

Jakir h

UNIT - 4

Jakir hussain 9678991877

> 2022 -

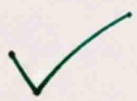
Q. Discuss the provision relating to the
Criminal Procedure Code

relating to the trial before **C.O.S**



Introduction .

In every criminal matter the trial must be before court of Session if the case fit for court of Session. The trial must consider to the court of session.



Section 248 & Chapter **XIX** of

Bharatiya Nagarik Suraksha Sanhita

said that in every trial before court of session, The prosecution
court of session.

Shall be conducted by a public prosecutor.

Body Section 249

Section 249 (Opening case for prosecution)

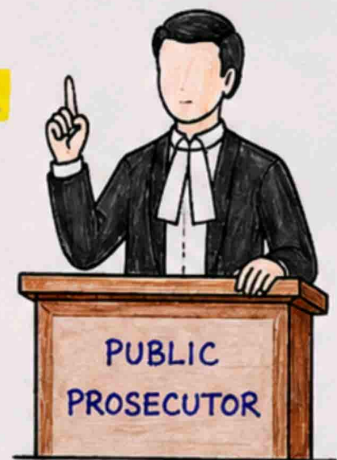
When the accused brought before the court, the prosecutor shall open his case by describing the charge brought against accused and stating by what evidence he proposes to prove the guilt of the accused.

Hukum Singh

v.

State of Rajasthan AIR 2001 SC 511

In this, the court was held that every public prosecutor has authority to open or opine his case without any fear.



Section- 250 (Discharge)

✓ The accused may prefer an application for discharge within a period of sixty days from the commencement of the case under



Sec- 232.

If upon consideration of the record of the record, the judge is satisfied that the accused is not guilty.



he shall be discharge.

T. V. Sharma

v.

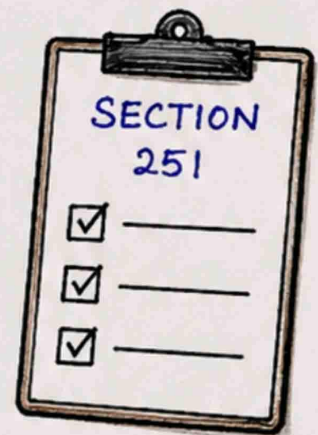
A. Meeriah & Ors. 1980 AP 219



→ In this case, full hon'ble AP judge bench held that the court of session must discharge the accused if found that accused is not guilty.

Section-251 (framing charge)

✓ After the consideration and hearing the opined that there is ground for offence to presuming in any offence.

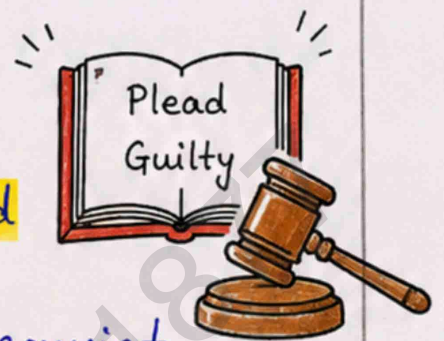


he shall not triable before he
shall be not triable before.

Court of Session, he shall be triable cum or with.

Section-252 (conviction on plead guilty)

→ if the accused plead guilty, the judge shall record on-plead and may discretion convict.



Section-253 (Date for prosecution)

evidence -

if the accused to plead or does not attend plead, The judge may compelling him attendance to him on such date the judge fix.



Acquittal (255)

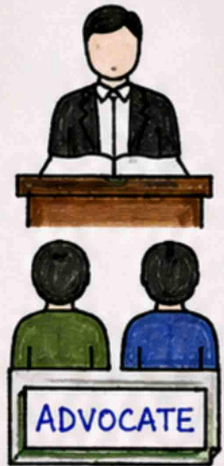
If after taking all such evidence for prosecution, examined the accused & hearing the defence, and he shall be acquitted.



ACQUITTAL

Argument (257)

✓ When the examination of the witness for the defence is complete the prosecutor shall sum his case and the accused or his advocated entitled to reply.



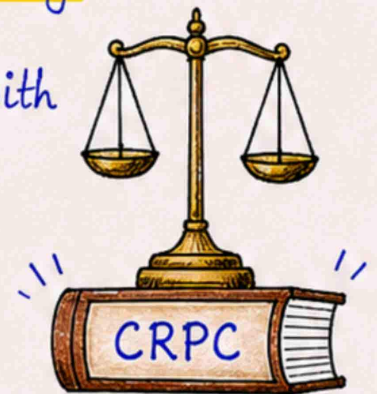
conclusion

After all court proceeding was complete the accused, either acquitted or convicted based on the evidence, this all process was taken place in court of session.

If the accused is acquitted then he may released or if the convicted then he stay on jailed.



Q. Provision relating to Plea-bargaining under the Criminal Procedure Code with reference to relevant case laws ?



Introduction

Right of speedy justice is an integral part of the Art-21 of the Constitution of India. There are four constitutional of India. There are four crore cases pending in India and more than 70% cases pending in trial court, it was this reason the concept of plea bargaining was introduced.



SPEEDY JUSTICE
IS A FUNDAMENTAL
RIGHT

The concept of plea- bargaining

The concept of plea-bargaining was frequently used in USA, to avoid prolong complicated trial in India also. The concept of plea-bargaining was incorporated in the Bharatiya Nyaya Sanhita 2023 (BNSS) under Sec: 289-300 and Chapter xxiii.



Body

The concept of plea bargaining is a process which is a charge with a criminal offence negotiate with the prosecution for a lesser punishment.



Application for Plea Bargaining

[Sec-289-300]

Bharatiya Nyaya Sanhita 2023, A person **accused** of **offence** may file an **application** for **Plea Bargaining** within period of **thirty days** from the date of **filing the application**.



After receiving the application under sub-section (1), the court shall issue **notice** to the **public prosecutor** and the **accused** and **fix a date** of **appearance** on the **drop fixed** for the case.

The court shall, issue **notice** to the application under sub-section-(2), the **plea bargaining** within period of **thirty days** from the date of **framing charge**.



Judgement of Court [Sec-294]

The court shall deliver its judgement in open court in the presence of the accused and the same shall be signed by the presiding officer of the court.



② Finality of Judgement [Sec-295]

The presiding officer of the court and the same shall be signed by the presiding officer of the court. ✓



JUSTICE
IS DELIVERED
IN OPEN COURT

This judgement in terms of section 295 of BNSS is final. The open court proceedings can be taken place except (appeal) & Special Leave Petition.

Sec-296 | Power of court in plea - bargain.

A court shall have,
for the purposes of discharging its
function under this chapter, all the
powers vested in respect of bail
hearing of offence of the offence
the disposed of a case in
such court.

② The plea - bargaining

concept is applicable on crime that
powers vested in respect of bail
under offence and offence whether
founding under this chapter, all the
for the purposes of discharging its
function under this chapter, all the
powers of court shall have,
such court.

Core Law

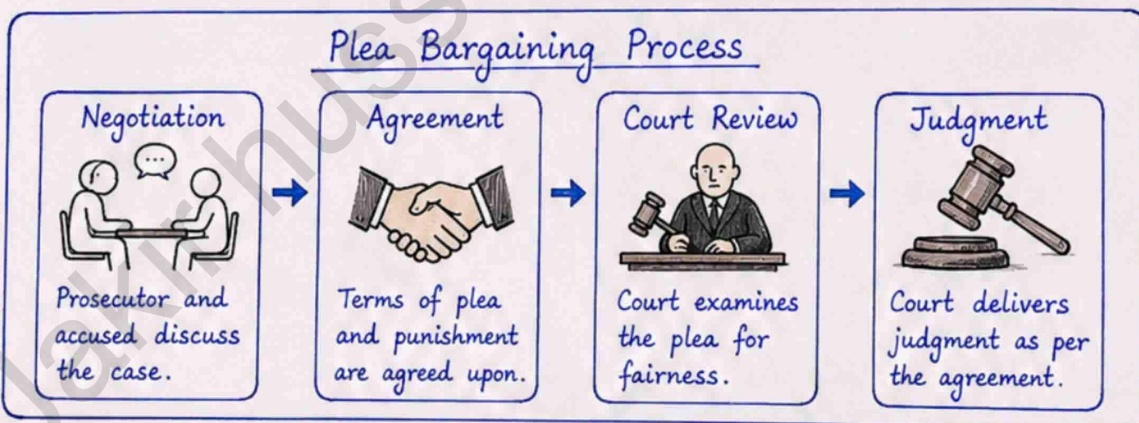
In this case, the court recognized the value of plea bargaining and stated that plea bargaining should be evaluated on a case-by-case basis with regard to its merits.



(State of Gujarat
v.
Nathan Narmandit
Thakor 2005)

Conclusion

- The plea bargaining is applicable on a case-by-case basis and should take each plea of guilt and other matters pertinent to the disposal of a case in view.
 - The concept is applicable in the case in which the defendant pleads guilty and presents one punishment as death sentence, Life imprisonment or imprisonment for 7 years or more.
- ⇒ The decision in this case upholds the importance of plea bargaining in ensuring a fair and efficient criminal justice system. ✓



★ Thus, the judgment supports the effective use of plea bargaining for the benefit of both the accused and the justice system.

Q. Trial before a court of session

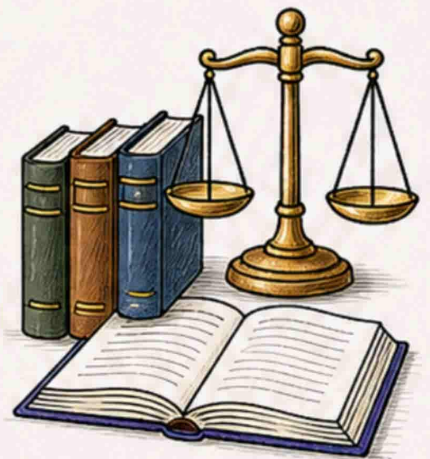
See from the
First part
Unit-1

Introduction:

A trial before a court is the first step of the process of adjudicating the legal issues and witnesses and legal arguments.

When trial begins:

- Before the trial begins, the court must be satisfied that it has jurisdiction over the case.
 - If the court has jurisdiction, it then ensures the proper administration of the process of justice by adhering to the due process of law and principles.
 - The court, at this stage, must carefully handle and organize the evidence, examine witnesses and legal arguments.
 - This careful process ensures the fair and impartial hearing of the case.
- ⇒ Thus, the court's first step is crucial for a fair, just and effective trial.



Body

- ① Trial to be conducted by public prosecutor under Section 248 of

Bharatiya Nagarik Suraksha Sanhita, 2023. In every trial before court of Session, the prosecution shall be conducted by a public prosecutor.



- ② Opening case for prosecution :—

under the Section 249 of Bharatiya Nagarik Suraksha Sanhita 2023, when the accused appears or is brought before the court or under any other law time being in force, the prosecution shall open this case.



by describing the charge brought against the accused and stating by what evidence he proposes to prove the guilty of the accused.

Hukam Singh

v.

State of Rajasthan 2001 SC 511

Facts of this case

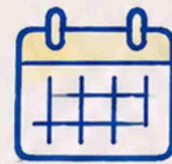
In this case Hukam Singh was accused of committing a serious offence, including charge of murder.

Judgement of this case :-

- The Rajasthan High Court held that
- The evidence presented by the prosecution was insufficient to establish guilty.

beyond reasonable doubt. For that, Hukam Singh was acquitted due to lack of conclusive evidence.

③ Discharge [Sec. 250]



60 DAYS

under Section 250*

of the BNSS, the accused may prefer an application for discharge within a period of sixty days from the date of commitment of case.

T. v. Sharma

v.

R. Meeriah & others 1980



→ In this case Andhra Pradesh Full Bench held that the Session Court is bound to discharge an accused if there

no ground for any evidence for guilty.

④ Framing of charge [Sec-251]

Under sec-251 of BNSS

If, after such consideration and hearing the case, the judge is of the opinion that there is ground for presuming that the accused has committed an offence, then the judge may frame charge.



⑤ Conviction plea of guilty [Sec-252]

Under the sec-252

of the BNSS, if the accused pleads guilty, then judge may in his discretion convict.

⑥ Date for prosecution. Evidence [Sec. 253]

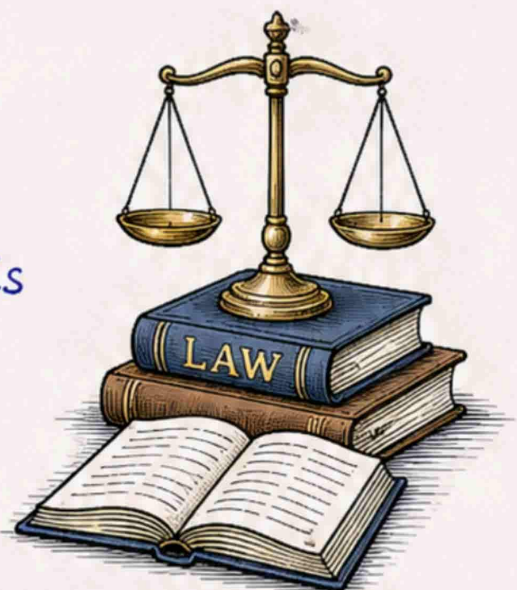
⑦ Evidence for prosecution. [Sec. 254]

⑧ Acquittal [Sec. 255]

Under the section 255 of BNSS, if after taking evidence for the prosecution, examining the accused and hearing the prosecution and the defence on point of view, the judge considers that there is no evidence that the accused committed the offence, the accused shall on record an order of acquittal.

Conclusion

→ The trial before court is essential for delivering justice to the accused.



Session is a critical process in the administration of justice, particularly for serious offense, it conducted with strict adherence to procedural law.

Under Criminal Procedure Code, CrPC to ensure fairness, transparency & protection of right.

