

UNIT – III

Criminal drafting

Complaint · Bail · Appeal · Quash

Explanatory Lecture Slides

Drafting, Pleading and Conveyance · Clinical-III · Semester IX

DRAFTING, PLEADING AND CONVEYANCE

Topics covered in this unit

01

Draft a criminal complaint

02

Draft a regular bail application

03

Draft an anticipatory-bail application

04

Place appeals and revisions in outline

05

Place a quash petition under s.528 BNSS / 482 CrPC

06

Note ethics of criminal drafting

How this unit is organised

01	02	03	04	05	06
Complaint	Regular bail	Anticipatory bail	Appeal / revision	Quash	Ethics

Complaint — s.2(h) BNSS / old 2(d) CrPC

Allegation to a Magistrate with a view to action. Not a police FIR (s.173 BNSS / 154 CrPC), though you may also send a s.173 information. Contents: parties, facts constituting the offence, list of witnesses, the section, a prayer to take cognizance / refer s.175(3) as the current Code requires.

- Pre-cognizance process has moved in BNSS — quote the section your current text uses (175/210 family) and do not mix 190/200 CrPC numbers if you have moved to BNSS.
- Verification / statement of the complainant. Documents. A 16-mark specimen in numbered paragraphs.

Complaint — s.2(h) BNSS / old 2(d) CrPC

MUST

- Facts as offences.
- Date/place.
- The section.
- Witness list.

MUST NOT

- A defamation novel.
- A civil money-claim in criminal costume (s.528/482 will kill it).

Regular bail — s.480 / 483 BNSS (old 436/437/439)

Bailable v non-bailable. Who applies (accused in custody). Contents: custody since, FIR no., sections, the triple-test (flight, tamper, repeat), medical / duty of care, a false-implication paragraph if true, undertaking to attend.

- P. Chidambaram / Mahipal / Satender Kumar Antil — the Supreme Court's current bail grammar. Do not write 'innocent, hence bail'; write the risk of the State's three fears.
- s.480 BNSS conditions. A bond and surety that exist, not a fiction.

Regular bail — s.480 / 483 BNSS (old 436/437/439)

TRIPLE TEST

- Flight.
- Tamper.
- Repeat / public order.

NEVER

- A guaranteed alibi as a sermon.
- A surety you have not met.

Anticipatory bail — s.482 BNSS (old 438)

Apprehension of arrest, non-bailable. Gurbaksh Singh Sibbia (the Constitution Bench), Sushila Aggarwal (does not always end at charge-sheet). Contents: the apprehension, why the FIR is a weapon, roots, cooperation, no flight.

- HC or CoS as the Code now reads. Conditions: s.482(2) analogues — cooperate, do not tamper, a travel-notice.
- Not a blanket against all future FIRs. A 10-mark specimen plus Sibbia in five lines.

Anticipatory bail — s.482 BNSS (old 438)

NEED

- A real apprehension.
- A non-bailable shadow.

SIBBIA

- Discretion, not a rare charity; conditions, not a stigma.

Appeal, revision, sentence-suspend

Appeal is a right where the Code gives it; revision is a discretion against a jurisdictional wound. Draft: the court, the impugned order with date, the facts in 8 lines, the grounds numbered, the prayer (set aside / remand / suspend sentence s.430 BNSS family).

- A ground is a legal error, not a second argumentative essay. 'The court below erred in ...' + the record pin.
- Limitation and a condonation affidavit if late.

Appeal, revision, sentence-suspend

APPEAL

- A right, where provided.
- Re-hear.

REVISION

- Discretion.
- Jurisdiction / perversity, not a third appeal.

Quash — s.528 BNSS / old 482

Bhajan Lal categories: no offence even if true; inherent improbability; civil dress; mala fide; a statutory bar. Draft: the FIR as annexure, a table of allegations against the ingredients, the category you fit, the prayer to quash.

- Do not quash-draft a disputed murder. Do quash-draft a s.138 after a full settlement, or a family civil fight dressed as 498A without more — on the facts, not as a slogan.
- Naushad / State of Haryana v Bhajan Lal is the atlas.

Quash — s.528 BNSS / old 482

FITS

- No ingredients.
- Civil dispute.
- Statutory bar.

DOES NOT FIT

- A live disputed body of facts the trial should hear.

Ethics of criminal drafting

Never draft a complaint you know is false (BNS false-evidence / ethics s.35). Never hide a previous application in a bail. Never name a woman-complainant's address in a public annexure you could have sealed. Cab-rank includes the accused the city hates (Mohammed Rafi).

- A chambers junior signs what the senior settled — both are on the roll.

Ethics of criminal drafting

NEVER

- A known-false FIR-complaint.
- A hidden previous bail.

ALWAYS

- The accused's Art. 21, and the complainant's too.

Appeal, revision, sentence-suspend

Appeal is a right where the Code gives it; revision is a discretion against a jurisdictional wound. Draft: the court, the impugned order with date, the facts in 8 lines, the grounds numbered, the prayer (set aside / remand / suspend sentence s.430 BNSS family).

- A ground is a legal error, not a second argumentative essay. 'The court below erred in ...' + the record pin.
- Limitation and a condonation affidavit if late.

Cases a KSLU answer should name

CASE	CASE	CASE
Gurbaksh Singh Sibbia v State of Punjab <i>(1980) 2 SCC 565</i> Anticipatory bail is a liberty discretion, not a rare exception.	State of Haryana v Bhajan Lal <i>1992 Supp (1) SCC 335</i> The atlas of quash.	Satender Kumar Antil v CBI <i>(2022) 10 SCC 51</i> The current grammar of arrest and bail — read the categories.

Provisions & materials to quote

BNSS ss.173, 175, 210

Information, complaint, cognizance — quote the Code you are taught.

BNSS ss.480–483, 482 /

Bail and anticipatory bail.

BNSS s.528 / CrPC s.48

Inherent quash.

Art. 21 / 22

The constitutional caption of every criminal draft.

s.138 NI Act

A statutory complaint with its own notice-time table.

10 / 16-mark frames from this unit

Q1

Draft a complaint to a Magistrate for a given offence (ingredients + prayer).

Q2

What must a regular bail application contain? Discuss the triple test.

Q3

Explain anticipatory bail with Sibbia and Sushila Aggarwal.

Q4

When will the High Court quash an FIR? Bhajan Lal categories.

Unit recap

- 1 Complaint: ingredients as facts, not adjectives.
- 2 Bail: flight / tamper / repeat — not a sermon of innocence.
- 3 Anticipatory: Sibbia discretion + a real apprehension.
- 4 Quash: Bhajan Lal, or do not file.
- 5 Never a known-false complaint; never a hidden previous bail.