



**ODISHA POLICE
CRIMINAL INVESTIGATION DEPARTMENT
CRIME BRANCH**

CRIME BRANCH CIRCULAR No.1/2025

**Sub: Standard Operating Procedure on
Remand and Default Bail**

1. Introduction

The term 'Remand' refers to both 'Police Custody' and 'Judicial Custody' during investigation of a criminal case. Arrest is the process to take an accused in custody, which extends up to 24 Hours. Police officer is required to produce the accused in the Court within 24 Hours of his arrest, excluding the time of journey and medical examination. On his production, the Court can remand the accused to 'Police Custody' or 'Judicial Custody'.

There are different kinds of remand such as (i) Judicial Remand, (ii) Police Remand, (iii) Transit Remand (in case of arrest beyond jurisdiction) and (iv) Production Remand.

2. Judicial Remand

- i. After arrest of the accused in a cognizable and non-bailable offence, Police shall produce the accused in the court having power to take cognizance of the offence within 24 Hours excluding the time taken for journey from his place of arrest to the court and medical examination.
- ii. On his production in the court, the accused, if not released on bail, shall be remanded to judicial custody by order of the court.

3. Police Remand

- i. If the custodial interrogation of the accused is necessary, Police officer can submit a prayer in the court to take the accused on Police remand.
- ii. Accused can be remanded to Police custody for a maximum period of 15 days.

- iii. In the CrPC, the accused could be taken on police remand for maximum 15 days during the first 15 days of arrest.
- iv. However, in the BNSS, under Sec. 187, Police can take the accused on remand for custodial interrogation by order of the court for a total period of 15 days in the whole or in piecemeal within a period of first 40 days if the offence is punishable for less than 10 years of imprisonment and within 60 days period when the offence is punishable for 10 years or more imprisonment.

The following broad outlines are prescribed to be followed by the investigating officer while proceeding in the matter of 'Police Remand':

- (a) While forwarding the accused, the Police officer/ investigating officer, should make a separate prayer to the Judicial Magistrate for further Police custody of the accused describing
 - i. Brief of accusation
 - ii. Evidences available against the accused
 - iii. Purpose of custodial interrogation
- (b) The investigating officer should remain present in the court on the date of hearing of his remand application.
- (c) The investigating officer receiving an accused person on remand, should abide by all the directions of such Court and should produce the accused before the jurisdictional Court, within the stipulated period as directed by such court.
- (d) The investigating officer should ensure medical examination of the accused immediately after receiving him on remand and also before producing him in the Court. Besides, mandatory medical examination of the accused shall be ensured in every 24 Hours.
- (e) The investigating officer should allow the accused while in Police custody to meet his advocate during the interrogation. However, the investigating officer should not allow the advocate to remain present throughout interrogation. [Sec. 38 BNSS]

- (f) If a disclosure is made by the accused during custodial interrogation, leading to discovery, proceeding can be taken up for discovery of fact in accordance with the procedure [Sec. 23 (2) of BSA].

- (g) When an accused in custody makes a voluntary confession and if it can lead to discovery of a fact, the Police Officer should first record the confession and thereafter produce him in Court for recording his confession under Section 183 BNSS, if the accused is willing to make the confession before the Magistrate.

- (h) The investigating officer may take steps for 'Lie Detection Test' of the accused with the consent of the accused, recorded by the Court.

- (i) During the remand period of the accused, if his specimen signature, thumb impression, hand writing, voice sample etc are required for the purpose of investigation, the permission of the Judicial Magistrate should be obtained u/s 349 BNSS and the same may be collected following all other due procedures, as applicable.

- (j) Medical examination, collection of biological samples of the accused can be undertaken by the investigating officer during the remand period.

- (k) If the accused suffers from any serious ailment or health hazard, the investigating officer should take all necessary steps for his immediate treatment in the hospital and duly intimate the same to the court.

- (l) Before expiry of each remand period the investigating officer should produce the accused before the Court along with his medical examination reports and other incriminating materials found during interrogation.

4. Transit Remand

During investigation of a criminal case, if the accused is arrested by a police officer in a place outside the jurisdiction, he should be produced before the nearest jurisdictional magistrate with a prayer to authorize the accused to Police custody by means of Transit Remand so as to produce the accused in the court competent to take cognizance of the offence.

- i. While making the prayer, the Police officer should submit all relevant documents like seizure list, arrest memo, medical examination report of the accused and above all copies of FIR, case diary, statement of witnesses before the nearest jurisdictional Magistrate describing the reason for his further remand.
- ii. The nearest jurisdictional Magistrate has the power to release the accused on interim bail, if so moved by the accused and before the expiry of interim bail period, the accused has to appear before the jurisdictional Magistrate competent to take cognizance of the offence against him.
- iii. If the accused is remanded to Police custody by the Magistrate during the transit period, the Police officer should produce the accused in the Cognizance taking court without undue delay along with all relevant documents in support of the transit remand of the accused.
- iv. If so required for the purpose of further custodial interrogation, the Police officer can pray for Police remand of the accused.
- v. In the event the accused is authorized to Police custody by order of the court, the Police officer should follow the guidelines as mentioned herein above.
- vi. Before expiry of remand period, the investigating officer should produce the arrestee/ accused before the Court along with his medical examination reports and other incriminating materials found during interrogation.

5. Production Remand

During investigation of a criminal case, if the accused is found remanded to judicial custody by order of the Court and his production in another case is required for the purpose of investigation, **then the following procedure may be followed:**

- i. The investigating officer should make a separate prayer to the Magistrate requiring custody of the accused along with copies of FIR, seizure list, statement of witness, case diary etc. The prayer should cover
 - Brief of accusation
 - Evidences available against the accused
 - Purpose of custodial interrogation
- ii. Then, the jurisdictional Magistrate, upon hearing the application of the investigating officer would pass order to the concerned Jurisdictional Magistrate having custody of the accused to spare him for the purpose of investigation.
- iii. The investigating officer should remain present in the said court and receive the accused on remand and produce him before the court requiring his remand after his medical examination.
- iv. After the production of accused in the court, the investigating officer should then pray for his further Police remand as per the procedure herein above.
- v. Before expiry of remand period, the investigating officer should produce the arrestee/ accused before the Court along with his medical examination reports and other incriminating materials found during interrogation.

6. Default Bail

Default bail, also known as statutory bail, is a type of bail which accrues as a right to an accused detained in custody, when the police are unable to complete the investigation and fail to file the charge sheet within the time frame stipulated under the law. When a person is arrested under any section of any

act, there is an obligation on the arresting authority to complete the investigation within a specified time. This period is mandatory and not obligatory.

The Supreme Court in several judgments opined that default bail is a fundamental right and not merely a statutory right as it is, a procedure established by law under Article 21 of the Constitution.

The statutory time frame for completing the investigation and filing of the charge sheet has been dealt with under section 187(3) BNSS-2023.

- i. For offences punishable with imprisonment for a term of 10 years, imprisonment for life or death, the investigation must be completed within 90 days of arrest.
- ii. For any other offences, the investigation must be completed within 60 days of arrest.

Therefore:-

- when a person is arrested and remanded to judicial custody by order of the court, then the investigating officer is legally bound to submit charge sheet [as per sec. 193 BNSS] in the competent court empowered to take cognizance of the said offence.
- In case, the investigating officer fails to complete investigation or defaults in filing the charge sheet in the court within the specified period as mentioned under sec. 187 BNSS, the accused is entitled to be released on bail, if so moved.
- The statutory period is inclusive of the date of arrest and last date for submission of charge sheet.

- **Interim bail** granted to accused is not regular bail, hence the accused is assumed to be in judicial custody. Hence there is no change in time period for submission of the charge sheet in the court.
- Default bail is not an automatic bail by the court itself. The accused has to file the bail once the statutory period is over and once the bail application under section 187(2) is filed, it is considered that the accused has enforced his right to be released on default bail.
- If the accused fails to apply for default bail after the investigation time period has expired and the investigating agency files a charge sheet, then also the accused can claim the benefit of default bail. The Supreme Court in "*Rakesh Kumar Paul vs State Of Assam on 16th August, 2017*", has held that the right to get default bail on failure of investigative agency to file Charge Sheet within the stipulated period is an indefeasible right of the accused and If a chargesheet is filed after the stipulated period and before the accused is enlarged on bail, the right of the accused to default or statutory bail will remain intact, provided he has offered to furnish bail bond.
- In cases, where regular bail was granted to the accused by the Court but still the accused is in judicial custody, the investigating officer shall submit charge sheet within the stipulated period of 60 or 90 days as the case may be.
- When accused is in judicial custody and the police officer conducting investigation files charge sheet within the stipulated period, the Magistrate can extend further detention in judicial custody on production of the accused either in person or through the audio-video electronic means.
- The default bail is not liable to be cancelled even after completion of the investigation and submission of the charge sheet in the court. The default bail can be cancelled only on the grounds and considerations on which a regular bail can be cancelled.

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

Vine
7/1/25

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

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Copy forwarded to:

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for information and necessary action.

Vine
7/1/25

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