

Here are the definitions of the terms from the Code of Criminal Procedure (CrPC):

1. **Bailable Offence - 4(1)(b)**: An offence where the accused has a right to be released on bail, as specified in the Second Schedule or other laws. If bail is granted, the person can be released upon providing a bond.
2. **Cognizable Offence - 4(1)(f)**: An offence where the police can arrest the accused without a warrant and can start an investigation without the court's permission.
3. **Complaint - 4(1)(h)**: A formal allegation made to a Magistrate that a person has committed an offence, which prompts legal action. This can be made orally or in writing but does not include a police report.
4. **Inquiry - 4(1)(k)**: Refers to a proceeding conducted by a Magistrate or a court to investigate the facts of a case, excluding a formal trial.
5. **Investigation - 4(1)(l)**: All proceedings by a police officer or another authorized person to collect evidence for a case.
6. **Non-cognizable Offence - 4(1)(n)**: An offence for which the police cannot arrest the accused without a warrant and cannot initiate an investigation without the court's permission.

The procedure for making an arrest under the **Criminal Procedure Code (CrPC)** is described in **Section 46**. Here are the key points:

1. **Physical Touch or Confinement**: When making an arrest, the police officer or authorized person must physically touch or confine the body of the person to be arrested, unless the person voluntarily submits to the arrest by words or actions.
2. **Use of Force**: If the person resists or tries to evade arrest, the officer may use all necessary means to effect the arrest. However, causing death is not allowed unless the person is accused of an offence punishable by death or life imprisonment.
3. **Search of Premises**: If the arresting officer believes the person sought is hiding in a particular place, the officer may enter the premises and search it, following proper notification and entry procedures as outlined in **Sections 47-49** of the CrPC.
4. **No Unnecessary Restraint**: The person arrested should not be subjected to more restraint than necessary to prevent escape (Section 50).
5. **Informing the Person Arrested**: The person arrested must be informed of the grounds for arrest as soon as possible.
6. **Arrest Without Warrant**: Section 54 outlines circumstances where the police may arrest without a warrant, such as when a person is involved in a cognizable offence or when credible information is received about their involvement.
7. **Detention Period**: The arrested person must be presented before a Magistrate within 24 hours of the arrest, excluding travel time (Section 61). 54 DLR(HC).
8. **Private Arrests**: Any private person can arrest someone committing a non-bailable and cognizable offence and must promptly hand the person over to the police (Section 59).

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As per **Section 54 of the Code of Criminal Procedure (CrPC)**, any police officer may arrest a person without a warrant under certain conditions. These include:

1. **Involvement in a Cognizable Offence:** If the person has been involved in, or there is reasonable suspicion of involvement in, a cognizable offence.
2. **Possession of House-breaking Implements:** If the person has in their possession any house-breaking tools without a lawful excuse.
3. **Proclaimed Offender:** If the person has been proclaimed as an offender.
4. **Possession of Stolen Property:** If the person is found in possession of items suspected to be stolen.
5. **Obstructing a Police Officer:** If the person obstructs a police officer while performing their duty or attempts to escape from lawful custody.
6. **Deserter:** If the person is reasonably suspected of being a deserter from the armed forces.
7. **Extradition Cases:** If the person has committed an act outside Bangladesh that would be punishable if committed within the country.
8. **Released Convict Violating Conditions:** Any released convict breaching rules made under Section 565(3).
9. **Arrest Requisition from Another Officer:** Any person whose arrest is requested by another police officer with valid reasons specified.

BLAST vs. Bangladesh 55 DLR (2003) 363

The guidelines regarding arrest and remand have been outlined in a simplified manner below, reflecting their main principles:

1. **No Detention for Special Powers Act:** A police officer cannot arrest anyone under Section 54 for the purpose of detention under Section 3 of the Special Powers Act, 1974.
2. **Police Identification:** The arresting officer must disclose their identity and show their ID card upon request at the time of arrest.
3. **Arrest Records:** Reasons for the arrest and other details must be recorded in a specific register until a special diary is prescribed.
4. **Recording Injuries:** If the arrested person has any injuries, the officer must note the reasons and ensure they are taken to the nearest hospital or government doctor.
5. **Informing of Arrest:** The person arrested must be informed of the reasons for arrest within three hours of reaching the police station.
6. **Informing Relatives:** If the arrest is not made at the person's residence or workplace, their relatives should be notified within an hour of their arrival at the station.
7. **Consultation with Lawyer or Relatives:** The arrested person must be allowed to consult a lawyer or meet with their nearest relatives.
8. **Forwarding Letter with Reasons:** When producing the arrested person before a Magistrate under Section 61 of the CrPC, the officer must provide a letter with reasons

under Section 167(1) of the CrPC, explaining why the investigation could not be completed within 24 hours.

9. **Magistrate's Role:** Upon reviewing the forwarding letter, if the Magistrate is convinced of the legitimacy of the arrest and the materials are sufficient, they may order detention; otherwise, the person should be released immediately.
10. **Proceeding Against the Officer:** If the person is released, the Magistrate may initiate proceedings against the officer under Section 220 of the Penal Code.

The Penal Code, 1860 | 220. Commitment for trial or confinement by a person having authority who knows that he is acting contrary to law.

11. **Interrogation Guidelines:** Interrogation must be conducted in a room in the jail until a facility with a glass wall or grille, visible to a lawyer or relative, is constructed.
12. **Detention Application Requirements:** Any request to take the accused into custody for interrogation must include reasons as recommended.
13. **Magistrate's Responsibilities for Police Custody:** The Magistrate must follow the judgment's recommendations when authorizing detention in police custody.
14. **Death in Custody Notification:** Any death in police or jail custody must be immediately reported to the nearest Magistrate.
15. **Inquiry into Custodial Death:** The Magistrate is required to investigate any death that occurs in police or jail custody, following the judgment's guidelines.

A person can claim bail as of right in case of Bailable offences but the granting of bail is a discretion of any power of court in case of non-Bailable offences. Explain it.

Bailable Offences (Section 496 CrPC):

In the case of **bailable offences**, the accused has a **right to claim bail**. This means that if the offence is categorized as bailable, the court or the police must grant bail when the accused is prepared to provide it. The court has **no discretion** in denying bail in such cases. The conditions for the bail are minimal, and the accused is typically released after providing a bond or surety.

- **Key Point:** The **right to bail is automatic** for bailable offences. If the accused fulfills the conditions (like furnishing a bond), the court is bound to release them.

Non-Bailable Offences (Section 497 CrPC):

In contrast, for **non-bailable offences**, the granting of bail is at the **discretion of the court**. Non-bailable offences are generally more serious, and bail is not granted as a matter of right. However, the court has the power to grant bail depending on the circumstances of the case, such as:

1. **Nature of the offence:** If the offence is punishable with **death or life imprisonment**, bail is generally **not granted** unless the accused is under the age of 16, is a woman, or is sick or infirm.
2. **Reasonable Grounds:** The court may refuse bail if there are **reasonable grounds** to believe that the accused is guilty of the offence.
3. As per **Section 497(2)**, at any stage of the investigation, inquiry, or trial, the officer or the court is of the opinion that **there are no reasonable grounds for believing that the accused has committed a non-bailable offence**, but there are sufficient grounds for further inquiry into their guilt, the accused **shall be released on bail** pending the inquiry. Alternatively, the court or officer may release the accused on the execution of a bond without sureties.
4. **Discretionary Power of the Court:** For other non-bailable offences, the court has the discretion to grant or refuse bail, weighing factors like:
 - **Likelihood of the accused fleeing,**
 - **Interference with witnesses,**
 - **The severity of the offence,**
 - **The character and background of the accused.**
- **Exceptions:** The court may refuse bail if the accused has previously been convicted of a serious offence, such as one punishable with death or life imprisonment.

The trial procedure in **Courts of Sessions** is detailed under **Chapter XXIII** of the **Code of Criminal Procedure (CrPC)**, specifically in **Sections 265A to 265L**. Here's a structured overview of the process:

Section 265A – Prosecution by Public Prosecutor

The prosecution must be conducted by a Public Prosecutor in every trial before a Court of Session.

Section 265B – Opening of the Case by the Prosecutor

At the start of the trial, the prosecutor opens the case, describing the charges and evidence against the accused.

Section 265C – Discharge of the Accused

If, after reviewing the case documents and hearing submissions, the Court finds no sufficient grounds for proceeding, the accused is discharged, and reasons for discharge are recorded.

Section 265D – Framing of Charges

If the Court finds sufficient grounds to proceed, it frames the charge and explains it to the accused, who is asked whether they plead guilty or claim to be tried.

Section 265E – Plea of Guilty

If the accused pleads guilty, the Court may record the plea and convict them.

Section 265F – Fixing Date for Prosecution Evidence

If the accused does not plead guilty or refuses to plead, the Court sets a date for the prosecution evidence and may issue processes to ensure the attendance of witnesses.

Section 265G – Recording of Prosecution Evidence

On the fixed date, the Court records all prosecution evidence. Cross-examination of witnesses may be deferred until other witnesses are examined, and witnesses can be recalled for further cross-examination.

Section 265H – Acquittal Due to Lack of Evidence

If, after examining the evidence and hearing the parties, the Court finds that there is no evidence of guilt, it records an order of acquittal.

Section 265I – Presentation of Defense

If the accused is not acquitted, they are called upon to present their defense. The accused may file a written statement, and the Court may issue summonses for defense witnesses if requested.

Section 265J – Summing Up and Reply

After the defense evidence is completed, the prosecution sums up the case, followed by the accused or their pleader's reply. If a point of law is raised, the prosecution may respond with the Court's permission.

Section 265K – Judgment

The Court delivers a judgment of acquittal or conviction after hearing the arguments and considering the points of law.

Section 265L – Previous Conviction Evidence

If the accused has been previously convicted and does not admit it, the Court may take evidence to prove the previous conviction and record a finding.

Section 144 of the Code of Criminal Procedure (CrPC) grants broad powers to Executive Magistrates to issue temporary orders in urgent situations to prevent **public nuisance** or **apprehended danger**. The key points of **Section 144** are as follows:

1. **Issuance of Orders:** If an Executive Magistrate believes there is a **sufficient ground** for immediate action to prevent danger to public safety, public health, or a breach of peace, they may issue a **written order**. This order directs any person or group to abstain from a certain act or take specific action with property.
2. **Temporary Nature:** These orders are temporary and can remain in force for up to **two months** from issuance, unless extended by the government in cases of ongoing danger.
3. **Emergency Orders:** The Magistrate can issue the order **ex parte** (without hearing the affected parties) in cases of emergency or when timely service of notice is impractical.

4. **Scope of the Order:** The order can be directed at **individuals or the public** and can be applied to a specific area or general public movement.
5. **Rescinding the Order:** Affected individuals can apply to have the order rescinded or modified. The Magistrate is required to provide an opportunity for the affected person to be heard.
6. **Purpose:** The aim of Section 144 is to prevent obstruction, annoyance, injury to public safety, or a disturbance of public tranquility, and to curb imminent dangers such as riots or affray.

Contents of the order issued by the Executive Magistrate must include the following elements:

1. **Issuance of Orders:** If an Executive Magistrate believes there is a **sufficient ground** for immediate action to prevent danger to public safety, public health, or a breach of peace, they may issue a **written order**. This order directs any person or group to abstain from a certain act or take specific action with property.
2. **Written Order:** The order must be **in writing** and clearly state the directions.
3. **Specific Act or Abstinence:** The order should specify the act that individuals or groups are **required to perform or abstain from**. It may include restrictions on public movement, gatherings, or certain activities.
4. **Grounds for the Order:** The order must state the **grounds** or reasons justifying its issuance. This generally involves public safety, preventing riots, or stopping public disturbances.
5. **Applicable Area or Group:** The order must define the **geographical area** or **specific individuals/groups** to whom it applies. It can cover a specific location or a wider region, depending on the circumstances.
6. **Duration:** The order must indicate its **duration**, which can be for a maximum period of **two months**, unless extended by the government.
7. **Immediate or Emergency Action:** If the situation warrants immediate action, the order may be issued **ex parte** (without prior notice) to avoid delays that could worsen the situation.
8. **Consequences of Non-compliance:** The order may outline the **legal consequences** or penalties for not complying with the directions.

Section 145 of the Code of Criminal Procedure (CrPC) deals with **disputes concerning land or water** that are likely to cause a breach of peace. Here's a summary of the provisions:

1. **Initiation of Proceedings (Section 145(1)):**
A District Magistrate or an Executive Magistrate specially empowered by the government

can initiate proceedings if they receive a report or other information that a dispute likely to cause a breach of peace exists concerning land, water, or boundaries within their jurisdiction. The Magistrate will issue a written order stating the grounds of the dispute and requiring the parties involved to submit written statements of their claims regarding the possession of the disputed property.

2. **Definition of Land or Water (Section 145(2)):**

The term "land or water" includes not just land and bodies of water, but also buildings, markets, fisheries, crops, and rents or profits from such property.

3. **Service of Order (Section 145(3)):**

The Magistrate must serve the order on the concerned parties and ensure that a copy is published at or near the subject of dispute.

4. **Inquiry into Possession (Section 145(4)):**

The Magistrate conducts an inquiry into the actual possession of the property at the time of the dispute, without considering the legal merits of ownership. The Magistrate may decide who was in possession at the time of the dispute and, if necessary, take evidence to resolve the matter. If a party was forcibly dispossessed within two months before the Magistrate's order, they can be treated as if they were in possession.

5. **Attachment of Property (Section 145(4), Proviso):**

In urgent cases, the Magistrate may attach the disputed property pending a decision on possession.

6. **Finality of the Magistrate's Order (Section 145(5)):**

If any party shows that no dispute existed, the Magistrate may cancel the proceedings. However, unless this happens, the Magistrate's order is final concerning the possession of the property until legally evicted.

7. **Continuance of Possession (Section 145(6)):**

The party declared to be in possession by the Magistrate will retain possession unless evicted by legal process, and the opposing party is forbidden from interfering until legally entitled to possession.

Section 403 of the Code of Criminal Procedure (CrPC) covers the principle of **double jeopardy**, which prevents a person from being tried again for the same offence after either an acquittal or conviction. The key points of **Section 403** are:

1. **No Second Trial for the Same Offence:** Once a person has been either convicted or acquitted of an offence, they cannot be tried again for the same offence based on the same facts, except under certain conditions outlined in the law.
2. **Exception for Higher Courts:** If a case has been dismissed by a lower court or a conviction/acquittal is overturned on appeal, the accused may be retried.
3. **Different Charges on Same Facts:** If the person has been acquitted of one charge, they may still be tried for a different offence based on the same set of facts if that offence is distinct from the one originally tried.
4. **Scope of Application:** The protection extends to all judicial proceedings but allows for retrials when certain technical errors or procedural irregularities occur.

5. Courts not competent to try

Section 494 - Permission to Withdraw Cases

This section allows the Public Prosecutor or any person authorized by the government to **withdraw** from the prosecution of a case with the consent of the court. The key points include:

- A case can be withdrawn before a final judgment is passed.
- The withdrawal must have the **permission of the court**, which can either consent to or reject the application.
- If the court permits the withdrawal, the accused can be **discharged or acquitted** depending on the stage of the case.

Section 561A - Inherent Powers of the High Court

This section deals with the **inherent powers** of the **High Court** to prevent abuse of legal procedures or to secure justice. The key features include:

- The High Court has the power to make orders as necessary to ensure the **ends of justice** are met.
- It can also step in to **prevent misuse** of the legal process, such as quashing unjust charges or proceedings.
- The powers under this section are **discretionary** and are used to fill gaps where specific provisions of the CrPC might not provide relief.

Section 339B – Trial in Absence of Accused (Trial in Absentia)

- This section deals with **trial in the absence of the accused**, under certain conditions:
 1. After fulfilling the requirements of **Section 87** (Proclamation for the person absconding) and **Section 88** (Attachment of the property of the person absconding), if the court has reason to believe the accused has **absconded** and there is no immediate prospect of arrest, the court can proceed to **try the person in their absence**.
 2. If the accused is already produced before the court or has been released on bail but later absconds or fails to appear, the court can also proceed with the trial in absentia.

preventive actions of police as per **Sections 149 to 153** of the CrPC, without nested points:

Section 149 – Police to Prevent Cognizable Offences

Police officers have a duty to prevent the commission of any cognizable offence. They are authorized to take all necessary measures to stop crimes from occurring within their jurisdiction.

Section 150 – Information of Design to Commit Cognizable Offences

When a police officer receives information about a plan to commit a cognizable offence, they must immediately report this to their superior officer and any other officer responsible for preventing or addressing such offences.

Section 151 – Arrest to Prevent Cognizable Offences

A police officer, knowing of a plan to commit a cognizable offence, may arrest the person planning it without a warrant or orders from a Magistrate, if it appears that the offence cannot be prevented otherwise.

Section 152 – Prevention of Injury to Public Property

Police officers can take action to prevent any attempt to damage public property, including movable and immovable property, public landmarks, or navigation aids.

Section 153 – Inspection of Weights and Measures

The officer in charge of a police station can, without a warrant, enter any place within the station's limits to inspect or search for false weights, measures, or instruments for weighing. If found, the officer may seize them and must report the seizure to the jurisdictional Magistrate.

Section 260 CrPC - Summary Trial

Section 260 of the **Code of Criminal Procedure (CrPC)** lays down the rules for **summary trials**, which are intended to quickly handle minor offences. Here are the detailed provisions of Section 260:

1. Magistrates Authorized to Conduct Summary Trials:

- Summary trials can be conducted by:
 - **Chief Metropolitan Magistrates,**
 - **Magistrates of the First Class,** and
 - Any **Bench of Magistrates** empowered with First-Class Magistrate powers.

2. Offences Triable Summarily:

- The following types of offences can be tried summarily:
 - Offences not punishable with death, transportation, or imprisonment exceeding **two years**.

- Offences related to **weights and measures** under Sections 264, 265, and 266 of the Penal Code.
 - **Hurt** (Section 323 of the Penal Code).
 - **Theft** (Sections 379, 380, or 381) when the value of the stolen property does not exceed **ten thousand taka**.
 - **Dishonest misappropriation of property** (Section 403) where the value does not exceed **ten thousand taka**.
 - **Receiving stolen property** (Section 411) where the value does not exceed **ten thousand taka**.
 - **Mischief** under Sections 426 and 427 of the Penal Code.
 - **Criminal trespass** under Section 447 and **house trespass** under Sections 448, 451, 453, and others.
 - **Criminal intimidation** under Section 506 of the Penal Code.
3. **Maximum Sentence:**
- A **maximum sentence of two years of imprisonment** can be imposed in a summary trial. No sentence exceeding this duration can be passed.
4. **Speed of Proceedings:**
- Summary trials follow a **simplified procedure** to ensure that cases are resolved quickly, without the formalities of a full trial, though basic fairness is maintained.

The seven essential elements of an **FIR** (First Information Report) as per **Section 154 of the CrPC** are:

1. **Information about a Cognizable Offence:** The FIR must pertain to the commission of a cognizable offence, which requires immediate police action.
2. **Informant's Identity:** The name and details of the person providing the information must be recorded. The informant can be the victim, witness, or any other person aware of the offence.
3. **Written Record:** The information must be recorded in writing by the officer in charge of the police station. If given orally, the officer must reduce it to writing.
4. **Reading Back to the Informant:** The contents of the written information must be read over to the informant to confirm its accuracy.
5. **Signature of the Informant:** The informant must sign the document to validate that the recorded information is accurate and provided by them.
6. **Entry in the Police Station Diary:** The information must be entered in the station diary, which formally registers the FIR and initiates the investigation process.
7. **Free Copy to the Informant:** A copy of the FIR must be provided to the informant free of charge immediately after its registration.

Here is a summary of **Sections 68 to 74** from the CrPC based on the provided document:

Section 68 – Summons: How Served

Every summons issued by a court must be in writing in duplicate, signed and sealed by the presiding officer of the court or by any officer authorized by the Supreme Court.

Section 69 – Service of Summons on Corporate Bodies and Societies

The summons must be served personally on the person summoned by delivering or tendering one of the duplicates to them.

The person receiving the summons must sign a receipt on the back of the other duplicate if required by the serving officer.

Summons to a corporate body or society are served by delivering it to the secretary, local manager, or principal officer, or by sending it by registered post to the registered office.

Section 70 – Procedure when Service Cannot be Effected as Before Provided

If the person cannot be found, the summons may be left with an adult male family member at their residence, and a receipt must be signed.

Section 71 – Affixing Summons in Case of Non-Service

If service cannot be effected as mentioned, the summons shall be affixed to a conspicuous part of the house or premises where the person resides.

Section 72 – Service on Government Servants

For government servants, the summons is sent to the head of the office where the person is employed, who ensures service and returns it with an endorsement.

Section 73 – Service Outside Local Limits

If the person resides outside the local jurisdiction, the summons is sent to the Magistrate of the area where the person resides to be served.

Section 74 – Proof of Service and Affidavit

When a summons is served outside the local jurisdiction or if the serving officer is not present, an affidavit before a Magistrate stating that the summons has been served, with the endorsed copy, is acceptable as proof of service.

Section 366 – Mode of Delivering Judgment

- The judgment in every trial in any criminal court of original jurisdiction must be pronounced in **open court**.
- The judgment can be delivered immediately after the termination of the trial or at a subsequent time, with prior notice given to the parties or their pleaders.

- It must be in the language of the court, or another language that the accused or their pleader understands.
- If requested by either the prosecution or the defense, the presiding judge must read out the entire judgment.
- If the accused is in custody, they must be brought to hear the judgment unless their presence has been exempted and the judgment is of a fine only or results in acquittal.
- The absence of any party or their pleader on the date of judgment delivery does not invalidate the judgment .

Section 367 – Contents and Language of Judgment

- Every judgment must be written by the presiding officer or dictated in the language of the court or in English.
- It must contain:
 - The **points for determination**,
 - The **decision** on those points,
 - The **reasons for the decision**.
- It must specify the offence (if any), the relevant section of the Penal Code or law, and the punishment if the accused is convicted.
- If the judgment is of acquittal, it must state the offence of which the accused is acquitted and direct that they be set free.
- In case of a conviction under the Penal Code, when it's unclear under which section the offence falls, the court must pass judgment in the alternative .

Section 376. Power of High Court Division to confirm sentence or annul conviction

In any case submitted under section 374, the High Court Division:

- (a) may confirm the sentence, or pass any other sentence warranted by law, or
- (b) may annul the conviction, and convict the accused of any offence of which the Sessions Court might have convicted him, or order a new trial on the same or an amended charge, or
- (c) may acquit the accused person:

Provided that no order of confirmation shall be made under this section until the period allowed for preferring an appeal has expired, or, if an appeal is presented within such period, until such appeal is disposed of.