



## A critical analysis of the process of criminal investigation and trial in India

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### Abstract

The criminal justice system in India is a complex interplay of procedural laws, institutional frameworks, and judicial interpretation. Despite constitutional safeguards and a well-established legal structure, the criminal investigation and trial processes are often marred by systemic inefficiencies, procedural delays, police brutality, custodial deaths, and misuse of prosecutorial discretion.

The criminal justice system in India—anchored in the CrPC, IPC, and Evidence Act now replaced by BNNS, BNS and BSA—is constitutionally designed to ensure fair and speedy trials. However, systemic deficiencies such as custodial torture, prolonged under trial detention, police insensitivity, and political interference frequently compromise this aim.

This paper critically examines each stage—from FIR and investigation to trial and appeal—highlighting judicial safeguards and identifying persistent gaps. Drawing on key recent rulings, including bail jurisprudence in UAPA/NDPS cases and courts intervening in police lapses, this exegesis suggests targeted reforms to align India's criminal process with constitutional morality and international standards.

This paper critically examines the Indian criminal investigation and trial processes under the CrPC, Indian Penal Code (IPC), Indian Evidence Act, and judicial pronouncements. It seeks to identify gaps in current practices, evaluate the adherence to due process, and propose reforms grounded in constitutional morality, human rights, and international best practices. Through doctrinal analysis and critical reasoning, the paper aims to deepen the discourse on how Indian criminal procedure can evolve into a more just, transparent, and accountable system.

**Keywords:** Criminal justice system, FIR, investigation, trial, bail, code of criminal procedure, indian penal code, indian evidence act, bharatiya nagarik suraksha sanhita, the bharatiya nyaya sanhita, the bharatiya sakshya adhiniyam

### Introduction

The administration of criminal justice in India is governed primarily by three key legislations: The Code of Criminal Procedure, 1973 (CrPC), the Indian Penal Code, 1860 (IPC), and the Indian Evidence Act, 1872 now replaced by Bharatiya Nagarik Suraksha Sanhita, 2023 (BNNS), The Bharatiya Nyaya Sanhita, 2023 (BNS) and The Bharatiya Sakshya Adhinyam, 2023(BSA).

These laws are intended to ensure justice, fairness, and the rule of law in the investigation and prosecution of criminal offenses. However, in practice, the system has been frequently criticized for being inefficient, opaque, and discriminatory.

Police investigations often rely heavily on confessions and coercive methods. Delays in trials are rampant, and under trial prisoners constitute a significant portion of the prison population. The poor often lack effective legal representation, and victims struggle for justice in a system plagued with procedural rigidity. In light of these challenges, this paper seeks to deconstruct and critically analyze the criminal investigation and trial mechanisms in India, examining how far they align with constitutional values and international human rights standards.

The Code of Criminal Procedure, 1973 (CrPC), in tandem with the Indian Penal Code, 1860 (IPC), and the Indian Evidence Act, 1872, forms the structural backbone of India's criminal law regime. Despite built-in constitutional safeguards under Article 21 (life and liberty) and Article 22 (procedural safeguards on arrest), judicial oversight continues to reveal implementation failures. High Court and

Supreme Court interventions—such as D.K. Basu guidelines (1997), Maneka Gandhi (1978), and Prakash Singh police reforms (2006)—have attempted to correct course. Yet recent events—Supreme Court Observer, “Right to Bail under Delay Doctrine: Subhelal Case Summary,” March 2025, custodial violence, digital-age investigation failures, and trial backlogs—prompt a renewed critical study.

### Objectives

The principal objectives of this paper are as follows:

1. To critically analyze the legal framework governing criminal investigation and trials in India.
2. To identify procedural and systemic flaws that hinder the delivery of justice.
3. To examine the role of various stakeholders: police, judiciary, prosecution, and legal aid institutions.
4. To assess judicial trends and constitutional interventions in safeguarding fair trial rights.
5. To propose reforms for making the criminal justice system more effective, transparent, and equitable.
6. Assessment of various provisions regarding investigation and trial in India and extent of contribution of legislative, executive, administrative, judicial and other variables of our system in conducting the criminal investigation and trial.
7. To study analytically the criminal justice system and the study of case laws and to find out lacunae in our investigation and trial system which have hampered the desired level of attainment of justice.

8. To evaluate the legislative provisions regarding criminal investigation and trial and the institutional deficiencies in their framework and policies.
9. To analyze the gap between the theoretical framework and its functioning and to identify the factors which have frustrated our criminal justice system.
10. Evaluate judiciary-developed safeguards in recent rulings (2024–25).
11. Identify systemic failures: pre-trial incarceration, police misconduct, selective prosecution.
12. Propose reforms, informed by latest judgments and comparative best practices.

### Legal Framework and Procedural Architecture

The criminal investigation process in India begins with the registration of a First Information Report (FIR) under Section 154 of the CrPC. The investigation is led by the police under Sections 156-173 CrPC, which includes collection of evidence, interrogation, arrest, and filing of charge sheet. Trials are governed under Chapters XVIII-XXI of CrPC, providing for different types of trials (Sessions Trial, Warrant Case, Summons Case, etc.).

However, the investigative machinery suffers from archaic practices, poor training, and lack of accountability. The Supreme Court in *Prakash Singh v. Union of India* (2006) attempted to address police reforms, but implementation remains weak.

### Investigation & Police Conduct

#### ▪ FIR and Arrest Practice

Under Section 154 CrPC, FIR is mandatory. Arnesh Kumar guidelines (2014), reiterated in 2021, require police to avoid custodial arrests for minor offences without justification.

- **Aurangabad Bench (Bombay HC), July 4, 2025:** The court ruled that the custodial death of law student Somnath Suryawanshi was indeed a violation of constitutional rights and instructed the FIR to be registered within a week.
- **Chennai High Court, July 16, 2025:** Condemned police for showing non-consensual intimate images to a victim during a sexual assault investigation, violating her Article 21 rights.

#### ▪ Custodial Insensitivity

The Chennai HC recently condemned police exposing a sexual assault victim to her own leaked intimate images in front of male officers, violating Article 21

### Due Process and Fair Trial Rights & Delay in Trials and the Under-trial Crisis

Article 21 of the Constitution guarantees the right to life and personal liberty, which includes the right to a fair trial as held in *Maneka Gandhi v. Union of India* (1978). Yet, issues like custodial torture, prolonged pre-trial detention, and denial of bail frequently violate these protections.

The judiciary has often stepped in, as in *D.K. Basu v. State of West Bengal* (1997), to lay down safeguards against police excesses. Still, compliance is lacking. Forensic and digital investigation tools are underutilized due to poor infrastructure and training.

According to NCRB data, over 75% of India's prison population comprises undertrials. Cases like *Hussainara Khatoun v. State of Bihar* (1979) highlighted the plight of

prisoners languishing without trial. Delays arise from case backlogs, adjournments, shortage of judges, and ineffective case management.

*Maneka Gandhi* (1978) and *D.K. Basu* (1997) laid foundational fair trial rights. In July 2025, the Supreme Court held that creating fear to deter law cooperation can be a terror act.

**UAPA Bail – SC, Feb 18, 2025 (*Subhelal/Sushil Sahu v. Chhattisgarh*):** The SC mandated a liberal approach to bail under Section 437(6) CrPC, holding that prolonged UAPA cases require bail if trial is delayed

**Athar Parwez v. Union of India, Dec 18, 2024:** The SC affirmed that under Article 21, “long incarceration and unlikely likelihood of trial being completed” justify bail despite the establishment of fast-track courts and video conferencing, the judicial system remains overburdened and slow.

### Backlog & Under trial Detention

Over 75% of inmates are under-trials. Recent SC and HC rulings in 2024-25 emphasize the right to speedy trial, including cases like *Vikram Jangra* and *Raushan Singh*.

**SC – PMLA Bail, Feb 20, 2025:** Granted bail in a money-laundering case due to 14-months detention and slow trial progress involving 225 witnesses

**Bombay HC – NDPS Bail, May 9, 2025:** In Charania, bail was allowed after nearly four years in custody, emphasizing Article 21 over Section 37 NDPS constraints.

**Bombay HC – Vikram Jangra, Apr 3, 2025:** Bail granted after 3.5 years in custody for a murder case due to trial delays.

### SC rulings on undue delays

- *Union of India v. K.A. Najeeb* (2025 – Himachal HC) invoked Article 21 to mandate bail when speedy trial impossible.
- *Bombay HC in Vikram Jangra* (Apr 2025) granted bail after 3.5 years of pre-trial detention in murder case.
- *Raushan Singh* (Patna case, Dec 2024; SC, June 2025) reaffirmed speedy trial as fundamental; bail granted after 4.2 years.
- NDPS bail by Punjab & Haryana HC (Jan 2025) emphasized Article 21 over statutory embargo under Section 37 NDPS.
- SC Observer review (July 2025) highlighted uneven bail jurisprudence—strong in inter-faith and political detainees, reluctant in UAPA cases.

### Trial Processes: Bias & Political Interference

**Selective Investigations:** Rights activist Jagtar Johal acquitted in one terror case (Mar 2025), still in custody for others—raising concerns of torture and false confessions.

**Supreme Court – Vinay Kulkarni (June 2025):** Bail cancelled due to evidence of witness tampering—highlighting accountability for those with political influence.

**Supreme Court – Abbas Ansari (Mar 2025):** Granted interim bail in a Gangsters Act case, with stringent conditions to prevent tampering.

### Investigative Bias and Misuse of Law

High-profile cases have exposed police bias, political interference, and targeted investigation. Laws like UAPA, NSA, and sedition have been misused to suppress dissent. In *Arnab Manoranjan Goswami v. State of Maharashtra* (2020), the Supreme Court emphasized that criminal law must not be used as a weapon for selective harassment. *Union of India v. K.A. Najeeb* (2025 – Himachal HC).

### Legal Aid & Access to Justice

While Article 39A mandates free legal aid, its implementation is inconsistent. Legal Services Authorities Act, 1987 created a framework for legal aid, but underfunding and lack of awareness reduce its effectiveness. Marginalized groups often face barriers in accessing competent legal representation.

### Need for Comprehensive Reform

1. **Police reform:** Prakash Singh directives largely unimplemented; need civilian oversight and professional training.
2. **BNSS:** *Bharatiya Nagarik Suraksha Sanhita* (2023) aims to streamline arrest, investigation, and trial with rights-based enhancements.
3. **Scientific investigations:** Enforce forensic/digital infrastructure across police stations.
4. **Trial management:** Case management systems, plea bargaining, witness protection.
5. **Victim-centered trials:** Mandatory in serious offences; align with *Vishakha* (1997) and *Nirbhaya Rape Case* reforms.
6. **Bombay HC May 9, 2025:** Decision in *Charania* underscores the judiciary's balancing role between NDPS mandates and Article 21 rights.

India lacks a unified and modern criminal justice policy. The *Madhava Menon Committee* (2003) and *Malimath Committee* (2003) recommended sweeping reforms, including improved coordination among agencies, scientific policing, victim-centric approach, and trial management reforms. Yet, many of these remain unimplemented.

Technological modernization, police accountability, judicial training, and incorporation of international best practices e.g., *Miranda* rights, plea bargaining can greatly improve the system.

Reforms include implementing BNSS provisions, scientific policing, plea bargaining, and victim-centric trial processes.

### Conclusion

India's criminal process is legally robust but operationally fragile. Judicial activism has partially remedied systemic flaws, yet police misconduct, trial inertia, and political misuse persist. Effective reforms—nationwide enforcement of *Arnesh Kumar* and *Prakash Singh* standards, forensic and digital investment, digitisation of trials, and consistent bail jurisprudence—are essential to transform constitutional rights into lived realities.

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yet police misconduct, trial inertia, and political misuse persist.

Law must shift focus from rhetoric to implementation: ' Nationwide adoption of *Arnesh Kumar* and *Prakash Singh* standards, investment in forensic capacity, digitisation of court processes, institution of plea and witness protection laws, and persistent enforcement of bail rules under Article 21. Only then can constitutional guarantees translate into real-life justice.

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