

AUDIO-VIDEO RECORDING OF SEARCH AND SEIZURE

by

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ABSTRACT

The legitimacy of criminal investigation depends not only on the power of the State to discover evidence, but also on the fairness and reliability of the process through which that evidence is obtained. Audio-video recording of search and seizure is an important procedural safeguard because it can preserve a contemporaneous account of the search, the property allegedly recovered, the preparation of the seizure list and the participation of witnesses. In India, Section 105 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) expressly requires audio-video recording of the specified search and seizure process, including preparation of the list of seized articles and the signing of that list by witnesses. The provision also requires the police officer to forward the recording without delay to the designated Magistrate. This paper examines the statutory framework, constitutional values, practical implementation, evidentiary significance, privacy concerns and judicial treatment of recording requirements. It discusses the decisions in *Shadab v. State of Uttar Pradesh* and *Gokal Ram v. State of Rajasthan* as numbered case studies. It argues that meaningful compliance requires more than the existence of a video file: recording must be complete, authentic, securely preserved, promptly transmitted and capable of being independently verified. The paper concludes with practical recommendations for standard operating procedures, training, equipment, audit trails and judicial scrutiny. The analysis further considers the practical relationship between recording, the seizure memorandum, independent witnesses and the chain of custody. It highlights the importance of retaining the original digital file, documenting interruptions, restricting unauthorised access and ensuring that the recording can be produced for judicial scrutiny when required. It also recognises that recording must be balanced with privacy and dignity, particularly where searches expose personal documents or involve persons who are not suspected of an offence. The central argument is that a recording is effective only when supported by lawful procedure, reliable technology, trained officers and accountable preservation practices.

Keywords: Audio-video recording; search and seizure; Section 105 BNSS; fair trial; electronic evidence; police accountability; seizure list.

I. INTRODUCTION

Search and seizure are intrusive investigative powers. A search may expose private spaces, personal belongings, documents and digital devices, while seizure may deprive a person of possession or control over property. These powers are necessary for effective criminal investigation, but they must be exercised within legal limits. A reliable record of the process helps courts assess whether the search occurred as described and whether the property produced in court is connected with the alleged recovery.[1] Audio-video recording offers a contemporaneous account that may reduce disputes about the location, timing and manner of a search. It can also help identify whether the seizure list reflects the articles actually found and whether witnesses were present when the list was prepared or signed. Recording does not, by itself, guarantee lawful conduct; its value depends on completeness, authenticity, continuity and preservation.[2]

II. RESEARCH OBJECTIVES AND METHOD

The principal objective of this paper is to explain the legal framework governing audio-video recording of search and seizure in India, with particular attention to Section 105 of the BNSS. The paper also considers how recording can support transparency and fair-trial safeguards, identifies operational difficulties and offers recommendations for practical compliance.[3] The method adopted is doctrinal and analytical. It examines the text of Section 105 and related provisions, considers publicly available judicial decisions, and analyses the relationship between procedural recording, evidentiary reliability and constitutional fairness. The discussion of individual cases is confined to the reported material identified in the footnotes; the paper does not claim that one High Court decision binds every court in India.[4]

III. MEANING AND SCOPE OF SEARCH AND SEIZURE

A. Search

A search is an investigative act by which an authorised person examines a place, person or object to locate evidence, property or material relevant to an offence. Depending on the statutory power invoked, a search may be conducted either under a warrant or without a warrant, where the law authorises the police to do so. The officer must identify the legal source of authority and comply with the conditions attached to it.

FOOTNOTES

[1] Bharatiya Nagarik Suraksha Sanhita, No. 46 of 2023, §§ 103, 105, 185 (India).

[2] Id. § 105.

[3] Id. § 105.

[4] Id. §§ 105, 185 (statutory sources examined in this paper).

B. Seizure

Seizure generally refers to taking possession or control of property, articles or things for an investigative or legal purpose. The record should make it possible to determine what was seized, where it was found, when it was taken, who handled it and how it was secured. Vague descriptions or unexplained changes in custody may weaken the reliability of the prosecution's account.

C. Recording as a procedural safeguard

Audio-video recording creates a contemporaneous record of conduct that might otherwise be reconstructed later from memory and written statements. It can help protect both the person searched and the investigating officer: a genuine recording may rebut false allegations, while a complete recording may expose irregularities. The safeguard therefore serves the interests of accuracy, accountability and public confidence rather than merely the interests of an accused person.[5]

The recording is particularly useful when the legality or accuracy of a recovery is disputed. It may help establish the sequence in which officers entered the premises, identified the place searched, located the articles and prepared the seizure list. Where witnesses are present, the recording can also assist in assessing whether they observed the recovery and whether the list was prepared and signed in their presence. These details can be important when oral accounts differ, or a witness later disputes the circumstances of the seizure.[6]

Nevertheless, a recording should not be treated as conclusive evidence of every fact. The camera may not capture events outside its field of view, and poor sound or interrupted footage may leave important questions unresolved. Its value depends on the context in which it was made and its consistency with the seizure memorandum, witness testimony and other evidence. Officers should therefore record the relevant steps in a continuous and neutral manner, explain any unavoidable interruption, and preserve the original file so that its integrity can be examined by the court.[7]

FOOTNOTES

[5] Bharatiya Nagarik Suraksha Sanhita, No. 46 of 2023, § 105 (India).

[6] Id. §§ 103(4)–(7), 105.

[7] Id. § 105; Bharatiya Sakshya Adhiniyam, No. 47 of 2023, §§ 61–63 (India).

IV. STATUTORY FRAMEWORK UNDER THE BNSS

A. Section 105 of the BNSS

Section 105 of the Bharatiya Nagarik Suraksha Sanhita, 2023 is titled “Recording of search and seizure through audio-video electronic means”. It provides that the process of conducting a search of a place or taking possession of property, articles or things under the relevant Chapter or under Section 185—including preparation of the list of things seized and signing of that list by witnesses—shall be recorded through audio-video electronic means, preferably a mobile phone. The police officer must forward the recording without delay to the District Magistrate, Sub-divisional Magistrate or Judicial Magistrate of the first class.[8] The use of “shall” indicates a mandatory statutory direction in the circumstances covered by the section. The reference to the preparation of the seizure list and the signatures of witnesses is important: the provision is not satisfied merely by recording a general scene or by filming the seized articles after the search is complete. The recording should meaningfully capture the steps specified by law.[9]

B. Section 185 and related searches

Section 105 expressly refers to Section 185, which concerns search by a police officer. Section 185 also provides for audio-video recording of a search conducted under that section, preferably by mobile phone. Read together, the provisions emphasise contemporaneous documentation of searches and the need to preserve a record that can be forwarded to the appropriate Magistrate.[10]

C. Forwarding and accountability

Forwarding the recording to a designated Magistrate creates an external point of receipt beyond the investigating team. A workable procedure should record the date and time of transmission, the identity of the sender, the recipient, the file identifier and any acknowledgement. These details are practical measures that support the statutory command to forward the recording without delay; they should not be mistaken for additional words expressly written into Section 105.[11]

FOOTNOTES

[8] Bharatiya Nagarik Suraksha Sanhita, No. 46 of 2023, § 105 (India).

[9] Bharatiya Nagarik Suraksha Sanhita, 2023, s. 105

[10] Bharatiya Nagarik Suraksha Sanhita, No. 46 of 2023, §§ 105, 185(2) (India).

[11] Id. s. 105.

V. OBJECTIVES AND LEGAL SIGNIFICANCE

A. Transparency and accountability

A recording can help establish whether officers entered the correct premises, whether the search was conducted within the stated scope, and whether the articles shown in the seizure list were actually located. It may also preserve the sequence of events where the accounts of the police, the occupant and independent witnesses differ. A recording is therefore a tool for verification, not a substitute for lawful authority or careful investigation.[12]

B. Protection against fabricated or disputed recovery

Allegations of planted evidence or disputed recovery can be difficult to resolve when the only material is a written seizure memo and conflicting oral testimony. A complete recording may provide an additional basis for assessing those competing accounts. Conversely, a missing, interrupted or unexplained recording may require the court to examine the reasons for the gap and the effect of the omission in the context of all the evidence.[13]

C. Fair-trial values

The right to a fair procedure relates to the manner in which investigative powers are exercised. Recording may strengthen procedural fairness by preserving material that can be examined by the prosecution, defence and court, subject to lawful disclosure and protection of sensitive information. Fairness requires an accurate record rather than a recording designed only to support one version of events.[14]

D. Public confidence

A transparent process can improve confidence in law enforcement because it makes important investigative steps more open to review. The existence of a recording may also encourage officers to follow the required procedure consistently. However, the benefit will be limited if recordings are inaccessible, poorly indexed, selectively edited or lost before a court can consider them.[15]

FOOTNOTES

[12] Bharatiya Nagarik Suraksha Sanhita, 2023, s. 105

[13] Shadab v. State of U.P., Criminal Misc. Bail Application No. 40989 of 2025 (Allahabad High Court, 5 Jan. 2026).

[14] INDIA CONST. arts. 21–22, read with applicable criminal procedure and evidence law.

[15] Bharatiya Nagarik Suraksha Sanhita, No. 46 of 2023, § 105 (India).

VI. CASE LAW ANALYSIS

Case Law No. 1: Shadab v. State of Uttar Pradesh

In *Shadab v. State of Uttar Pradesh*, the Allahabad High Court considered a bail application in a case involving the alleged recovery of motorcycles. The applicant's side highlighted the absence of private witnesses and videography of the recovery, invoking Section 105 of the BNSS. The order dated 5 January 2026 discussed instances in which recovery proceedings were not audio-visually recorded and directed the Director General of Police, Uttar Pradesh, to issue a detailed standard operating procedure for compliance with Section 105 and the applicable Uttar Pradesh rules.[16] The decision is significant because it links statutory recording to the practical quality of investigation and to the ability of courts

to evaluate alleged recoveries. It also indicates that written directions and training may be necessary to translate the statutory mandate into routine police practice. The order should be read in its procedural context: it arose in a bail matter and does not mean that every omission automatically determines guilt or innocence in every prosecution.[17] The case also illustrates the importance of distinguishing the existence of a statutory duty from the consequence of breach. The effect of non-recording may depend on the circumstances, the explanation for the omission, the other evidence available and the legal question before the court. A careful analysis should therefore avoid treating the absence of video as an automatic rule of acquittal.[18]

Case identification: *Shadab v. State of U.P.*, Criminal Misc. Bail Application No. 40989 of 2025, Allahabad High Court, decided 5 January 2026.



FOOTNOTES

[16] *Shadab v. State of U.P.*, Criminal Misc. Bail Application No. 40989 of 2025 (Allahabad High Court, 5 Jan.

2026).

[17] *Aman Agarwal v. State of U.P.*, 2026 SCC

[18] *Id.*; see also *Bharatiya Nagarik Suraksha Sanhita*, No. 46 of 2023, § 105 (India).

VII. CASE LAW ANALYSIS (CONTINUED)

Case Law No. 2: *Gokal Ram v. State of Rajasthan*

In *Gokal Ram v. State of Rajasthan*, the Rajasthan High Court considered Section 105 of the BNSS in proceedings concerning the recording of search and seizure. The court emphasised the obligatory character of the statutory language and discussed audio-video recording as a means of promoting transparency, accountability and fairness. The reported order also addressed the use of body-worn cameras in specified serious cases where

equipment was available, alongside other audio-video recording measures.[19] The decision is useful for the operational dimension of the issue. Mobile phones may be expressly preferred by Section 105, but implementation can be improved by equipment policies, secure storage, training and clear responsibility for transmission. Any broader direction about body-worn cameras should be understood in the context and terms of the particular order; it should not be inaccurately presented as a universal statutory requirement under Section 105 itself.[20]

Comparative significance of the two decisions

Both decisions treat recording as a meaningful safeguard rather than a purely technical formality.

Shadab highlights the need for standard operating procedures and compliance monitoring, while Gokal Ram illustrates judicial attention to practical recording infrastructure. Together, they support the view that statutory duties are more likely to be effective when supported by clear protocols, equipment, training and judicial review.[21] These decisions are High Court authorities arising in their own procedural settings. Their persuasive value must be assessed alongside the statutory text, applicable State rules and any binding Supreme Court precedent relevant to the issue. A paper submitted for publication should verify the final reported versions, neutral citations and paragraph references from authoritative sources before final submission.[22]

Court, 30 Apr. 2026).

Case identification: Gokal Ram v. State of Rajasthan, Criminal Writ Petition No. 1450 of 2026, Rajasthan High Court, decided 30 April 2026.

FOOTNOTES

[19] Gokal Ram v. State of Rajasthan, Criminal Writ Petition No. 1450 of 2026 (Rajasthan High Court, 30 Apr. 2026).

[20] Aman Agarwal v. State of U.P., Allahabad High Court, Criminal Misc. Bail Application No. 40989 of 2025

[21] Shadab v. State of U.P., Criminal Misc. Bail Application No. 40989 of 2025 (Allahabad High Court, 5 Jan.

2026); Gokal Ram v. State of Rajasthan, Criminal Writ Petition No. 1450 of 2026 (Rajasthan High

[22] Id. Please verify final case citations and paragraph references against the official judgments before publication.

VIII. TECHNICAL AND EVIDENTIARY REQUIREMENTS

A. Completeness and continuity

A useful recording should begin at a meaningful point before or at the commencement of the search and continue through the material steps, including the preparation and signing of the seizure list. Where a recording must be stopped for safety, technical or other legitimate reasons, the officer should document the reason, duration and resumption of recording. This is a recommended practice designed to make gaps explainable and reviewable.[23]

B. Authenticity and integrity

The investigating agency should preserve the original file and avoid unnecessary editing or conversion. Where copies are created for transmission or court use, the process should preserve the original and record who created each copy and when. Metadata, file identifiers and integrity checks such as cryptographic hashes may assist verification where supported by the applicable technical system and rules.[24]

C. Chain of custody

The chain of custody should account for the recording from capture to storage, transfer, disclosure and production in court. A record of access and transfer can help establish that the file has not been substituted or altered. The chain-of-custody record is especially important when the recording itself is relied upon as electronic evidence or when its authenticity is challenged.[25]

D. Electronic evidence rules

A recording does not become reliable evidence merely because it exists in digital form. Its relevance, authenticity, integrity and admissibility must be assessed under the applicable evidence law and procedural rules. The Bharatiya Sakshya Adhiniyam, 2023 contains provisions dealing with electronic and digital records; the precise requirements depend on the manner in which the record is produced and relied upon. Investigators should therefore preserve the original data and follow current legal requirements for certification and production where applicable.[26]

FOOTNOTES

[23] Bharatiya Nagarik Suraksha Sanhita, No. 46 of 2023, § 105 (India).

[24] Bharatiya Sakshya Adhiniyam, 2023, provisions governing electronic and digital records.

[25] Id.; see also Bharatiya Nagarik Suraksha Sanhita, No. 46 of 2023, § 105 (India).

[26] Bharatiya Sakshya Adhiniyam, 2023, provisions governing electronic and digital records and their proof.

IX. PRACTICAL CHALLENGES IN IMPLEMENTATION

A. Equipment and connectivity

Police stations and field teams may face shortages of suitable devices, battery power, secure storage or network connectivity. A recording system that depends entirely on uninterrupted internet access may fail in remote locations. Agencies should provide basic equipment, power banks where appropriate, offline capture capability and a secure later-upload process that records the time of capture and subsequent transmission.[27]

B. Training and standard operating procedures

Officers need practical training on framing the recording, capturing the relevant sequence, avoiding obstructive camera movement, recording the seizure list and witnesses, preserving files and forwarding them to the proper authority. Written SOPs should specify response implementations, handling technical failures, documenting exceptions and escalating repeated non-compliance. Training should explain both the legal duty and the evidentiary reasons behind it.[28]

C. Risks of selective recording

A recording may mislead if it begins only after the critical event, excludes relevant interactions or presents a fragment without context. An officer should not deliberately select only favourable portions. Agencies should preserve the full original recording and disclose relevant material according to law, while allowing courts to determine questions of relevance, privilege, privacy and admissibility.[29]

D. Data retention and access

Recordings may contain faces, addresses, personal documents, conversations or other sensitive information; access should be restricted to authorised persons and logged. Retention periods should comply with law and applicable rules, and records should not be destroyed while required for investigation, trial, appeal or other lawful proceedings. Security must not be used as a reason to deny lawful access to relevant material.[30]

FOOTNOTES

[27] Bureau of Police Research and Development, Ministry of Home Affairs, Government of India, materials on implementation of Section 105 BNSS.

[28] Uttar Pradesh Bharatiya Nagarik Suraksha Rules, 2024, r. 18 (as discussed in *Shadab v. State of U.P.*).

[29] Bharatiya Nagarik Suraksha Sanhita, No. 46 of 2023, § 105 (India).

[30] Applicable criminal procedure, evidence, privacy and record-retention requirements.

X. PRIVACY, RIGHTS AND LIMITATIONS

Searches can occur in homes, workplaces and other private spaces. Recording may capture people who are not suspected of any offence, including children, neighbours or visitors. The legitimate need to document the search must therefore be balanced with privacy, dignity and data-protection concerns. Camera positioning should capture the legally relevant process without unnecessarily recording unrelated intimate or sensitive material.[31] Recording also has practical limitations. Poor lighting, obstruction, background noise, device malfunction or incomplete capture may reduce its usefulness. Courts should assess the recording alongside oral testimony, documents, forensic evidence and the circumstances of the case rather than treating video as infallible.[32] The absence of a recording should be examined with care. If the law required recording and none was made, the officer's explanation, the applicable rules, the availability of equipment, the nature of the search and the remaining evidence may all be relevant. A procedural breach may affect credibility or the weight of evidence, but the precise legal consequence must be determined under governing law and binding precedent rather than assumed in advance.[33]

XI. RECOMMENDATIONS

First, State police departments should issue clear SOPs aligned with Section 105 BNSS and applicable State rules. The SOP should identify the officer responsible for recording, the required stages, how the seizure list and witness signatures are captured, the procedure for technical failure, and the process for forwarding the file to the designated Magistrate. It should also require a contemporaneous written explanation whenever a mandatory recording cannot be made.[34] Second, agencies should adopt secure digital evidence management systems with role-based access, tamper-evident audit logs, reliable backups and acknowledgement of receipt by the designated authority. Third, periodic audits should examine whether recordings are complete and forwarded on time. Fourth, training and

supervision should be continuous, with corrective measures for repeated failures and recognition of good compliance.

FOOTNOTES

[31] Constitution of India, art. 21; applicable privacy and data-protection law.

[32] Bharatiya Sakshya Adhiniyam, 2023, provisions governing electronic and digital records.

[33] Shadab v. State of U.P., Criminal Misc. Bail Application No. 40989 of 2025 (Allahabad High Court, 5 Jan.2026).

[34] Bharatiya Nagarik Suraksha Sanhita, 2023, s. 105; Uttar Pradesh Bharatiya Nagarik Suraksha Rules, 2024, r. 18 (where applicable).

XII. CONCLUSION

Audio-video recording of search and seizure is a significant procedural safeguard in the modern Indian criminal process. Section 105 BNSS expressly requires recording of the specified search and seizure process, including preparation of the seizure list and witness signatures, and requires the police officer to forward the recording without delay to a designated Magistrate. Properly implemented, the provision can improve transparency, preserve contemporaneous evidence and assist courts in evaluating disputed recoveries.[35] The decisions discussed in this paper—Shadab v. State of Uttar Pradesh and Gokal Ram v. State of Rajasthan—demonstrate judicial concern with meaningful compliance and practical implementation. Their broader lesson is that a statutory mandate needs effective procedures, trained officers, dependable technology and accountable storage. Recording should not be treated as a box-ticking exercise or as a guarantee that every recorded search is lawful; it is one part of a wider system of procedural safeguards.[36] The most effective approach combines lawful authority, complete recording, accurate seizure documentation, secure preservation, prompt transmission, appropriate disclosure and independent judicial scrutiny. These measures can protect innocent persons from false implication while also strengthening legitimate prosecutions through reliable evidence. Ultimately, the success of audio-video recording depends not only on the device used but on the integrity of the process it documents.[37]

FOOTNOTES

[35] Bharatiya Nagarik Suraksha Sanhita, No. 46 of 2023, § 105 (India).

[36] Shadab v. State of U.P., Criminal Misc. Bail Application No. 40989 of 2025 (Allahabad High Court, 5 Jan.

2026); Gokal Ram v. State of Rajasthan, Criminal Writ Petition No. 1450 of 2026 (Rajasthan High

[37] Bharatiya Nagarik Suraksha Sanhita, 2023, ss. 105, 185.



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