



ODISHA POLICE
CRIMINAL INVESTIGATION DEPARTMENT
CRIME BRANCH

CRIME BRANCH CIRCULAR No. 07 /2025

Sub: Standard Operating Procedure (SOP) on Dying Declaration

1. Objective:

The purpose of this Standard Operating Procedure (SOP) is to provide clear and consistent guidelines for recording Dying Declaration in accordance with Section 26 of Bharatiya Sakshya Adhinyam, 2023, ensuring that such declarations are properly recorded so as to be admissible in the Court of law.

2. Introduction:

A Dying Declaration refers to a statement made by a person expecting death and related to the cause of death or circumstances causing death. The law recognizes that a person on the verge of death is unlikely to lie and, therefore, such statement can be admitted into evidence in the Court under Section 26 (1) of the BSA, 2023 after death of such person.

Under Section 26 of the Bharatiya Sakshya Adhinyam, dying declaration is admissible in evidence, if the person making the statement believes his/her death is about to happen. Section 26 of Bharatiya Sakshya Adhinyam deals with the admissibility of dying declaration as evidence, which stipulates that such statement can be admitted into evidence if the person is in anticipation of death and reasonably believes his/her death is about to happen.

3. Criteria for recording of a Valid Dying Declaration:

- **Imminent anticipation of Death:** The person must be in a state of condition where death is going to happen and has a clear belief that he/she will not survive.

- **Consciousness:** The person must be conscious and aware while making the declaration. If the person is unconscious or unable to comprehend the situation, the statement may not be valid.
- **Voluntariness:** The declaration must be voluntary in nature and it should not be coerced or influenced by any person.
- **Relevance to the Case:** The declaration must directly relate to the cause or circumstances of the person's death.

4. Procedure for Recording Dying Declaration:

a. Assessment of the Condition of the person:

- i. Preliminary Assessment: The investigating officer or any authorized police officer must immediately look into the physical and mental condition of the person.
- ii. Medical Confirmation: Before examining the person, medical opinion should be obtained from the attending doctor regarding the person's condition and the possibility of death. The doctor should confirm that the person is in imminent danger of death.
- iii. Documentation: The doctor should issue a medical certificate confirming the person's condition, fitness to make a statement and possibility of death.

b. Recording of Dying Declaration:

- i. **Independent Witnesses:** At least two independent/ reliable witnesses (preferably from the family or community) must be present while recording the same.
- ii. The Dying Declaration shall be recorded preferably in presence of the Executive Magistrate.
- iii. The witnesses should be of sound mind and legally competent to understand the situation and circumstances.
- iv. The Dying Declaration must be recorded in writing and the statement should be recorded word by word by the investigating officer or a police officer.

- v. The statement should be recorded in the exact verbatim of the person, without any alteration or improvisation by the police officer or witnesses.
- vi. Audio-visual recording of the Dying Declaration should be done to ensure its authenticity.
- vii. After recording of statement, the person must confirm the accuracy of the statement. The statement should be signed by the person making the statement and the witnesses.

c. Contents of the Dying Declaration:

The statement should clearly mention about the incident, circumstances, the identity of the person(s) responsible and the weapon(s) used, if applicable.

d. Documentation and Record Keeping:

- i. The investigating officer must ensure that the Dying Declaration is reflected in the Case Diary and all steps followed thereby is mentioned properly.
- ii. A note about the Dying Declaration must be included in the Case Diary and the same should be forwarded to the concerned court during the investigation.
- iii. The statement along with any supporting documentation or evidence, must be properly preserved and maintained to keep the chain of custody intact.

Don'ts

- i. **Avoid Leading Questions:** The officer should not lead or ask the person suggesting specific answers with specific questions.
- ii. **Respect Autonomy:** The person should not be pressurized to make a statement. He /She should be allowed to speak freely.
- iii. **Recording the Exact Words:** The statement should be transcribed in verbatim. No assumption or interpretation should be made by the recording officer.
- iv. **No Influence:** Officers must ensure that no external influence, intimidation or coercion is applied to the person while making the statement.

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

**(Vinaytosh Mishra, IPS)
Director General of Police,
CID Crime Branch, Odisha.**

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for information and necessary action.

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16/1/25

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