

Flowchart of Bail Principles under BNSS, 2023

ARREST / CUSTODY



Is the offence BAILABLE?



If YES → Section 478 BNSS → Bail as a matter of right.



If NO → Apply Judicial Mind under Section 480 BNSS:

- Gravity of offence
- Strength of evidence
- Flight risk
- Witness tampering possibility
- Criminal antecedents
- Necessity of custodial interrogation



Apply Supreme Court Principles:

- Bail is rule, jail exception
- Presumption of innocence
- Trial delay relevant
- No mechanical arrest
- Speedy trial is fundamental right



Is Investigation Complete?



If YES → Bail favoured unless strong reasons exist.

If NO → Is custodial interrogation genuinely required?



If NO → Grant Bail

If YES → Reject Bail with recorded reasons

Default Bail (Statutory Bail) under BNSS

Charge-sheet not filed within 60/90 days?



Right to Default Bail arises (Indefeasible Right)



Accused entitled to release upon furnishing bail.

Cancellation of Bail Principles

Has the accused misused liberty?

Are there supervening circumstances?

Is there witness intimidation or tampering?



If YES → Bail may be cancelled with reasons recorded.

Cancellation should not be mechanical.