

**VICTIM PARTICIPATION AND MUTUALLY SATISFACTORY
DISPOSITION IN PLEA BARGAINING UNDER THE BHARATIYA
NAGARIK SURAKSHA SANHITA, 2023**

by

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ABSTRACT

Plea bargaining is an alternative mechanism for resolving eligible criminal cases within the framework of criminal procedure. The Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) recognises plea bargaining under Chapter XXIII, Sections 289–300. An important feature of this framework is the participation of victims in arriving at a mutually satisfactory disposition. Victim participation promotes fairness, transparency and consideration of compensation while protecting the procedural rights of the accused. This article examines the statutory framework governing plea bargaining, the role of victims, the importance of compensation, relevant judicial decisions and the challenges associated with implementation. It adopts a doctrinal research methodology based on statutory provisions, judicial precedents and secondary legal sources.

Keywords: Plea Bargaining, Victim Participation, BNSS 2023, Mutually Satisfactory Disposition, Victim Compensation, Criminal Justice.

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1. INTRODUCTION

The criminal justice system aims to determine criminal liability, protect society and ensure justice for persons affected by criminal offences. Traditional criminal trials may take considerable time and involve substantial financial and emotional costs. Plea bargaining provides a statutory mechanism for resolving certain eligible criminal cases through a prescribed procedure.

In India, plea bargaining was introduced into criminal procedure through the Code of Criminal Procedure, 1973, by the Criminal Law (Amendment) Act, 2005. The corresponding provisions are now contained in Chapter XXIII of the Bharatiya Nagarik Suraksha Sanhita, 2023.

Victim participation is an important component of this procedure. It provides an opportunity for the victim to participate in discussions concerning a mutually satisfactory disposition, including compensation. However, such participation must take place within the limits prescribed by law and under judicial supervision.¹

2. RESEARCH METHODOLOGY

This article adopts the doctrinal method of legal research.

2.1 Doctrinal Method

The study examines the relevant provisions of the BNSS, 2023, and judicial decisions concerning plea bargaining, voluntary participation and victim compensation.

2.2 Analytical Method

The relevant statutory provisions are analysed to understand the relationship between victim participation, compensation and the lawful disposal of criminal cases.

2.3 Descriptive Method

The article describes the statutory procedure for plea bargaining and the respective roles of the victim, accused, Public Prosecutor, investigating officer and court.

2.4 Sources of Data

The research relies on primary and secondary legal sources.

Primary Sources:

- Bharatiya Nagarik Suraksha Sanhita, 2023.
- Relevant judgments of the Supreme Court of India.

- Applicable legislation concerning criminal procedure and victim compensation.

Secondary Sources:

- Criminal law textbooks.
- Legal journals and research articles.
- Law Commission reports.
- Government publications and legal commentaries.

3. OBJECTIVES OF THE STUDY

The principal objectives of this research are:

1. To examine the statutory framework governing plea bargaining under the BNSS, 2023.
2. To analyse the role of victims in the plea-bargaining process.
3. To examine the meaning and importance of mutually satisfactory disposition.
4. To study the relevance of compensation in criminal proceedings.
5. To identify practical challenges affecting victim participation.
6. To recommend measures for improving victim protection and access to justice.

4. LEGAL FRAMEWORK UNDER THE BNSS, 2023

Plea bargaining is governed by Chapter XXIII, comprising Sections 289–300 of the BNSS, 2023.²

4.1 Section 289 — Application of Chapter

Section 289 determines the cases in which plea bargaining is available. The procedure is subject to statutory restrictions and is not applicable to every criminal offence.

The section excludes specified categories of offences, including offences punishable with death, imprisonment for life or imprisonment exceeding seven years, as well as other categories expressly excluded by the provision.

4.2 Section 290 — Application for Plea Bargaining

Section 290 prescribes the procedure for applying for plea bargaining.

An accused may file an application within thirty days from the date of framing of the charge. The application must include a brief description of the case and an affidavit confirming that the accused has voluntarily chosen plea bargaining after understanding the nature and extent of the punishment.

The court examines the accused in camera to determine whether the application is voluntary. If the statutory requirements are satisfied, the court allows the prescribed period for working out a mutually satisfactory disposition.³

4.3 Section 291 — Guidelines for Mutually Satisfactory Disposition

Section 291 is central to the subject of victim participation.

In cases instituted on a police report, the court issues notice to the Public Prosecutor, investigating officer, accused and victim to participate in a meeting for working out a mutually satisfactory disposition.

In cases instituted otherwise than on a police report, notice is issued to the accused and victim.

The section provides the procedural framework for participation in the discussions. The process must remain voluntary and must comply with the statutory requirements.⁴

4.4 Section 292 — Report of Mutually Satisfactory Disposition

Where a satisfactory disposition is reached, the court prepares a report signed by the presiding officer and the persons who participated in the meeting.

If no satisfactory disposition is reached, the court records that fact and proceeds with the case according to law.

4.5 Section 293 — Disposal of the Case

Section 293 provides the procedure for disposing of a case after a mutually satisfactory disposition has been reached.

The court considers compensation to the victim and determines the appropriate outcome in accordance with the statutory procedure. The accused's legal rights and the court's sentencing responsibilities remain subject to the applicable law.⁵

5. VICTIM PARTICIPATION IN PLEA BARGAINING

Victim participation refers to the opportunity provided to a person affected by an offence to participate in the statutory process for reaching a mutually satisfactory disposition.

The inclusion of the victim in the procedure recognises that criminal offences may cause financial loss, physical harm, emotional distress and other consequences.

5.1 Recognition of Victims' Interests

Victim participation ensures that the consequences suffered by the victim are considered during the resolution process.

5.2 Participation in Compensation Discussions

The victim may participate in discussions concerning compensation and expenses connected with the case, subject to the applicable statutory framework.

5.3 Promotion of Transparency

The participation of the relevant persons can improve transparency and public confidence in criminal proceedings.

5.4 Protection of Victims' Rights

The victim's interests should be considered without compromising the accused's right to a fair and voluntary process.

5.5 Limitations of Victim Participation

Victim participation does not confer an unrestricted power to determine the sentence. The court must act within the authority granted by law and independently fulfil its judicial responsibilities.

6. CONCEPT OF MUTUALLY SATISFACTORY DISPOSITION

A mutually satisfactory disposition is an outcome developed through the procedure prescribed by law, with the participation of the relevant persons.

Under Section 290, the process may include compensation to the victim and expenses incurred during the case. Section 291 provides the guidelines for the meeting, while Sections 292 and 293 govern the report and disposal of the case.

The principal characteristics of a mutually satisfactory disposition are:

1. Voluntary participation.
2. Compliance with statutory requirements.
3. Participation of the persons specified by law.
4. Consideration of compensation to the victim.
5. Judicial supervision.
6. Preparation of the prescribed report.
7. Disposal of the case according to law.

A mutually satisfactory disposition is not merely a private settlement. It must be processed through the statutory mechanism established under the BNSS.⁶

7. ROLE OF THE COURT IN PROTECTING VICTIMS

The court plays an essential role in ensuring that plea bargaining is conducted fairly.

Its responsibilities include examining the voluntariness of the accused's application, ensuring compliance with statutory procedures, facilitating the prescribed meeting, supervising the preparation of the disposition report and determining the appropriate legal outcome.

The court should also ensure that the victim is not subjected to coercion or undue pressure. A satisfactory disposition must comply with the law and cannot be used to avoid mandatory legal requirements.

Judicial supervision therefore acts as a safeguard for both the victim and the accused.

8. COMPENSATION AND VICTIM JUSTICE

Compensation is an important element of victim-oriented criminal justice. A criminal offence may cause financial loss and other harm that cannot always be adequately addressed through punishment alone.

Section 291, read with the related provisions governing plea bargaining, provides a framework for considering compensation during the disposition process. Section 293 governs the subsequent disposal of the case.

The general principles governing victim compensation have also been discussed by the Supreme Court in *Hari Singh v. Sukhbir Singh* and *Ankush Shivaji Gaikwad v. State of Maharashtra*.⁷

These decisions are relevant to understanding the broader role of compensation in criminal justice. They should not, however, be treated as direct interpretations of the BNSS provisions unless the particular judgment addresses those provisions.

9. IMPORTANT JUDICIAL DECISIONS

9.1 Murlidhar Meghraj Loya v. State of Maharashtra

Citation: (1976) 3 SCC 684.

The Supreme Court expressed concern about informal bargaining in criminal proceedings that could undermine the proper administration of justice.

Relevance: The decision demonstrates that negotiated outcomes must remain within the limits of law.

9.2 Thippaswamy v. State of Karnataka

Citation: (1983) 1 SCC 194.

The Supreme Court considered the consequences of a guilty plea and emphasised the importance of fairness in criminal proceedings.

Relevance: The decision supports the principle that the accused's plea must be voluntary and that criminal procedure must comply with constitutional standards.

9.3 State of Uttar Pradesh v. Chandrika

Citation: (2000) 4 SCC 437.

The Supreme Court held that plea bargaining could not be used as a basis for imposing a sentence contrary to law.

Relevance: The decision highlights the importance of judicial supervision and lawful sentencing.

9.4 Hari Singh v. Sukhbir Singh

Citation: (1988) 4 SCC 551.

The Supreme Court discussed the importance of compensation to victims in criminal proceedings.

Relevance: The judgment supports the broader principle that criminal justice should take account of the harm suffered by victims.

9.5 Ankush Shivaji Gaikwad v. State of Maharashtra

Citation: (2013) 6 SCC 770.

The Supreme Court emphasised the importance of judicial consideration of compensation under Section 357 of the Code of Criminal Procedure, 1973.

Relevance: The judgment provides useful guidance on the importance of considering victim compensation. Its principles must be applied in accordance with the relevant statutory provisions.

10. CHALLENGES IN VICTIM PARTICIPATION

10.1 Lack of Legal Awareness

Victims may not fully understand the procedure or their opportunity to participate.

10.2 Unequal Bargaining Power

Financial difficulties, social pressure or dependence on the accused may affect a victim's ability to participate freely.

10.3 Inadequate Compensation

The compensation proposed may not adequately reflect the loss suffered by the victim.

10.4 Delay in Payment

Delays in payment can reduce the practical benefit of an otherwise satisfactory disposition.

10.5 Risk of Coercion

Victims must be protected against pressure to accept an outcome against their wishes.

10.6 Balancing Competing Rights

The justice system must balance the interests of victims, the rights of accused persons and the public interest in lawful prosecution.

11. SUGGESTIONS AND RECOMMENDATIONS

The following measures may strengthen victim participation:

1. Legal Awareness: Victims should receive clear information about the procedure and their legal rights.
2. Legal Assistance: Appropriate legal assistance should be available to victims who require help understanding the proposed disposition.
3. Protection Against Coercion: Courts should carefully examine whether participation is voluntary.
4. Fair Compensation: Relevant losses and expenses should receive meaningful consideration.
5. Timely Payment: Effective procedures should be adopted to avoid unnecessary delays in payment.
6. Judicial Supervision: Courts should ensure that every disposition complies with the BNSS and other applicable laws.
7. Empirical Research: Further studies should examine the practical effectiveness of victim participation and the payment of agreed compensation.

12. CONCLUSION

Victim participation and mutually satisfactory disposition are important aspects of plea bargaining under the Bharatiya Nagarik Suraksha Sanhita, 2023.

Sections 289–300 establish the statutory framework for plea bargaining. Sections 290 and 291 govern the application and the process of reaching a mutually satisfactory disposition, while Sections 292 and 293 address the report and disposal of the case.

The framework creates an opportunity to consider victims' interests, particularly compensation, while facilitating the lawful resolution of eligible criminal cases.

Nevertheless, the effectiveness of the procedure depends on voluntary participation, adequate legal awareness, protection against coercion and meaningful judicial supervision.

Plea bargaining should therefore be understood not merely as a mechanism for reducing the burden on courts, but also as a statutory process that seeks to balance the interests of victims, the rights of accused persons and the requirements of justice.

FOOTNOTES

1. The Bharatiya Nagarik Suraksha Sanhita, 2023, Act No. 46 of 2023, Chapter XXIII.
2. Ibid., Sections 289–300.
3. Ibid., Section 290.
4. Ibid., Section 291.
5. Ibid., Sections 292–293.
6. Ibid., Sections 290–293.
7. Hari Singh v. Sukhbir Singh, (1988) 4 SCC 551; Ankush Shivaji Gaikwad v. State of Maharashtra, (2013) 6 SCC 770.

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1. The Bharatiya Nagarik Suraksha Sanhita, 2023, Act No. 46 of 2023, Chapter XXIII, Sections 289–300.
2. The Code of Criminal Procedure, 1973, Chapter XXI-A, Sections 265A–265L (historical statutory framework).

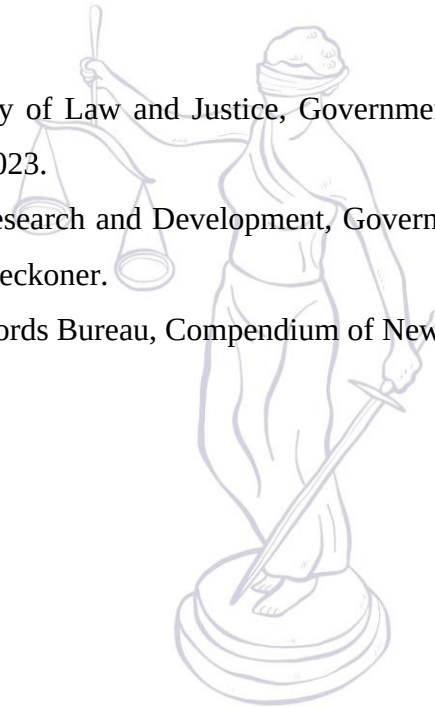
3. Relevant judgments of the Supreme Court of India concerning plea bargaining and victim compensation.

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2. Thippaswamy v. State of Karnataka, (1983) 1 SCC 194.
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2. Bureau of Police Research and Development, Government of India, BNSS 2023 — Plea Bargaining Ready Reckoner.
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