



**ODISHA POLICE
CRIMINAL INVESTIGATION DEPARTMENT
CRIME BRANCH**

CRIME BRANCH CIRCULAR No. 05 / 2025

**Sub: Standard Operating Procedure on Attachment, Forfeiture or
Restoration of Property**

Introduction

The procedure for attachment and forfeiture of properties of accused persons termed as “proceeds of crime” (derived from commission of offence and criminal activity) was not prescribed under Code of Criminal Procedure, 1973. The procedure of attachment and consequent forfeiture of the property acquired from the proceeds of the crime has been introduced in section 107 BNSS 2023. This section empowers law enforcement agencies and judicial authorities to dispose off the proceeds of crime in accordance with the laid down procedure.

I. Objective

- a. To ensure justice to the victims.
- b. To prohibit the offender to enjoy the benefits and fruits of the ill-gotten property.
- c. To deter the offender and other persons from committing such crimes.
- d. To compel the appearance of the offender/accused before the Court.
- e. To make the accused accountable for the crime and involve him/her in the legal process.

II. Legal Provision

Section 107(1) BNSS reads as follows; -

Where a police officer making an investigation has reason to believe that any property is derived or obtained, directly or indirectly, as a result of a criminal activity or from the commission of any offence, he may, with the approval of the Superintendent of Police or Commissioner of Police, make an application to the Court or the Judicial Magistrate, exercising jurisdiction to take cognizance of the offence or commit for trial or try the case, for the attachment of such property.

III. Procedure

For smooth and effective implementation of section 107, BNSS, 2023, the investigating officers are hereby directed to strictly follow the principles of law and the procedures explained hereunder:

1. The investigating officer should identify the properties, directly or indirectly, as to whether, it is derived out of the criminal activity or commission of offence.
2. Before making application to the Court having jurisdiction, the police officer conducting investigation should obtain approval from the Superintendent of Police or Commissioner of Police for filing of application for attachment.
3. After getting permission from the Superintendent of Police or Commissioner of Police, the investigating officer should make an application for attachment of the property before the Court having jurisdiction to take cognizance or commit for trial of the case.
4. The investigating officer should furnish all the relevant information related to the property in the application to be filed before the court, annexing all the requisite documents of the property in question and with proper justification.
5. The investigating officer should also furnish the details of the persons/ claimant/ persons affected by such crime to whom the proceeds of the crime would be distributed.
6. When the Court is satisfied that the properties are proceeds of crime, the court may issue notice on the person to show cause "why an order of an attachment shall not be made".
7. The investigating officer should make all efforts to serve the notice timely to the accused, claimant and persons affected. The reply of accused, claimant in case the property is held by him on behalf of the accused and persons affected ought to be obtained within a period of 14 days from the receipt of the notice.
8. On receipt of the explanation and after reasonable opportunity is given to such person, the investigating officer should impress upon the court with adequate evidence for obtaining order of attachment in respect of property, found to be from proceeds of crime.
9. If such person fails to appear or represent his case before the Court within 14 days, the Court may also pass an *ex-parte* order.
10. In case, the investigating officer is of the opinion that the issuance of the notice would defeat the purpose of filing the application, the investigating officer should request the Court to pass an interim *ex-parte* order for directing attachment or seizure of such property.

11. If the Court finds that the attached or seized property are proceeds of crime, the investigating officer should request the Court to direct the concerned District Magistrate to distribute such proceeds of crime to the persons who are affected by such crime.
12. The investigating officer should submit the order of the Court to the District Magistrate without any delay for distribution of the proceeds of crime to the persons affected by such crime, within 60 days from the date of receipt of order of the Court.
13. If there are no claimants to receive such proceeds, then such proceeds of crime shall stand forfeited to the Government and the investigating officer should take steps for deposit of such proceeds of crime with the Government without any delay.
14. The investigating officer should note that the attachment, forfeiture or restoration of property can be done at any stage of the criminal proceeding.
15. In case of special laws, the provisions mentioned in the Act are to be followed.

Note: The Standard Operating Procedure (SOP) is subject to modification based on feedback from field units, post implementation of new Criminal Laws

DGC
16/1/25

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Memo No. 830 /CID-Law

Date: 16 .01.2025.

Copy forwarded to:

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for information and necessary action.

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16/1/25

Director General of Police,
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