Citation:** (1980) 1 SCC 81.
    - **Holding:** The Supreme Court recognized the right to a speedy trial as part of Article 21 and highlighted the injustice resulting from prolonged detention of undertrial prisoners.[44]

[42] BNSS, s 176(3), proviso.
[43] Bureau of Police Research and Development, table of State and Union Territory notifications under provisions of the BNSS <https://bprd.nic.in/page/table_b> accessed 2 November 2026.
[44] *Hussainara Khatoon* (n 8).

- This case establishes the constitutional basis for examining delays in criminal proceedings. It illustrates that procedural delay can directly impact personal liberty and that the State has a duty to ensure reasonably speedy trials.

2. State of Maharashtra v. Dr. Praful B. Desai (2003)

- **Citation:** (2003) 4 SCC 601.
- **Holding:** The Supreme Court held that evidence may be recorded by video conferencing under Section 273 of the CrPC, which requires evidence to be taken in the presence of the accused or, when personal attendance is dispensed with, in the presence of the accused's pleader, because "presence" in that provision does not mean actual physical presence and includes virtual presence.[45]
- The decision is relevant because it reconciles technology with the requirement that evidence be taken in the presence of the accused, a requirement now contained in Section 308 of the BNSS.[46] The Court made the procedure subject to safeguards: an officer of the court should be present where the witness is examined to ensure that the witness is not coached or prompted, and the accused and the pleader must be able to see and hear the witness and to cross-examine the witness effectively. These safeguards bear directly on the concerns about confidentiality and effective participation discussed in 7.3 and 7.5. It also indicates that procedural concepts should be interpreted in a manner that can accommodate appropriate technological developments.

3. Anuradha Bhasin v. Union of India (2020)

- **Citation:** (2020) 3 SCC 637.

[45] *State of Maharashtra v Praful B Desai* (2003) 4 SCC 601.
[46] BNSS, s 308.

- **Holding:** The Supreme Court held that restrictions on internet services must comply with constitutional requirements, including proportionality, and emphasized the need for publication and review of orders restricting internet access.[47]
- Although the case concerned internet restrictions rather than the BNSS, it highlights an important principle: access to digital infrastructure can have serious consequences for the exercise of rights. When criminal proceedings depend on electronic communication, technological access and the legality of restrictions affecting that access become relevant considerations.

4. Mohd. Muslim @ Hussain v. State (NCT of Delhi) (2023)

- **Citation:** 2023 LiveLaw (SC) 260; Criminal Appeal No. 943 of 2023 (arising out of SLP (Crl.) No. 915 of 2023), decided on 28 March 2023.
- **Holding:** The Supreme Court held that the stringent conditions for bail under Section 37 of the Narcotic Drugs and Psychotropic Substances Act, 1985 do not bar the grant of bail where the trial has been unduly delayed, relying on Section 436A of the CrPC (now Section 479 of the BNSS) and on *Satender Kumar Antil v. CBI*.[48]
- The decision reinforces the importance of examining pre-trial detention in light of personal liberty and the practical realities of a delayed criminal process. It also supports the broader argument that efficiency in criminal procedure must be measured partly by whether individuals are protected against unjustified and excessively prolonged detention.

Collectively, these decisions establish that speedy justice, lawful technological procedures and protection of personal liberty must operate together. Technology should support constitutional guarantees rather than serve as a substitute for them.

[47] *Anuradha Bhasin v Union of India* (2020) 3 SCC 637.
[48] *Mohd Muslim @ Hussain v State (NCT of Delhi)* 2023 LiveLaw (SC) 260 (SC, Criminal Appeal No 943 of 2023, 28 March 2023); *Satender Kumar Antil v Central Bureau of Investigation* (2022) 10 SCC 51.

VIII. CRITICAL EVALUATION: ARGUMENTS IN FAVOUR OF THE BNSS

1. **Potential reduction in procedural delay:** The BNSS provides a framework for more structured procedures and establishes timelines in certain situations. These measures can encourage investigating agencies and other authorities to act promptly. Where delays result from avoidable administrative issues, electronic communication and clearer procedural requirements may improve coordination. However, these benefits will be meaningful only if compliance is monitored and institutions have the resources necessary to meet their responsibilities.

2. **Greater convenience for litigants and witnesses:** Physical attendance can be costly and time-consuming. Witnesses may need to travel long distances, miss work or arrange childcare. Electronic participation can reduce some of these burdens. It may also be beneficial for people with disabilities or those who experience difficulty traveling, provided the technology and support arrangements meet their needs. This can make the justice system more responsive to people's actual circumstances rather than requiring every participant to overcome the same practical barriers.

3. **Improved transparency and record management:** Audio-video recording, electronic communication and digital records can assist in creating clearer records of procedural steps. When properly managed, these systems may facilitate identification of discrepancies, preservation of information and review of the conduct of proceedings. Digital records can also reduce reliance on physical paperwork. Nevertheless, they require secure storage, reliable access controls and procedures for addressing technical errors.

4. **Better use of scientific evidence:** The emphasis on forensic investigation can improve the quality of criminal investigations when appropriate expertise and facilities are available. Scientific methods may assist in establishing relevant facts and reducing excessive reliance on unreliable testimony or incomplete investigations. Yet forensic evidence must be interpreted carefully, with

proper standards for collection, preservation and examination. The availability of technology should not create an assumption that every scientific conclusion is automatically correct.

IX. CHALLENGES AND ARGUMENTS AGAINST THE BNSS

1. **The digital divide:** One of the primary concerns is unequal access to technology. People in remote areas may have unreliable internet connections, while economically disadvantaged litigants may not own suitable devices. Some participants may also lack the digital skills necessary to access electronic notices, submit documents or participate effectively in online proceedings. If courts increasingly rely on digital processes without providing alternatives, these difficulties may prevent people from exercising their rights effectively. The constitutional promise of equal justice requires practical solutions, including assisted digital facilities and appropriate opportunities for physical participation.
2. **Risk of prioritizing speed over fairness:** A fixed timeline can encourage efficiency; however, criminal cases vary significantly in complexity. An investigation involving multiple accused persons, technical evidence and numerous witnesses may require more time than a straightforward case. Excessive pressure to complete proceedings quickly may compromise the quality of investigation or the opportunity to prepare a defence. The solution is not to reject timelines entirely. Rather, authorities must differentiate between avoidable delay and time reasonably required to establish the facts. Speed must serve justice, not replace it.
3. **Privacy and confidentiality:** Digital criminal proceedings involve sensitive information, including personal details, witness statements, medical information and electronic evidence. Poor security arrangements can expose this information to unauthorized access or misuse. Video hearings also raise questions about whether a participant can communicate privately with their lawyer and whether another person is improperly influencing a witness. Clear

safeguards are necessary to protect confidentiality, preserve the integrity of evidence and ensure that parties can participate freely.

4. **Infrastructure and institutional capacity:** Technology cannot function effectively without suitable equipment, stable internet connectivity, trained personnel and technical support. A court may be legally authorized to conduct an electronic hearing but practically unable to do so due to inadequate facilities. Similarly, the use of forensic procedures requires trained experts and properly equipped laboratories. Where such resources are unavailable, statutory expectations may be difficult to fulfill consistently. Investment in infrastructure and professional training is therefore essential to the success of the BNSS.
5. **Access to lawyers and effective participation:** A person appearing via video conferencing may encounter difficulties understanding the proceedings, presenting documents or communicating confidentially with their advocate. These problems can be particularly severe for accused persons in custody, who may have limited access to communication facilities. A digital hearing should not serve as a reason to diminish the opportunity to consult a lawyer or challenge evidence. Courts must assess whether electronic participation is appropriate in the specific circumstances.
6. **Accountability for non-compliance:** Another concern is whether statutory timelines will result in practical improvements without adequate monitoring and consequences for avoidable delay. The mere existence of a deadline does not explain how institutions should address repeated failures to comply. Clear administrative systems, judicial supervision and sufficient resources are necessary to make procedural requirements meaningful. At the same time, accountability mechanisms should differentiate between deliberate neglect and genuine difficulties resulting from the complexity of a case.

X. RECOMMENDATIONS FOR EFFECTIVE IMPLEMENTATION

The following measures can assist in ensuring that the BNSS promotes both efficiency and fairness.

First, enhance judicial and investigative capacity. Courts, police departments, prosecution services and forensic laboratories require adequate staffing, training and equipment. Without these resources, timelines may remain difficult to achieve.

Second, maintain accessible alternatives to digital proceedings. Electronic hearings should not exclude people who lack suitable devices, reliable internet access or the ability to use digital systems independently. Physical participation should remain available when required by fairness, law or the circumstances of the case.

Third, protect confidentiality and electronic evidence. Digital records must be stored securely, and access should be controlled. Participants must have meaningful opportunities to consult their lawyers and challenge evidence in accordance with law.

Fourth, monitor delays and identify their causes. Authorities should differentiate delays resulting from administrative inefficiency from those resulting from genuine investigative or evidentiary difficulties. This would enable institutions to develop targeted solutions rather than relying solely on deadlines.

Fifth, strengthen legal aid. Legal aid services should assist eligible individuals in understanding digital procedures, accessing necessary facilities and participating effectively in criminal proceedings. This would give practical effect to Article 39A.

Finally, evaluate reforms by their actual outcomes. The success of the BNSS should be evaluated based on meaningful indicators, including delays in investigation and trial, access to legal representation, treatment of undertrial prisoners and the ability of vulnerable groups to participate in proceedings.

XI. CONCLUSION

The Bharatiya Nagarik Suraksha Sanhita, 2023 represents an important development in India's criminal procedure framework. Its provisions relating to investigation timelines, undertrial detention, electronic proceedings and forensic procedures present opportunities to enhance the efficiency and accessibility of criminal justice.

Sections 193, 479 and 530 are particularly relevant to this objective. They address the timely completion of investigations, detention of undertrial prisoners and the use of

electronic methods in criminal proceedings. However, their effectiveness depends on implementation, institutional capacity and protection of constitutional rights.

The judicial principles recognized in *Hussainara Khatoon*, *Praful B. Desai*, *Anuradha Bhasin* and *Mohd. Muslim* demonstrate that procedural efficiency and technological advancement must remain consistent with liberty, fairness and meaningful access to justice.

In my view, the BNSS should not be evaluated solely by how many cases are completed within a specified period or how frequently courts utilize video conferencing. It should be evaluated by whether victims receive timely attention, accused persons receive fair trials, unnecessary detention is reduced and people from disadvantaged backgrounds can access legal remedies on equal terms.

Ultimately, technology must serve justice, and timelines must protect fairness rather than diminish it. The BNSS can contribute to a more effective criminal justice system; however, lasting improvement requires investment in infrastructure, legal aid, judicial accountability and equal access to digital services. Justice is truly accessible only when it is not merely faster, but also fair, inclusive and consistent with the Constitution.

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