The Code of Criminal Procedure (Uttar Pradesh Amendment) Act, 1977

Act 18 of 1977

Keyword(s):

THE CODE OF CRIMINAL PROCEDURE (UTTAR PRADESH AMENDMENT) ACT, 1977

[U. P. ACT NO. 18 OF 1977]

[*Authoritative* English Text of the Dand Prakriya Sanhita (Uttar Pradesh Sanshodhan) Adhiniyam, 1977]

AN ACT

further to amend the Code of Criminal Procedure, 1973 in its application to Uttar Pradesh

It is hereby enacted in the Twenty-eighth Year of the Republic of India as follows:

1. (1) This Act may be called the Code of Criminal Procedure (Uttar Pradesh Amendment) Act, 1977.

   (2) It shall extend to the whole of Uttar Pradesh.

2. After section 167 of the Code of Criminal Procedure, 1973, as amended in its application to Uttar Pradesh, the following section shall be inserted, namely:

   "167-A. For the avoidance of doubts, it is hereby declared that the provisions of section 167 shall, so far as may be, apply also in relation to any person arrested by, or under any order or direction of, a Magistrate, whether executive or judicial."

*(For Statement of Objects and Reasons, please see Uttar Pradesh Gazette, Extraordinary, dated September 6, 1977).*

(Passed in Hindi by the Uttar Pradesh Legislative Assembly on September 7, 1977 and by the Uttar Pradesh Legislative Council on September 21, 1977).

(Received the assent of the President on November 2, 1977 under Article 291 of the Constitution of India and was published in Part I (a) of the Legislative Supplement of the Uttar Pradesh Gazette Extraordinary, dated November 5, 1977).

PRICE 10 PAI
In pursuance of the provisions of clause (3) of Article 348 of the Constitution of India, the Governor is pleased to order the publication of the following English translation of the Dand Prakriya Sanhita (Uttar Pradesh Sanshodhan) Adhiniyam, 1983 (Uttar Pradesh Adhiniyam Sankhya 1 of 1984) as passed by the Uttar Pradesh Legislature and asent to by the President on January 19, 1984:

THE CODE OF CRIMINAL PROCEDURE (UTTAR PRADESH AMENDMENT) ACT, 1983

[U. P. ACT No. 1 OF 1984]

(As passed by the Uttar Pradesh Legislature)

AN

ACT

further to amend the Code of Criminal Procedure, 1973 in its application to Uttar Pradesh

IT IS HEREBY enacted in the Thirty-fourth Year of the Republic of India as follows:

1. (1) This Act may be called the Code of Criminal Procedure (Uttar Pradesh Amendment) Act, 1983.

   (2) It shall extend to the whole of Uttar Pradesh.

   (3) It shall come into force on such date as the State Government may by notification specify in that behalf and different dates may be specified for different provisions.
Axqendmcat of 2.

In section 9 of the Code of Criminal Procedure, 1973, hereinafter referred to as the said Code, after sub-section (5), the following sub-section shall be inserted, namely:

"(5-A) In the event of the death, resignation, removal or transfer of the Sessions Judge, or of his being incapacitated by illness or otherwise for the performance of his duties, or of his absence from the place at which his court is held, the senior-most among the Additional Sessions Judges, and the Assistant Sessions Judges present at the place, and in their absence the Chief Judicial Magistrate shall without relinquishing his ordinary duties, assume charge of the office of the Sessions Judge and continue in charge thereof until the office is resumed by the Sessions Judge or assumed by an officer appointed thereto, and shall subject to the provision of this Code and any rules made by the High Court in this behalf, exercise any of the powers of the Sessions Judge."

Amendment of section 12.

3. In section 12 of the said Code, after sub-section (3), the following sub-section shall be inserted, namely:

"(4) Where the Office of the Chief Judicial Magistrate is vacant or he is incapacitated by illness, absence or otherwise for the performance of his duties, the senior-most among the Additional Chief Judicial Magistrates and other Judicial Magistrates present at the place, and in their absence the District Magistrate and in his absence the senior-most Executive Magistrate shall dispose of the urgent work of the Chief Judicial Magistrate."

Amendment of section 16.

4. In section 16 of the said Code, after sub-section (3), the following sub-section shall be inserted, namely:

"(4) Where the Office of the Chief Metropolitan Magistrate is vacant or he is incapacitated by illness, absence or otherwise for the performance of his duties, the senior-most among the Additional Chief Metropolitan Magistrates and other Metropolitan Magistrates present at the place, shall dispose of the urgent work of the Chief Metropolitan Magistrate."

Amendment of section 20.

5. In section 20 of the said Code, after sub-section (5), the following sub-section shall be inserted, namely:

"(6) the State Government may delegate its powers under sub-section (4) to the District Magistrate."

Amendment of section 26.

6. In section 26 of the said Code, for clause (b), the following clause shall be substituted, namely:

"(b) any offence under any other law may be tried:

(i) when any court is mentioned in this behalf in such law, by such court, or by any court superior in rank to such court, and

(ii) when no court is so mentioned, by any court by which such offence is shown in the First Schedule to be triable, or by any court superior in rank to such court."
9. In section 81 of the said Code, in sub-section (1), the following third proviso shall be inserted, namely:

"Provided also that where such person is not released on bail or where he fails to give such security as aforesaid, the Chief Judicial Magistrate in the case of a non-bailable offence or any Judicial Magistrate in the case of a bailable offence may pass such orders as he thinks fit for his custody till such time as may be necessary for his removal to the court which issued the warrant."

10. In section 436 of the said Code, in sub-section (1), in the first proviso, for the word "discharge" the word "release" shall be substituted.

11. In section 484 of the said Code, in sub-section (2), in clause (a), after the proviso, the following further proviso shall be inserted, namely:

"Provided further that the provisions of section 326 of this Code as amended by the Code of Criminal Procedure (Uttar Pradesh Amendment) Act, 1976 shall apply also to every trial pending in a Court of Session at the commencement of this Code and also pending at the commencement of the Code of Criminal Procedure (Uttar Pradesh Amendment) Act, 1983."

12. In the First Schedule to the said Code, in the entries relating to section 363 of the Indian Penal Code, in column 5, for the existing words, the words "Non-bailable" shall be substituted.

By order,
G. B. SINGH,
Sachiv.
In pursuance of the provisions of clause (3) of Article 348 of the Constitution of India, the Governor is pleased to order the publication of the following English translation of the Dand Prakriya Sanhita (Uttar Pradesh Sansodhan) Adhiniyam, 1991 (Uttar Pradesh Adhiniyam Sankhya 18 of 1991) as passed by the Uttar Pradesh Legislature and assented to by the President on March 27, 1991.

THE CODE OF CRIMINAL PROCEDURE (UTTAR PRADeSH AMENDMENT) ACT, 1991

(U. P. ACT NO. 18 OF 1991)

[As passed by the U. P. Legislature]

AN ACT

Further to amend the Code of Criminal Procedure, 1973 in its application to Uttar Pradesh.

IT IS HEREBY enacted in the Forty-second Year of the Republic of India as follows:—

1. (1) This Act may be called the Code of Criminal Procedure (Uttar Pradesh Amendment) Act, 1991.

(2) It shall extend to the whole of Uttar Pradesh.

(3) It shall be deemed to have come into force on February 16, 1991.

2. In section 24 of the Code of Criminal Procedure, 1973, hereinafter referred to as the said Code:—

(a) in sub-section (1), the words “after consultation with the High Court,” shall be omitted;

(b) sub-sections (4), (5) and (6) shall be omitted.

(c) in sub-section (7), the words “or sub-section (6)” shall be omitted.
3. In section 321 of the said Code after the words “in charge of a case may” the words “on the written permission of the State Government to that effect (which shall be filed in Court)”, shall be inserted.


(2) Notwithstanding such repeal, anything done or any action taken under the provisions of the said Code, as amended by the Ordinance referred to in sub-section (1), shall be deemed to have been done or taken under the corresponding provisions of the said Code, as amended by this Act, as if the provisions of this Act were in force at all material times.

By order,

NARAYAN DAS,
Sachiv.
In pursuance of the provisions of clause (3) of Article 348 of the Constitution of India, the Governor is pleased to order the publication of the following English translation of the Dand Prakriya Sanhita (Uttar Pradesh Sanshodhan) Adhiniyam, 1992 (Uttar Pradesh Adhiniyam Sankhya 17 of 1992) as passed by the Uttar Pradesh Legislature and assented to by the President on July 24, 1992.

THE CODE OF CRIMINAL PROCEDURE (UTTAR PRADESH AMENDMENT) ACT, 1992
(U. P. ACT NO. 17 OF 1992)

[As passed by the U. P. Legislature]

AN

ACT

Further to amend the Code of Criminal Procedure, 1973 in its application to Uttar Pradesh.

It IS HEREBY enacted in the Forty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Code of Criminal Procedure (Uttar Pradesh Amendment) Act, 1992.

   (2) It shall extend to the whole of Uttar Pradesh.

   (3) It shall come into force on such date as the State Government may, by notification, appoint in this behalf.
2. In section 357 of the Code of Criminal Procedure, 1973,—

(a) in sub-section (1), after clause (d), the following proviso shall be inserted, namely :

"Provided that if a person who may receive compensation under clauses (b), (c) and (d) is a member of the Scheduled Castes or the Scheduled Tribes and the person sentenced is not a member of such Castes or Tribes, the Court shall order the whole or any part of the fine recovered to be applied in payment of such compensation."

(b) for sub-section (3) the following sub-section shall be substituted, namely :

"(3) When the Court imposes a sentence, of which fine does not form a part, the Court may, and where the person who has suffered the loss or injury is a member of the Scheduled Castes or the Scheduled Tribes and the person sentenced is not a member of such Castes or Tribes the Court shall, when passing judgement, order the person sentenced to pay, by way of compensation, such amount as may be specified in the order to the person who has suffered any loss or injury by reason of the act for which the person has been so sentenced."

(c) after sub-section (5), the following Explanation, shall be inserted, namely :

"Explanation—For the purposes of this section the expressions “Scheduled Castes” and “Scheduled Tribes” shall have the meanings respectively assigned to them in clauses (24) and (25) of Article 366 of the Constitution."

By order,

N. K. NARANG,
Sachiv.
No. 2927 (2)/XVII-V-1—1 (KA) 20-1999

Dated Lucknow, December 29, 2000

IN pursuance of the provisions of clause (3) of Article 348 of the Constitution of India, the Governor is pleased to order the publication of the following English translation of the Dand Prakriya Samhita (Uttar Pradesh Sanshodhan) Adhiniyam, 1999 (Uttar Pradesh Adhiniyam Sankhya 36 of 2000), as passed by the Uttar Pradesh Legislature and assented to by the President on December 5, 2000:—

THE CODE OF CRIMINAL PROCEDURE (UTTAR PRADESH AMENDMENT) ACT, 1999

(U. P. ACT NO. 36 OF 2000)

(As passed by the Uttar Pradesh Legislature)

AN ACT

further to amend the Code of Criminal Procedure, 1973 in its application to Uttar Pradesh.

It is hereby enacted in the Fiftieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Code of Criminal Procedure (Uttar Pradesh Amendment) Act, 1999.

   (2) It shall extend to the whole of Uttar Pradesh.

   (3) It shall come into force on such date as the State Government may, by notification, appoint in this behalf.

2. In section 125 of the Code of Criminal Procedure, 1973, hereinafter referred to as the principal Act,—

   (a) in sub-section (1), for the words "five hundred rupees" the words "five thousand rupees" shall be substituted;
(b) after sub-section (5), the following sub-section shall be inserted, namely:—

"(6) Where in a proceeding under this section it appears to the Magistrate that the person claiming maintenance is in need of immediate relief for his support and the necessary expenses of the proceeding, the Magistrate may, on his application, order the person against whom the maintenance is claimed, to pay to the person claiming the maintenance, during the pendency of the proceeding such monthly allowance not exceeding five thousand rupees and such expenses of the proceeding as the Magistrate consider reasonable and such order shall be enforceable as an order of maintenance."

3. In section 127 of the principal Act, sub-section (1), in the proviso for the words "five hundred rupees" the words "five thousand rupees" shall be substituted.

By order,

Y. R. TRIPATHI,
Pramukh Sevak,
सरकारी गज़ल, उत्तर प्रदेश
उत्तर प्रदेशीय सरकार द्वारा प्रकाशित

असाधारण

विधायी परिषिक्त
भाग—1, खण्ड (क)
(उत्तर प्रदेश अधिनियम)

लखनऊ, सोमवार, 09 मई, 2011
बैशाख 19, 1933 शक सम्पूर्ण

उत्तर प्रदेश सरकार
विधायी अनुमान—1

संख्या 345/79-पि-1-11-1-(प)17-2011
लखनऊ, 09 मई, 2011

अधिसूचना

विधि

'भारत का सवित्री' के अनुसार 200 के अधिन राज्यपाल महादेव ने दंड प्रक्रिया संहिता (उत्तर प्रदेश संसद) विषयक 2011 पर विधेयक 3 मई, 2011 को अनुमोदन प्रदान की और यह (उत्तर प्रदेश अधिनियम संख्या 15 सन् 2011) के रूप में सर्वसाधारण की सूचनाध्यक्ष अधिसूचना द्वारा प्रकाशित की जाता है।

दंड प्रक्रिया संहिता (उत्तर प्रदेश संसद) अधिनियम, 2011
(उत्तर प्रदेश अधिनियम संख्या 15 सन् 2011)
[ जैसा उत्तर प्रदेश विधान महादेव द्वारा पारित हुआ ]
उत्तर प्रदेश में अपनी प्रवृत्ति के संबंध में दंड प्रक्रिया संहिता, 1973 का संशोधन करने के लिए

अधिनियम

भारत गणराज्य के बाहरवें वर्ष में निम्नलिखित अधिनियम बनाया जाता है—
1—यह अधिनियम दंड प्रक्रिया संहिता (उत्तर प्रदेश संसद) अधिनियम, 2011 संक्रित नाम कहा जायेगा।
IN pursuance of the provisions of clause (3) of Article 348 of the Constitution, the Governor is pleased to order the publication of the following English translation of the Dand Prakriya Sanhita (Uttar Pradesh Sanshodhan) Adhiniyam, 2011 (Uttar Pradesh Adhiniyam Sankhya 15 of 2011) as passed by the Uttar Pradesh Legislature and assented to by the Governor on May 3, 2011.

THE CODE OF CRIMINAL PROCEDURE (UTTAR PRADESH AMENDMENT) ACT, 2011

(U.P. ACT NO. 15 OF 2011)

[As passed by the Uttar Pradesh Legislature]

AN ACT
to amend the Code of Criminal Procedure, 1973 in its application to Uttar Pradesh.

IT IS HEREBY enacted in the Sixty-second Year of the Republic of India as follows:

No. 345(2)/LXXIX-V-1-11-1(Ka)17-2011

Dated Lucknow, May 09, 2011

In pursuance of the provisions of clause (3) of Article 348 of the Constitution, the Governor is pleased to order the publication of the following English translation of the Dand Prakriya Sanhita (Uttar Pradesh Sanshodhan) Adhiniyam, 2011 (Uttar Pradesh Adhiniyam Sankhya 15 of 2011) as passed by the Uttar Pradesh Legislature and assented to by the Governor on May 3, 2011.

THE CODE OF CRIMINAL PROCEDURE (UTTAR PRADESH AMENDMENT) ACT, 2011

(U.P. ACT NO. 15 OF 2011)

[As passed by the Uttar Pradesh Legislature]

AN ACT
to amend the Code of Criminal Procedure, 1973 in its application to Uttar Pradesh.

IT IS HEREBY enacted in the Sixty-second Year of the Republic of India as follows:-

Short title

1. This Act may be called the Code of Criminal Procedure (Uttar Pradesh Amendment) Act, 2011.
2. In section 125 of the Code of Criminal Procedure, 1973 as amended in its application to Uttar Pradesh hereinafter referred to as the principal Act in sub-section (6) the words "not exceeding five thousand rupees" shall be omitted.


STATEMENT OF OBJECTS AND REASONS

A ceiling of rupees five hundred was prescribed in section 125 and section 127 of the Code of Criminal Procedure, 1973 (Act no. 2 of 1974). The said ceiling of rupees five hundred was replaced by rupees five thousand by amending the said Code in its application to Uttar Pradesh by the Code of Criminal Procedure (Uttar Pradesh Amendment) Act, 1999 (U.P. Act no. 36 of 2000). Since, in view of the cost of living index continually rising, retention of a maximum ceiling was not considered to be justified by the Government of India, the said ceiling was removed by amending the said Code by the Code of Criminal Procedure (Amendment) Act, 2001 (Act no. 30 of 2001). Consequent upon the said amendment by the Government of India, it has been considered necessary to remove the said ceiling of rupees five thousand in the Code of Criminal Procedure, 1973 as applicable to Uttar Pradesh. It has, therefore, been decided to amend the Code of Criminal Procedure, 1973 in its application to Uttar Pradesh to remove the said ceiling and to omit the provisions regarding amendment of sub-section (1) of section 125 and sub-section (1) of section 127 of the said Act no. 36 of 2000 which have become redundant consequent upon the commencement of the said Act no. 30 of 2001.

The Code of Criminal Procedure (Uttar Pradesh Amendment) Bill, 2011 is introduced accordingly.

By order,

K.K. SHARMA,

Pramukh Sachiv.
सरकारी गजट, उत्तर प्रदेश
उत्तर प्रदेशीय सरकार द्वारा प्रकाशित
असाधारण

विधायी परिषिक्षण
भाग-1, खण्ड (क)
(उत्तर प्रदेश अधिनियम)

लखनऊ, बृहस्पतिवार, 6 जून, 2019
ज्योति 16, 1941 शक संवत

उत्तर प्रदेश शासन
विधायी अनुभाग-1
संख्या 1058/79-वि-1-19-1(क)-20-2018
लखनऊ, 6 जून, 2019
अधिसूचना
विभाग

"भारत का संविधान" के अनुसार 201. के अधीन राष्ट्रपति महादेव ने दण्ड प्रक्रिया संहिता (उत्तर प्रदेश संशोधन) विवेचन 2018 जिससे गृह-पुलिस अनुभाग-9 प्रशासनिक रूप से सम्बन्धित हैं, पर विनाकर्ष 1 जून, 2019 को अनुमति प्रदान की और वह उत्तर प्रदेश अधिनियम संख्या 4 सन् 2019 के रूप में स्वस्थारण की सूचनार्थ इस अधिसूचना द्वारा प्रकाशित किया जाता हैः

दण्ड प्रक्रिया संहिता (उत्तर प्रदेश संशोधन) अधिनियम, 2018
(उत्तर प्रदेश अधिनियम संख्या 4 सन् 2019)
जैसा उत्तर प्रदेश विविधांकन मण्डल द्वारा पारित हुआ]
उत्तर प्रदेश में अपनी प्रवृत्ति के संबंध में दण्ड प्रक्रिया संहिता, 1973 का अप्रत्य चरण संशोधन करने के लिए —

अधिनियम
भारत गणराज्य के उनहटार्थवे वर्ष में निम्नलिखित अधिनियम बनाया जाता हैः

1—यह अधिनियम दण्ड प्रक्रिया संहिता (उत्तर प्रदेश संशोधन) अधिनियम, संख्या नाम
2018 कहा जायेगा।
उत्तर प्रदेश में अपनी प्रवृति को संबंध में यथासंशोधित दण्ड प्रक्रिया सहित, 1973 में, धारा 437-क के पर्यावरण निम्नलिखित धारा बढ़ा दी जाएगी.

अथात्:

438 (1) जहाँ किसी व्यक्ति को यह विश्वास करने का कारण हो कि उसको किसी अजनातव्य अपराध किये जाने के अभियोग में गिरफ्तार, किया जा सकता है, वहाँ वह इस धारा के अधीन निदेश के लिए उच्च न्यायालय या सेशन न्यायालय को आवेदन कर सकता है कि ऐसी गिरफ्तारी की स्थिति में उसको जमानत पर छोड़ दिया जाये, और यह कि न्यायालय, अन्य बातों के साथ-साथ निम्नलिखित बातों पर विचार करने के पश्चात्, अथात्—

(i) अभियोग की प्रकृति और गम्भीरता
(ii) आवेदक का पूर्वभार, जिसमें वह तथ्य भी समझित है कि यह वह किसी सही अपराध के सम्बन्ध में किसी न्यायालय द्वारा दोषित होने पर होते ही कारावास धारण कुछ है
(iii) न्याय से माफ़ की आवेदक की सम्भाव्यता; और
(iv) जहाँ आवेदक को उस इस प्रकार गिरफ्तार करकर क्षति पहुँचाने वा अपमानित करने के उद्देश्य से अभियोग लगाया गया हो; या तो आवेदन तक के असीमित कर सकता है या अधिम जमानत मंजूर करने के लिए अतिरिक्त आदेश जारी कर सकता है।

परन्तु यह कि जहाँ यथास्थिति उच्च न्यायालय, या सेशन न्यायालय ने इस उद्देश्य के अधीन कोई अतिरिक्त आदेश पारित न किया हो या अधिम जमानत मंजूर करने के लिए आवेदन असीमित कर दिया हो, वहाँ किसी पुलिस बाणे के भारसाधक अधिकारी के लिए यह बिल्कुल रहेगा कि यह आवेदक को ऐसे आवेदन में आशंकित अभियोग के अधीन पर दिना वारदात के गिरफ्तार करे।

(2) जहाँ यथास्थिति उच्च न्यायालय या सेशन न्यायालय, उप-धारा (1) के अधीन अधिम जमानत मंजूर करने के लिए अतिरिक्त आदेश जारी करना समीचीन समझो। वहाँ उक्त न्यायालय को उसमें ऐसा दिनांक उपदानित करना होगा जिस दिनांक को अतिरिक्त जमानत मंजूर करने के लिए आवेदन पर आदेश पारित करने हेतु अधिम सुनवाई की जायेगी, जैसा कि न्यायालय उचित समझो और यदि न्यायालय अधिम जमानत मंजूर कर्ते हुए कोई आदेश पारित करता है, तो ऐसे आदेश में अन्य बातों के साथ-साथ निम्नलिखित शर्त समीचीन होगी, अथात्—

(i) यह कि आवेदक किसी पुलिस अधिकारी द्वारा जैसा और जब अपेक्षा की जायेगी, पुलिसांत नियम जांच जाने हेतु ऐसा उपलब्ध होगा;
(ii) यह कि आवेदक, व्यक्ति या परस्पर रूप से, मामले के तत्त्वों से भिड़ किसी व्यक्ति को कोई उत्तराधिकार, जबकि या वचन नहीं देगा, जिससे यह ऐसे मामलों का प्रकार न रखने के लिए मनाया जा सके;
(iii) यह कि आवेदक, न्यायालय की फूर्च अनुसार के बिना भारत नहीं छोड़ेगा; तथा

(iv) ऐसी अन्य शर्तें जिन्हें धारा 437 की उपधारा (3) के अधीन अभिरोधित किया जाय, माना जाने उस धारा के अधीन मंजूर की गयी हो।

सपष्टीकरण:— उपधारा (1) के अधीन निर्देश के लिए किसी आवेदन पर किया गया अतिम आदेश, इस सहिता के प्रयोजनार्थ किसी अन्तर्वेत्त आदेश के रूप में नहीं माना जाएगा।

(3) जहां न्यायालय उपधारा (1) के अधीन कोई अतिरिक्त आदेश प्रदान करे, वहीं वह तत्काल अन्यून सात दिन की नोटिस के साथ ऐसे आदेश के एक प्रति लोक अभियोजक और पुलिस अभियोजक को, न्यायालय द्वारा आवेदन की अतिम रूप से सुनवाई किये जाने के समय लोक अभियोजक को सुनवाई का गुप्तिपुक्त अवसार प्रदान करने की दृष्टि से तामाल करायेगा।

(4) उपधारा (2) के अधीन अतिरिक्त आदेश में उपदेशित दिनांक को न्यायालय लोक अभियोजक और आवेदक की सुनवाई करेगा और उनके प्रतियोगों पर समय के रूप से विचार करने के पर्यन्त वह अन्तरिक्त आदेश की या तो पुनिःकर सकता है, उसमें उपदेशित कर सकता है या उसे रद्द कर सकता है।

(5) उपधारा (1) के अधीन यथास्थिति उच्च न्यायालय या सेशन न्यायालय, अतिम मानन मंजूर किये जाने के किसी आवेदन का अतिम प्रस्तावन, ऐसा आवेदन किये जाने के दिनांक से तीस दिनों के बीतर करेगा।

(6) इस धारा के उपन्यास—

(क) (i) विधिविरुद्ध क्रिया—कलाप (निवारण) अभियोजन, 1967;

(ii) स्वाधीन औपचार्य और मन. प्रभात पुरस्कार अभियोजन, 1985;

(iii) शासकीय गृह बात अभियोजन, 1923;

(iv) उल्लेख, निरोहक और समाज निरोही क्रियाकलाप (निवारण) अभियोजन, 1986;

(ख) उद्देश्य होने वाले अपराधों,

(ग) ऐसे अपराधों, जिनमें मृत्युदण्डकारक अधिनिर्णय किया जा सकता है;

(7) यदि इस धारा के अधीन किसी व्यक्ति द्वारा उच्च न्यायालय में कोई आवेदन किया गया हो तो उसी व्यक्ति द्वारा कोई आवेदन सेशन न्यायालय द्वारा ग्रहण नहीं किया जाएगा।
In pursuance of the provisions of clause (3) of Article 348 of the Constitution, the Governor is pleased to order the publication of the following English translation of the Dand Prakriya Samhita (Uttar Pradesh Sanshodhan) Adhiniyam, 2018 (Uttar Pradesh Adhiniyam Sankhya 4 of 2019) as passed by the Uttar Pradesh Legislature and assented to by the President on June 1, 2019. The Grih (Police) Anubhag-9 is administratively concerned with the said Adhiniyam.

THE CODE OF CRIMINAL PROCEDURE (UTTAR PRADESH AMENDMENT) ACT, 2018
[U.P. Act no. 4 of 2019]
[As passed by the Uttar Pradesh Legislature]
AN
ACT

1. This Act may be called the Code of Criminal Procedure (Uttar Pradesh Amendment) Act, 2018.

2. In the Code of Criminal Procedure, 1973 as amended in its application to Uttar Pradesh, after section 437-A the following section shall be inserted, namely:-
Section 438. (1) Where any person has reason to believe that he may be arrested on
accusation of having committed a non-bailable offence, he may apply to the High Court or the Court of Session for a
direction under this section that in the event of such arrest he shall be released on bail; and that Court may, after
taking into consideration, *inter alia*, the following factors,
namely:—

(i) the nature and gravity of the accusation;

(ii) the antecedents of the applicant including the fact as to whether he has previously undergone imprisonment on conviction by a Court in respect of any cognizable offence;

(iii) the possibility of the applicant to flee from justice; and

(iv) where the accusation has been made with the object of injuring or humiliating the applicant by having him so arrested;

either reject the application forthwith or issue an interim order for the grant of anticipatory bail:

Provided that where the High Court or, as the case may be, the Court of Session, has not passed any interim order under this sub-section or has rejected the application for grant of anticipatory bail, it shall be open to an officer in-charge of a police station to arrest, without warrant, the applicant on the basis of the accusation apprehended in such application.

(2) Where the High Court or, as the case may be, the Court of Session, considers it expedient to issue an interim order to grant anticipatory bail under sub-section (1), the Court shall indicate therein the date, on which the application for grant of anticipatory bail shall be finally heard for passing an order thereon, as the Court may deem fit, and if the Court passes any order granting anticipatory bail, such order shall include *inter alia* the following conditions, namely:—

(i) that the applicant shall make himself available for interrogation by a police officer as and when required;

(ii) that the applicant shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

(iii) that the applicant shall not leave India without the previous permission of the Court; and

(iv) such other conditions as may be imposed under sub-section (3) of section 437, as if the bail were granted under that section.

Explanation:—The final order made on an application for direction under sub-section (1); shall not be construed as an interlocutory order for the purpose of this Code.

(3) Where the Court grants an interim order under sub-section (1), it shall forthwith cause a notice being not less than seven days notice, together with a copy of such order to be served on the Public Prosecutor and the Superintendent of Police, with a view to give the Public Prosecutor a reasonable opportunity of being heard when the application shall be finally heard by the Court.
(4) On the date indicated in the interim order under sub-section (2), the Court shall hear the Public Prosecutor and the applicant and after due consideration of their contentions, it may either confirm, modify or cancel the interim order.

(5) The High Court or the Court of Session, as the case may be, shall finally dispose of an application for grant of anticipatory bail under sub-section (1), within thirty days of the date of such application.

(6) Provisions of this section shall not be applicable,—

(a) to the offences arising out of,—

(i) the Unlawful Activities (Prevention) Act, 1967;
(ii) the Narcotic Drugs and Psychotropic Substances Act, 1985;
(iii) the Official Secret Act, 1923;
(iv) the Uttar Pradesh Gangsters and Anti-Social Activities (Prevention) Act, 1986.

(b) in the offences, in which death sentence can be awarded.

(7) If an application under this section has been made by any person to the High Court, no application by the same person shall be entertained by the Court of Session.”

STATEMENT OF OBJECTS AND REASONS

Section 438 of the Code of Criminal Procedure 1973, regarding provision of anticipatory bail, was omitted by the Code of Criminal Procedure (Uttar Pradesh Amendment) Act, 1976 (U.P. Act no. 16 of 1976). There is continuous demand for its revival. Writ petitions have also been filed before the Hon'ble Courts for its revival in Uttar Pradesh. The State Law Commission has, in its third report in 2009, also recommended for reviving the provisions of the said section. With a view to considering the revival of the provisions of the said section, a committee has been constituted under the chairmanship of the Principal Secretary to the Government of Uttar Pradesh in Home Department, consisting of the Special Secretary of Judicial Department, Special Secretary of the Legislative Department, Director General of Prosecution and Additional Director General of Police (Crime), as the members thereof. The said committee has recommended that the provisions of the said section should be revived with certain modifications. After considering the recommendation of the said committee, it has been decided to amend the Code of Criminal Procedure, 1973 in its application to Uttar Pradesh to revive the provisions of section 438 thereof with certain modifications.

The Code of Criminal Procedure (Uttar Pradesh Amendment) Bill, 2018 is introduced accordingly.

By order,

SANJAI KHARE,
Pramukh Sachiv.