

UNDERTRIAL

I. Applicability:

In the Bharatiya Nagarik Suraksha Sanhita 2023, the issue of undertrial prisoners is addressed in Section 479. This section is applicable during the investigation, inquiry, or trial for offenses under any law, excluding those punishable by both death and life imprisonment. It is important to note that this provision differs from CrPC 436A, which excludes only those offenses punishable by death.

II. Legal Provision:

Sec 479(1) :

Release on bail for individuals who have undergone detention for up to one-half of the maximum imprisonment period specified for the offense.

The court exercises discretion, considering factors presented by the Public Prosecutor, to either prolong the detention beyond one-half of the specified duration or release the individual on bail.

The total detention period during legal proceedings and exclude delays caused by the accused when calculating the period for granting bail.

New provision for first-time offenders:

Allowing release on bond if the detention period is up to one-third of the maximum imprisonment period. Furthermore, sec 479 explicitly states that individuals facing multiple offenses will not be released on bail {Sec 479(2)}.

New Role of the Superintendent of Jail {Sec 479 (3)}:

The Superintendent of the jail, upon completion of one-half or one-third of the specified detention period, shall promptly submit a written application to the Court to proceed under section 479(1) for the release of the person on bail

III. Remarks:

Section 479 of BNSS offers a potential solution to jail overcrowding by allowing timely bail, and its consideration for first-time offenders reflects a humane approach, promoting a more compassionate and just legal system.