

**GUJARAT NATIONAL LAW UNIVERSITY
SILVASSA CAMPUS**

Course: **Law of Criminal Procedure (The Bharatiya Nagarik Suraksha Sanhita, 2023)**
B.A., LL.B. Semester- IV (Batch: 2023-28)

End Semester Examination: April-May 2025

Date: 27th April, 2025

Duration: 3 hours

Max. Marks: 50

Instructions:

- Read the questions properly and write the answers in the given answer book.
- Do not write anything on the question paper.
- The respective marks for each question are indicated in-line.
- Indicate correct question numbers in front of the answer.
- No questions or clarification can be sought during the exam period, answer as it is, giving reason, if any.
- Word Limit: (3 Marks: 250-300 words), (4 to 5 Marks:500-600 words), (7-10 Marks:650-800 words)

Part A

Answer any four of the following questions

Marks

- Q.1** In March 2024, the manager of *Pragati Agro Ltd.*, a mid-sized agricultural firm in Madhya Pradesh, lodged a complaint with the local police alleging that ₹45 lakhs had gone missing from the company's accounts. Suspicion fell on the company's former accountant, Raj, who had resigned just a month before. Based on this complaint, an FIR was registered under Sections 316 (Criminal Breach of Trust) and 318 (Cheating) of Bharatiya Nyaya Sanhita (BNS), 2023. The next day, without obtaining prior approval from a magistrate the police visited Raj's house at 6:30 a.m. and took him into custody. His family was not informed about the grounds of arrest, nor was an arrest memo prepared or signed by an independent witness. Meanwhile, police visited the residence of Raj's colleague, Kashish, who had allegedly received a suspicious bank transfer. During her questioning at the police station, her oral statement was recorded, but no written record was maintained under Section 180 of Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023. Kashish later alleged that she was coerced to sign a pre-drafted typed statement in the SHO's office, even though she had requested that her statement be recorded before a magistrate under Section 183 of BNSS, 2024. On the third day of custody, police officers searched Raj's rented flat for company documents and allegedly recovered a black ledger and some blank signed cheques. However, no search warrant was issued, and the search was conducted in the absence of independent witnesses or the landlord. The search memo was prepared two hours later at the police station. After five days in custody, Raj was produced before the Magistrate for the first time. Following Raj's bail application, the defense now challenges
- (3+3+4)

the legality of the arrest, validity of the witness statement, and lawfulness of the search operation, alleging blatant procedural violations under the BNSS, 2023.

In light of the facts mentioned above answer the following questions:

- a. Discuss the legality of Raj's arrest.
- b. Discuss the validity of Kashish's statement recorded by the police.
- c. Discuss the legality of the search operation conducted by the police.

Refer to the relevant judgements and ingredients of the procedures prescribed to substantiate your answer.

- Q.2 On January 5, 2023, during a Dalit commemorative gathering in Vellipur, Tamil Nadu, a clash broke out between attendees and counter-protestors allegedly mobilized by a local caste group. The violence led to three deaths, extensive damage to public property, and allegations of police excess. FIRs were registered under Sections 120B, 121A, 124A, 153A, 505, and 427 of the Indian Penal Code (IPC), 1860, and Sections 13, 16, and 18 of the Unlawful Activities (Prevention) Act (UAPA), 1967. Three days prior to the event, a cultural meeting called "Jan Utsav for Resistance" had taken place in Vellipur town. Speeches and performances at the event had reportedly condemned "state violence" and the "need for revolutionary political transformation." Police claimed that this event "incited hatred against the state and directly instigated violence." Based on video footage, Nandita, a retired academic; Raj, a documentary filmmaker; and Uttam, a union organizer, were arrested as co-conspirators. They were charged for *sedition speeches*, *abetment of violence*, and *association with unlawful organizations*. Parallely, the State Anti-Terrorism Squad had been investigating a separate case from July 2022 involving Chirag, a Delhi-based researcher arrested under the UAPA for possession of "insurrectionary literature." Though initially released on bail, the Anti-Terrorism Squad (ATS) now claimed that Chirag's research was part of an "intellectual cover strategy" for underground insurgent networks. He was rearrested and added to the Vellipur charge sheet. A month later, Suraj, a software engineer in Bengaluru, was arrested for allegedly building encrypted chat servers and managing digital wallets linked to an outfit suspected to be the digital arm of the banned Communist Party (Maoist). Meanwhile, Kashish, a human rights lawyer from Delhi, was arrested for "channeling foreign funds to front organizations" and for her role in drafting a "People's Manifesto" allegedly recovered from another accused's encrypted hard drive. Interestingly, three separate FIRs were lodged across three States—Tamil Nadu (violence), Karnataka (digital infrastructure), and Delhi (financial links)—but a consolidated charge sheet was filed before the Special National Investigative Agency (NIA) Court in Chennai under both IPC and UAPA provisions. The prosecution claimed the accused were part of a single ideological and operational conspiracy, even if working in different spheres of field i.e. agitation, digital logistics, intellectual cover, and international advocacy. The defense (10)

counsel across the board objected, contending that the accused were charged with different offences, occurring at different times and places, and a joint trial would be procedurally illegal. The defense is apprehensive that evidence admissible against one accused (e.g., speeches, digital files) would unfairly prejudice the others who were neither present nor aware of those acts.

The trial court must now determine whether there exists a sufficient nexus to justify joinder of parties or that separate trials are necessary to uphold the Constitutional right to a fair trial. Decide.

- Q.3 Kasimnagar, a small but politically active town, had been experiencing tension between two local groups affiliated with rival municipal councilors. On 12 February 2024, a minor altercation broke out between members of these groups at a public park during a religious procession. Though the matter was resolved locally without arrests, the Sub-Divisional Magistrate (SDM) received a report from the local Station House Officer (SHO) that the situation could escalate. On 14 February, the SDM issued notices under Section 126 of Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 to six persons identified in the SHO's report, directing them to appear and show cause why they should not be ordered to execute bonds to keep peace for six months. The notice, however, contained only a general statement about "public tranquility being endangered". All six persons appeared before the SDM on 19 February. The SDM recorded their appearance but did not provide them with copies of the police report or any evidence. No formal inquiry was held, no witnesses were examined, and the accused were not given an opportunity to cross-examine the police officers or rebut the allegations. On the same day, the SDM passed an order directing all six to execute personal bonds of ₹50,000 each, with two sureties, failing which they would be taken into custody. One of the individuals, Riyaz, refused to sign the bond, claiming he had not even been present during the procession and had no connection to any group. He was taken into judicial custody that evening. No written order justifying the decision was served upon any of the respondents. Further, no specific time period was mentioned for which the bonds were to remain in force, nor were reasons recorded for not conducting an inquiry under Section 126 of BNSS, 2023. (10)

Riyaz now challenges the proceedings before the High Court. Decide on the legality of the security proceedings conducted by the SDM by referring to appropriate judgements and provisions.

- Q.4 Discuss, in detail, the procedure followed in a trial before a Court of Session as provided under the Bharatiya Nagarik Suraksha Sanhita, 2023. Illustrate your response with reference to relevant Statutory provisions and the rationale behind each stage of the trial. (10)

- Q.5 What do you understand by the term 'cognizance' under the Bharatiya Nagarik Suraksha Sanhita, 2023? Discuss the circumstances in which a Magistrate may take cognizance of an offence, with reference to the relevant Statutory provisions. Also explain the important procedural steps that a Magistrate is required to follow immediately after taking cognizance, depending on the nature of the case and the category of the offence involved. (10)

Part B

- Q.6 Write a short note on **any five** of the following: (5x2)
- a. *Autrefois Acquit* and *Autrefois Convict*
 - b. Plea Bargaining
 - c. Quashing of First Information Report
 - d. Police Custody under Bharatiya Nagarik Suraksha Sanhita, 2023
 - e. First Information Report
 - f. Chargesheet
 - g. Inquiry by Magistrate
