Bharatiya Nagarik Suraksha Sanhita Bill, 2023

Why in news?

Recently, Bharatiya Nagarik Suraksha Sanhita Bill 2023 was introduced in the Lok Sabha to replace the Code of Criminal Procedure (CrPC), 1973.

What is the Code of Criminal Procedure (CrPC), 1973?

> *Lord Thomas Babington Macaulay is said to be the chief architect of codifications of criminal laws in India.*

- **History** - The CrPC was enacted for the 1st time in 1861 as part of a series of criminal law reforms undertaken by the British Raj in the wake of the *1857 mutiny.*
- The British legacy in this respect was carried on by independent India till CrPC was recast again in 1973, yielding the present code.
- **Aim-** To lay the process to be followed in criminal cases before, during and after trial in courts.
- **Features -** CrPC consists of 484 sections, XXXVII Chapters and 2 Schedules.
- The code classifies offences into
    - **Cognizable offence**- A police officer may arrest without a warrant.
    - **Non-cognizable offence-** They are relatively less serious offences than cognizable offences.

Committees for reform of criminal laws
• **Malimath committee-** It was formed in 2003 to bring reforms in the criminal justice system. • The Committee recommended that the victim should be allowed to participate in cases involving serious crimes and also be given adequate compensation. • **Justice Verma panel-** It was formed to ensure quicker trial and enhanced punishment for criminals accused of committing sexual assault against women. It submitted its report in 2013. • **Ranbir Singh committee**- It was formed in 2020 to review three codes of criminal law - Indian Penal Code (IPC), 1860 - Code of Criminal Procedure (CrPC), 1973 and - Indian Evidence Act, 1872.

What are the key features of the bill?

- **Copy of FIR-** A copy of the FIR is to be made available to the accused and the victim free of cost within 14 days from the date of production of the accused.
- **File zero FIR-** It permits the filing of a zero FIR from any part of the country.

When a police station receives a complaint regarding an alleged offence committed in the jurisdiction of another police station, it registers an FIR and then transfers it to the relevant police station for further investigation it is called a zero FIR.

- **Expedite the procedure-**
  - Accused person to be examined through electronic means, like video conferencing.
  - Summary trials have been made mandatory for petty and less serious cases.
  - Streamlined magisterial system.
- **Greater use of technology-**
- Electronic form- Trials, appeal proceedings, recording of deposition including those of public servants and police officers
- Summons, warrants, documents, police reports etc., in electronic form
- Information to the police too can be sent electronically
- Search and seizure of evidences, visit to a crime scene by a forensic expert, victim's statement shall be audio-videographed
- **e-FIR-** Every district and police station will designate a police officer who will officially inform the family of the arrested person about his arrest online and in person.
- **Sedition-** It outlines a procedure for Executive Magistrate related to information concerning dissemination of any seditious matters.
- **Use of handcuffs-** A police officer may be permitted to use handcuffs while arresting a person if he is
  - A habitual, repeat offender who escaped from custody, or
  - Has committed an organised crime, terrorist act, drug-related crime, illegal possession of arms,
  - Murder, rape, acid attack, counterfeit currency, human trafficking, sexual offence against children or offences against the state.
- **Safeguards against arrests-** No person can be arrested without prior permission of an officer, not below the rank of a deputy Superintendent of Police, in cases where the offence is punishable with less than 3 years, or if the person is above 60 years of age.
- **Cognizable cases-** If the offence attracts 3-7 years, the police officer will conduct a preliminary inquiry to ascertain whether there exists a clear case to proceed within 14 days.
- **Mercy petitions-** After being informed by jail authorities on the disposal of the petition of a convict sentenced to death, mercy petition can be submitted *within 30 days* to the Governor.
- If rejected, the person can petition the President *within 60 days.* No appeal against the order of the President shall lie in any court.
- **Sanction to prosecute-** A decision to grant or reject sanction to prosecute a public servant must be reached by the government *within 120 days* of receiving a request.
- No sanction is required in cases including sexual offences, trafficking, etc.
- **Arms in procession-** The new provision *prohibits the district magistrate to carry arms* in in any procession, mass drill or mass training.
- **Samples without arrest-** The magistrate can order any person to give samples of his signature, handwriting, voice or finger impressions for the purpose of investigation

without being arrested.
- **Detention -** Police can detain or remove any person resisting, refusing or ignoring, or disregarding directions given as part of preventive action.

What are the pros and cons of the Bill?

Pros of the Bill

- The Bill provides definite timelines for a lot of procedures that otherwise are not present in the CrPC.
- There is also a deadline for medical officers to submit their reports after their investigation.
- It defines and clarifies certain procedures. For instance, the provision for producing an arrested person before a magistrate within 24 hours.
- It clearly defines that an accused can be produced before "any" magistrate "irrespective of jurisdiction".

Cons of the Bill

- **Complex** - The proposed code does not simplify the procedures prescribed under the present law.
- **Electronic mode** - It emphasizes the use of electronic modes for recording statements of the accused and simultaneously calls for their signatures on the statement which is recorded. This may not serve the purpose of permitting electronic recording.
- **Delays** - Requiring a DSP-level officer to conduct a preliminary enquiry before proceeding with the actual investigation may lead to delay in finding crucial pieces of evidence.
- Allowing investigating agencies to investigate during the course of the trial, could lead to more delays.
- **Effect on fundamental right** - Allowing police officers to use handcuffs against persons accused of offences of a certain gravity may affect the basic fundamental rights.
- **Clarity** - While bail has been defined in the proposed code, there is still no clarity on the factors which a court should consider while granting bail in non-bailable offences. Section 484 mentions that “bail may be granted if the court deems fit,” which is vague that could lead to arbitrariness.
- While the issue of remand is clarified, transit bail is still not defined in the Bill.

References

1. The Hindu- Explained new bill to overhaul criminal laws
2. Indian Express- Key provisions of the bill
3. PIB- Criminal justice bills



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