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Default Bail | S.187(3)(i) BNSS Prescribes 90-Day Limit For Chargesheet, State Amendment Granting 120 Days Repealed With CrPC: Orissa High Court

Jyoti Prakash Dutta

(/jyoti-prakash-dutta)

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In a vital clarification to the new procedure under the **Bharatiya Nagarik Suraksha Sanhita** (BNSS), the **Orissa High Court** has made it clear that the State Amendment, which increased the time-limit for filing of charge-sheet from 90 days to 120 days under the Code of Criminal Procedure (CrPC), is repealed along with the CrPC. Therefore, charge-sheet now has to be filed within 90 days as provided under Section 187(3)(i) of the BNSS (https://www.indiacode.nic.in/show-data?abv=CEN&statehandle=123456789/1362&actid=AC_CEN_5_23_00049_202346_17195), failing which the accused shall be entitled to be released on 'default bail'.

The Bench of **Justice Aditya Kumar Mohapatra** opined that the saving clause provided under **Section 531 of the BNSS** (https://www.indiacode.nic.in/show-data?abv=CEN&statehandle=123456789/1362&actid=AC_CEN_5_23_00049_202346_17195) does not save the aforesaid State Amendment since it had become an essential part of the CrPC itself. In the words of the Judge –

“

“Thus, there is no doubt that by operation of Section 531(1), while the Code of Criminal Procedure, 1973 was repealed, the effect of the State Amendment including Odisha Act 11 of 1997 gets obliterated. What is in force now is the provision contained in Section 187 of the BNSS, 2023. Since Section 187(3)(i) provides 90 days for the category of offence involved in the present case, the charge-sheet in the present case should have been filed within 90 days.”

The petitioners were arrested on 10.05.2025 in connection with an FIR under Sections 3(5), 318(4), 319(2), 336(3), 338 and 340(2) of the Bharatiya Nyaya Sanhita (BNS) along with Sections 66-C and 66-D of the Information Technology Act, 2000 (IT Act). After completion of 90 days of custody, when the charge-sheet was not submitted, they filed an application on 12.08.2025 seeking release on default bail as per Section 187(3) of the BNSS.

The SDJM, Balasore, who was in seisin over the matter, purportedly refused to admit the petitioners on default bail primarily referring to a Gazette Notification dated 16.07.2024 issued by the Union Ministry of Law and Justice and a

notification of the High Court dated 27.09.2024

(<https://www.orissahighcourt.nic.in/notification-pdf-view/1005/>). Being aggrieved, the petitioners impugned the rejection order before the High Court.

Pertinently, the Government of Odisha by the introducing the **Code of Criminal Procedure (Orissa Amendment) Act, 1997**

([https://law.odisha.gov.in/sites/default/files/2021-](https://law.odisha.gov.in/sites/default/files/2021-01/act_1932498695_1437974291.pdf)

01/act_1932498695_1437974291.pdf) [Odisha Act 11 of 1997] had amended

Section 167(2)(a)(i) of the CrPC ([https://www.indiacode.nic.in/show-data?](https://www.indiacode.nic.in/show-data?abv=UP&statehandle=123456789/2510&actid=AC_CEN_5_23_000010_197402_151780)

abv=UP&statehandle=123456789/2510&actid=AC_CEN_5_23_000010_197402_151780) whereby the time-limit of 90 days was substituted with '120 days'.

By virtue of such amendment, the investigating agencies were required file charge-sheet with an outer limit of 120 days, failing which the accused was entitled to be released on default bail. However, after the introduction of BNSS, Section 167 of CrPC was replaced by Section 187 of BNSS. Under Section 187(3)(i) of the BNSS, the time-limit for filing of charge-sheet has been prescribed as 90 days where the investigation relates to an offence punishable with death, imprisonment for life or imprisonment for a term of ten years or more.

Thus, the question which arose for consideration was whether the aforesaid State Amendment to the CrPC extending the time-limit to 120 days shall remain intact even after the BNSS came into force.

For answering the issue, the Court resorted to the saving clause provided under Section 531 of the BNSS. After a thorough scrutiny of Section 531(2), the Court opined that the State Amendment has not been specifically saved by such clause. Above all, by virtue of the Amendment, the Court said, the amending provisions have become an "integral part" of the main statute. In other words, the amended provisions are, therefore, liable to be repealed with the main statute.

Justice Mohapatra further cited the **Odisha Submission of Final Form by Police Officers Rules, 2025** (https://home.odisha.gov.in/sites/default/files/2025-03/PT3-HOME-CPM-MISC-0213-2023-8923_1.pdf). Rule 2(1)(i) thereof stipulates that the investigation in a case of the present nature is to be completed within 90 days. Also, it clearly provided in Rule 2(1)(iii) that in the event of failure to complete the investigation within such stipulated period of time, the accused has right to be released on default bail. Therefore, the Court concluded –

"In view of the aforesaid analysis, this Court has no hesitation in coming to a conclusion that the Odisha Amendment vide Act 11 of 1997 has also been repealed along with the Parent Act, i.e. Cr.P.C., 1973 and that in the trials under the BNSS, 2023 the charge-sheet is to be filed in terms of Section 187 of BNSS thereof. Accordingly, the period of limitation for filing of the charge-sheet for the purpose of Section 187 of BNSS would be 90 days."

The Bench was of the view that the SDJM was misguided by the aforesaid notifications due to which he misinterpreted the limitation period to be 120 days. As a result, the impugned order was set aside and the matter was remanded back to the trial Court for fresh consideration by applying the principles enunciated in the order.

Case Title: Vicky Kumar @ Kashyap & Anr. v. State of Odisha

Case No: CRLMC No. 3669 of 2025

Date of Judgment: November 24, 2025

Counsel for the Petitioners: Mr. Sk. Zafarulla, Advocate

Counsel for the State: Smt. Sasmita Nayak, Additional Standing Counsel

Citation: 2025 LiveLaw (Ori) 158

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