THE LAWWAY WITH LAWYERS JOURNAL

Website: www.the lawway with lawyers.com

VOLUME:-40 ISSUE NO:- 40 , OCTOBER 13, 2026

ISSN (ONLINE):- 2584-1106

Email: thelawwaywithelawyers@gmail.com

Digital Number : 2025-23534643

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SECURITY FOR GOOD BEHAVIOUR AND SAFEGUARDS AGAINST MISUSE UNDER THE BHARATIYA NAGARIK SURAKSHA SANHITA, 2023

Abstract

Preventive justice is an mile stone concept criminal procedure because punishment not only the way to reform the person, after their commission but also to take lawful measures to prevent anticipated disturbances to public peace and safety. The Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) provides a statutory framework for requiring security for good behaviour from specified categories of persons and establishes procedures governing the exercise of preventive powers. Sections 127–129 address persons disseminating specified unlawful or obscene material, suspected persons concealing their presence with a view to committing a cognizable offence, and habitual offenders. Sections 130–143 prescribe the procedural framework through which such proceedings are initiated, examined and concluded.

Although these provisions serve a legitimate public purpose, their application may affect personal liberty, reputation, freedom of expression and freedom of movement. Preventive proceedings therefore require more than administrative suspicion; they demand statutory compliance, relevant material, a reasoned order and a meaningful opportunity to contest the allegations. This paper critically examines the substantive grounds for requiring security, the procedural safeguards available to affected persons, and the constitutional principles that should guide Executive Magistrates and enforcement authorities. The paper argues that the

effectiveness of preventive justice depends on maintaining a proper balance between public safety and individual liberty, supported by transparent decision-making, proportionate security requirements and effective judicial review.

Keywords: *Bharatiya Nagarik Suraksha Sanhita, 2023; security for good behaviour; preventive justice; Executive Magistrate; personal liberty; procedural safeguards*.

Introduction

The administration of criminal justice is generally associated with investigation, prosecution, trial and punishment. However, the law also recognises that certain situations may require preventive action before a breach of peace or a cognizable offence occurs. Preventive justice is intended to address an identifiable risk of future misconduct rather than to impose punishment for an offence already proved.

The Bharatiya Nagarik Suraksha Sanhita, 2023, Chapter IX of the BNSS deals with security for keeping the peace and for good behaviour. Sections 127–129 identify particular categories of persons against whom proceedings for security for good behaviour may be initiated, while Sections 130–143 establish the procedures relating to the initiation, inquiry, security order, discharge and enforcement of such proceedings. [1]

These provisions given a preventive powers to Executive Magistrates intended to protect public order. Nevertheless, the exercise of such powers has consequences for individual liberty. A person may be required to explain alleged conduct, furnish a bond or arrange sureties. Failure to comply with a lawful security order may result in imprisonment under the statutory framework. Preventive proceedings can therefore cause serious hardship even though they are not ordinary criminal trials resulting in conviction for a substantive offence.

The central concern is not whether preventive powers should exist, but how they should be exercised. If the provisions are used against persons on the basis of vague allegations, personal disputes, political hostility or unsupported police reports, they may become instruments of harassment. Conversely, if the authorities are unable to act where a genuine and sufficiently established risk exists, public peace may be endangered.

This paper examines the legal framework governing security for good behaviour under Sections 127–143 of the BNSS, with particular attention to procedural safeguards and the

possibility of misuse. It analyses the relationship between preventive powers and constitutional liberty, considers the relevance of judicial decisions interpreting corresponding provisions of the former Code, and proposes safeguards to promote fair, proportionate and accountable implementation.

2. Research Methodology

This paper adopts a doctrinal legal research method. It examines the relevant provisions of the BNSS, constitutional principles and judicial decisions concerning preventive proceedings under the corresponding provisions of the Code of Criminal Procedure, 1973. The statutory analysis focuses on the grounds for initiating proceedings, the requirements of a preliminary order, the conduct of an inquiry, the determination of security and the legal consequences of non-compliance.

The research is analytical rather than empirical. It does not claim to be based on field interviews, statistical data or an independent survey of Magistrates, police officers or persons subjected to preventive proceedings. Its purpose is to assess the legal safeguards available under the statutory framework and to identify practical risks that may arise from improper implementation.

3. Statutory Framework Under Sections 127–129

3.1 Section 127: Security for Good Behaviour from Persons Disseminating Certain Matters

Section 127 empowers an Executive Magistrate to initiate proceedings against a person where the statutory conditions concerning the dissemination of specified unlawful or obscene material are satisfied. The provision addresses the intentional dissemination, attempted dissemination or abetment of dissemination of certain matters punishable under the Bharatiya Nyaya Sanhita, 2023, as well as specified obscene material. It also covers specified matters concerning a Judge acting or purporting to act in the discharge of official duties where the conduct amounts to criminal intimidation or defamation under the applicable criminal law. [1]

The provision is preventive in character. It permits the Magistrate, upon being satisfied that sufficient grounds exist for proceeding, to require the person concerned to show cause why a bond or bail bond for good behaviour should not be ordered for a period not exceeding one

year.The purpose of this provision must be understood alongside constitutional protections for freedom of speech and expression. Not every criticism of a public institution, judicial decision or public official constitutes unlawful conduct. Nor can the mere circulation of an unpopular opinion automatically justify proceedings for security. The relevant statutory ingredients must be established through material capable of supporting the Magistrate's satisfaction.

The expression "sufficient ground" is particularly important. It requires the authority to evaluate the available information rather than mechanically act upon an allegation. The identity of the person, the nature of the material, the alleged conduct, the applicable penal provision and the connection between that conduct and the statutory ground should be clearly examined.

Section 127 also contains a specific restriction concerning proceedings against the editor, proprietor, printer or publisher of a publication registered and published in conformity with the applicable law. The statutory requirement regarding authority from the State Government or an empowered officer must be respected where applicable. This safeguard is significant because proceedings against persons involved in publishing may otherwise interfere with legitimate journalistic and editorial activity.

3.2 Section 128: Security for Good Behaviour from Suspected Persons

Section 128 applies where an Executive Magistrate receives information that a person within the local jurisdiction is taking precautions to conceal their presence and there is reason to believe that the concealment is intended to facilitate the commission of a cognizable offence. In such circumstances, the Magistrate may require the person to show cause why a bond or bail bond for good behaviour should not be ordered for a period not exceeding one year. [1]

The provision is directed at a particular combination of circumstances: concealment of presence and a reason to believe that such concealment is connected with an intention to commit a cognizable offence. It does not authorise preventive action merely because a person is unfamiliar to the locality, avoids social interaction or wishes to remain private. The distinction between suspicious circumstances and a legally sufficient basis for preventive action is essential. The authority should identify the conduct said to amount to concealment and the material supporting the inference that the concealment is intended to facilitate a

cognizable offence. A general assertion that a person is “suspicious” is not an adequate substitute for a reasoned assessment of the statutory conditions.

The provision must also be applied consistently with the presumption of innocence and the constitutional protection of personal liberty. Preventive proceedings do not require proof of a completed offence in the same manner as a criminal prosecution. However, that difference does not permit arbitrary action or eliminate the requirement that the statutory conditions be satisfied.

3.3 Section 129: Security for Good Behaviour from Habitual Offenders

Section 129 deals with persons who fall within specified categories of habitual criminal conduct. These categories include habitual robbery, house-breaking, theft or forgery; habitual receipt of stolen property with knowledge that it is stolen; habitual protection or harbouring of thieves; and habitual commission, attempted commission or abetment of specified offences. The section also addresses other categories expressly identified in its text. [1]

The focus of Section 129 is habituality. The provision is not intended to impose a continuing preventive burden upon every person who has previously been accused of an offence or has faced a criminal case. Its application requires an assessment of whether the person’s conduct falls within the statutory category and whether the available information justifies the initiation of proceedings. The distinction between an accusation and an established pattern of conduct is crucial. Previous criminal cases may provide relevant information, but the mere existence of a case, without examining its nature and outcome, should not automatically be treated as conclusive proof of habitual offending. Allegations that were withdrawn, cases ending in acquittal and unrelated disputes must be evaluated with appropriate caution.

A proper application of Section 129 requires the Magistrate to examine the nature, frequency, circumstances and relevance of the alleged conduct. The information must be sufficiently specific to allow the person concerned to understand the case they are required to answer. Without this discipline, the provision risks turning preventive justice into a system of continuing suspicion.

4. Procedural Safeguards Under Sections 130–143

The substantive grounds in Sections 127–129 cannot be considered in isolation. The procedural provisions that follow are important because they regulate the manner in which preventive powers are exercised and provide an opportunity to challenge the allegations.

4.1 Section 130: Preliminary Order

Section 130 requires the Magistrate, when acting under the relevant preceding provisions, to make a written order setting out the substance of the information received, the amount of the bond, the period for which it is to remain in force and the number, character and class of sureties required, where applicable. [1]

This requirement is a central safeguard against arbitrary proceedings. A written order identifies the basis on which the authority proposes to act and informs the person concerned of the nature of the case to be answered. It also creates a record that can be examined by a superior court if the legality of the proceedings is challenged.

A vague order that merely reproduces statutory language without identifying the relevant allegations may undermine the purpose of the provision. The person concerned should be able to understand the material circumstances said to justify the demand for security. Specificity is particularly important where the allegations concern habitual conduct or the dissemination of material, because a general description may make an effective response difficult.

4.2 Sections 131–134: Procedure for Appearance and Service

Sections 131–134 regulate procedural matters concerning a person who is present before the Magistrate, the issuance of summons or warrant where the person is not present, the communication of the order, and the circumstances in which personal attendance may be dispensed with. [1]

These provisions are intended to ensure that the person concerned is brought within the proceeding through a legally recognised process and receives the information necessary to respond. A summons or warrant must not be treated as a routine administrative formality. The choice of process should be consistent with the statutory requirements and the circumstances of the case.

The requirement to provide a copy of the preliminary order is especially significant. A person cannot effectively exercise the right to contest allegations if the substance of the case remains unknown. Proper service, intelligible communication and adequate opportunity to prepare a response are therefore essential elements of procedural fairness.

Dispensing with personal attendance, where legally permissible, may reduce unnecessary hardship. It may be particularly useful where attendance would impose disproportionate difficulty and the person can be adequately represented. However, procedural flexibility should not be used to deprive either side of a fair opportunity to present relevant material.

4.3 Section 135: Inquiry as to Truth of Information

Section 135 provides for an inquiry into the truth of the information upon which the proceedings have been initiated. The inquiry is to be conducted in accordance with the statutory procedure, including the applicable procedural safeguards and the provisions governing the taking of evidence. The section also regulates the time within which the inquiry is to be completed and provides for interim security in the circumstances specified by law. [1]

The inquiry is the point at which the initial allegations must be subjected to meaningful examination. The preliminary order does not establish that the allegations are true. It initiates a proceeding in which the information must be tested.

The Supreme Court's decision in *Madhu Limaye v. Sub-Divisional Magistrate, Monghyr* is particularly relevant. In discussing interim security, the judgment explained the importance of judicial satisfaction based on the information and the necessity of recording reasons before such a measure is imposed. [2] Although *Madhu Limaye* concerned provisions of the former Code, its reasoning remains relevant when interpreting materially corresponding procedural safeguards under the BNSS, subject to the wording of the current statute. The decision illustrates that preventive powers cannot be exercised as a substitute for the inquiry prescribed by law.

Interim security deserves special attention because it may affect liberty before the inquiry has been completed. It should not be imposed merely because proceedings have been commenced. The statutory conditions must be met, the urgency must be genuine, and the reasons for

requiring interim security must be recorded. The inquiry should then proceed without unnecessary delay.

4.4 Section 136: Order to Give Security

Section 136 concerns the final order requiring security where, after the inquiry, the Magistrate is satisfied that security is necessary. The order must conform to the statutory framework and identify the relevant terms of the security requirement. [1] Proportionality is also important. The amount of the bond, the duration of the obligation and the requirement for sureties should be reasonable and related to the purpose of preventing the anticipated conduct. An excessively high bond may make compliance practically impossible for a person with limited financial resources. If security is fixed without considering the person's circumstances, the preventive measure may operate as an indirect deprivation of liberty rather than a proportionate means of protecting public peace.

4.5 Section 137: Discharge of the Person Informed Against

Section 137 provides for discharge where the Magistrate is not satisfied, upon the inquiry, that security is necessary. The person should not be required to furnish security merely because proceedings were initially considered appropriate. [1]

This provision reflects an essential principle of preventive justice: an initial suspicion must remain open to challenge. If the evidence or information does not establish the statutory basis for requiring security, the proceedings should conclude in favour of the person concerned.

Discharge is not simply a procedural endpoint. It is an important safeguard against the continuation of proceedings that lack sufficient legal foundation. A failure to give genuine consideration to discharge would weaken the purpose of the inquiry and risk turning the proceeding into a presumption of wrongdoing.

4.6 Sections 138–140: Duration, Contents of Bond and Sureties

Sections 138–140 address matters connected with the commencement of the security period, the contents of the bond and the scrutiny of sureties. These provisions regulate the practical operation of a security order and are intended to ensure that its terms remain within the statutory framework. [1]

The commencement of the security period must be determined in accordance with law. The bond should specify the obligation undertaken and should not contain conditions that exceed the authority conferred by the statute. Clarity is necessary both for the person furnishing security and for the authorities responsible for monitoring compliance.

The provisions concerning sureties require careful application. The purpose of a surety is to provide the security contemplated by law, not to create an arbitrary financial barrier. A person's inability to arrange a particular surety should not be treated as evidence that the original allegations are true. The Magistrate must apply the statutory requirements fairly and avoid imposing conditions that are disproportionate to the preventive objective.

4.7 Sections 141–143: Imprisonment in Default, Release and Security for the Unexpired Period

Sections 141–143 deal with the consequences of failing to furnish security, the statutory power to release a person in specified circumstances, and the requirement of security for an unexpired period in the situations covered by the provisions. [1]

These sections demonstrate why procedural safeguards are indispensable. A security order may have consequences extending beyond the initial hearing. Failure to furnish the required bond can result in imprisonment under the applicable statutory conditions. The consequences may therefore be particularly severe for persons who lack financial resources or access to suitable sureties.

The distinction between deliberate non-compliance and genuine inability to furnish security deserves careful attention within the limits of the statute. The authorities must ensure that any consequence imposed is legally authorised and follows the required procedure. Where the statute provides for release or adjustment of the period of security, those provisions should be applied in accordance with their terms. The possibility of imprisonment makes it especially important that the original order be lawful, the amount of security proportionate, and the person concerned fully informed of the obligation imposed.

5. Constitutional Dimensions And Judicial Interpretation

5.1 Personal Liberty and Article 21

Article 21 of the Constitution of India provides that no person shall be deprived of life or personal liberty except according to procedure established by law. Preventive proceedings must therefore be conducted under the authority of the statute and in a manner consistent with constitutional requirements.

The existence of a statutory power does not mean that every exercise of that power is automatically valid. The relevant authority must act within the limits of the provision, consider the circumstances of the individual case and follow the procedure prescribed by law. A decision founded on irrelevant considerations, unsupported assumptions or a failure to conduct the required inquiry may be open to legal challenge.

5.2 *Madhu Limaye v. Sub-Divisional Magistrate, Monghyr*

In *Madhu Limaye v. Sub-Divisional Magistrate, Monghyr*, the Supreme Court considered the constitutional validity and operation of preventive provisions under the former Code of Criminal Procedure. The Court recognised the legitimate role of preventive justice in protecting public peace but also discussed the procedural conditions governing the exercise of those powers. [2] This judgement highlights that rejects the idea that preventive powers exist beyond judicial scrutiny. The statutory scheme must be interpreted and applied in a manner that respects individual liberty and the procedural protections built into the law.

The case arose under the former Code, and its provisions should not be cited as though they were the current section numbers of the BNSS. Its principles are relevant by analogy where the corresponding BNSS provisions preserve materially similar requirements. Any reliance on the judgment should therefore identify the former statutory provision and explain its relevance to the current framework.

5.3 *R.H. Bhutani v. Mani J. Desai*

In *R.H. Bhutani v. Mani J. Desai*, the Supreme Court examined the nature of preventive jurisdiction under the former criminal procedure framework. The decision is relevant to understanding the distinction between preventive action and the determination of criminal guilt. [3] Preventive proceedings are concerned with the likelihood of future conduct and the necessity of taking lawful steps to avert a threatened breach of peace. Their purpose is not to determine whether a person is guilty of a substantive criminal offence. Nevertheless, the

preventive character of the proceeding does not dispense with the statutory conditions governing its exercise. The case must be applied carefully. It does not provide a blanket justification for acting on untested suspicion in every preventive proceeding. Rather, the relevant legal principles must be read with the particular statutory provision, the material available and the procedural protections applicable to the person concerned.

5.4 Freedom of Speech and Expression

Section 127 raises particular concerns about freedom of speech and expression under Article 19(1)(a) of the Constitution. The provision must be applied in harmony with the constitutional framework governing lawful restrictions on speech. The mere fact that a statement is critical, controversial or offensive to a person in authority does not automatically establish the statutory grounds for requiring security.

A lawful decision must identify the particular material or conduct relied upon, the applicable statutory category and the factual basis for initiating proceedings. The authority must distinguish between conduct that satisfies the law and expression that remains protected by the Constitution.

The special statutory conditions governing proceedings against certain publishers must also be respected. Such conditions help prevent the misuse of preventive jurisdiction to discourage legitimate publication or criticism. They do not create immunity for conduct that genuinely falls within a valid statutory prohibition, but they require the authorities to follow the process prescribed by law.

6. Potential Misuse Of Preventive Powers

6.1 Proceedings Based on Vague Allegations

One of the principal risks is the initiation of proceedings through general allegations that a person is dangerous, suspicious or habitually involved in criminal activity. The requirement for a reasoned preliminary order and a genuine inquiry is intended to address this risk. Magistrates should examine whether the information identifies conduct relevant to the provision invoked and whether the alleged facts, if properly supported, justify preventive action.

6.2 Use in Personal, Political or Local Disputes

Preventive proceedings may be misused where parties are involved in property disputes, neighbourhood conflicts, local political rivalries or other continuing disagreements. A complaint arising from such a dispute may contain genuine concerns, but it may also be motivated by a desire to inconvenience the opposing party.

The existence of a dispute should neither automatically justify nor automatically defeat preventive action. The authority must independently examine the relevant facts and determine whether the statutory conditions are satisfied. The process should not be used simply to pressure a person into abandoning a lawful claim or withdrawing from a legitimate activity.

6.3 Treating Previous Cases as Conclusive Proof of Habituality

Section 129 requires particular care because it concerns habitual conduct. A record showing previous accusations cannot be treated as conclusive proof without examining the nature and outcome of the cases and their relevance to the statutory category.

A mechanical approach may unfairly stigmatise individuals and extend the consequences of past allegations into the future. A reasoned assessment should identify the relevant pattern of conduct rather than merely list previous case numbers.

6.4 Excessive Bond Amounts and Unrealistic Surety Conditions

A bond that is excessively more important in the purpose of preventive justice. A person who cannot furnish the required amount or secure suitable sureties may face consequences despite the absence of a conviction for a substantive offence in the proceeding.

The amount and conditions of security should be justified by the preventive objective and the statutory requirements. Financial hardship should not be ignored when fixing conditions within the discretion permitted by law. The objective is to secure lawful behaviour, not to impose an unaffordable burden.

6.5 Delay in Inquiry and Lack of Effective Hearing

Delay can weaken the fairness of preventive proceedings. If an inquiry remains pending for an unreasonable period, the person concerned may experience uncertainty, repeated

attendance requirements and continuing hardship. Where interim security is imposed, delay can have even more serious consequences.

The statutory obligation to conduct the inquiry must therefore be treated as substantive protection rather than a technical formality. Adjournments should be justified, the parties should have a fair opportunity to present their material, and the proceeding should be completed within the applicable statutory framework.

7. Safeguards And Recommendations

7.1 Specific and Reasoned Orders

Every preliminary order should identify the material facts, the statutory ground relied upon and the reason the person is required to show cause. Reproducing the language of the statute without explaining its application to the facts may not provide a meaningful opportunity to respond.

A clear order also improves accountability. It enables the person concerned to prepare a defence and permits a superior court to assess whether the Magistrate acted within jurisdiction.

7.2 Independent Evaluation of Police Information

Police reports may provide the initial information necessary for preventive proceedings. However, the Magistrate should not treat the report as conclusive merely because it originates from a law-enforcement authority.

The Magistrate must independently consider the information and determine whether it satisfies the statutory requirements. Contradictions, lack of supporting material, personal disputes and the outcomes of previous criminal cases should be examined where relevant.

7.3 Meaningful Opportunity to Contest the Allegations

The person concerned should receive the order and have a fair opportunity to understand and answer the case. The opportunity should be practical rather than merely formal. Adequate time, access to relevant material in accordance with law, and the ability to present evidence or explanations are essential to a meaningful inquiry.

7.4 Proportionate Security Requirements

The amount, duration and conditions of security should be connected to the preventive purpose and remain within the statutory limits. The Magistrate should consider the nature of the alleged risk, the relevant circumstances and the financial implications of the proposed conditions.

Security should not be fixed as a penalty. Its purpose is preventive, and the conditions should be designed to achieve that purpose without imposing an unnecessary or disproportionate burden.

7.5 Timely Completion of Proceedings

Preventive jurisdiction loses its legitimacy when proceedings are prolonged without sufficient reason. Magistrates should ensure that inquiries begin and progress in accordance with the statute. Interim measures, where lawfully imposed, should not become a substitute for completing the inquiry.

7.6 Access to Legal Assistance and Judicial Review

Persons facing security proceedings should be made aware of the nature of the allegations, the possible consequences and the legal avenues available to challenge an unlawful order. Where necessary, access to legal assistance can help ensure that procedural rights are effectively exercised. An order that exceeds statutory authority, ignores mandatory procedure or is based on irrelevant considerations may be challenged through the remedies available under law.

7.7 Training and Accountability

Executive Magistrates and police personnel should receive regular training on the scope of Sections 127–143, the distinction between preventive action and criminal punishment, and the constitutional implications of security proceedings. This practices for recording the reasons, identifying relevant material which may helps in the improve consistency. At the same time, standardisation must not turn into a mechanical checklist that replaces independent consideration of each case.

8. Critical Analysis

The statutory scheme under Sections 127–143 reflects an attempt to balance preventive action with procedural fairness. Sections 127–129 identify the categories of conduct that may justify proceedings, while the following provisions establish the process through which the allegations are examined and security may be ordered. The legal framework therefore does not authorise unrestricted preventive control; it creates powers that must be exercised subject to defined conditions.

The most significant safeguard is the inquiry into the truth of the information. Without a meaningful inquiry, the distinction between a preliminary suspicion and a legally justified security order may disappear. Sections 130 and 135 are particularly important in this respect because the written order identifies the case to be answered and the inquiry provides an opportunity to test the supporting information.

A further concern arises from the consequences of non-compliance. Although the proceeding is preventive rather than punitive in its primary purpose, imprisonment may follow in the circumstances authorised by the statute when security is not furnished. This consequence reinforces the need for proportionality in the amount of the bond, careful scrutiny of surety requirements and strict adherence to procedure.

The provisions concerning habitual offenders also demonstrate the need for precision. A history of allegations is not necessarily equivalent to a legally sufficient pattern of habitual conduct. The Magistrate must identify the relevant statutory category and examine the information supporting it. Otherwise, the provision may operate as a continuing penalty based on a person's past rather than as a lawful measure directed at a genuine future risk.

Similarly, Section 127 must be applied with sensitivity to constitutional freedoms. Preventive action concerning speech or publication requires careful identification of the conduct and the applicable legal ground. The authority must avoid confusing criticism, disagreement or unpopularity with unlawful dissemination.

9. CONCLUSION

Sections 127–143 of the Bharatiya Nagarik Suraksha Sanhita, 2023 establish a framework for requiring security for good behaviour from specified categories of persons and prescribe the

procedure governing such proceedings. Sections 127–129 provide the substantive grounds relating to dissemination of specified material, suspected persons concealing their presence with a view to committing a cognizable offence, and habitual offenders. Sections 130–143 regulate the preliminary order, service, inquiry, final security requirement, discharge, bond conditions and the consequences of failure to furnish security.

These provisions serve an important preventive purpose, but their operation may affect personal liberty, reputation, financial security and freedom of expression. The statutory authority must therefore be exercised on relevant material, through reasoned orders and in accordance with the prescribed inquiry. Previous accusations should not automatically establish habituality, vague suspicion should not replace the statutory requirements, and security conditions should not be disproportionate to the preventive objective.

The principles discussed in *Madhu Limaye v. Sub-Divisional Magistrate, Monghyr* and *R.H. Bhutani v. Mani J. Desai*, although arising under the former Code of Criminal Procedure, remain useful in understanding the nature and limits of preventive jurisdiction where the statutory provisions are materially corresponding. Their application to the BNSS must be made carefully, with proper reference to the current statutory text.

The ultimate measure of an effective preventive justice system is not the number of persons directed to furnish security, but the ability of the authorities to prevent genuine threats while protecting those against whom the statutory conditions are not established. Independent scrutiny, fair hearings, proportionate conditions, timely inquiries and effective judicial review are essential to achieving that balance. Preventive justice can retain its legitimacy only when public safety and individual liberty are treated as complementary constitutional responsibilities rather than competing interests.

10. References

[1] Government of India, *The Bharatiya Nagarik Suraksha Sanhita, 2023*, Act No. 46 of 2023, Chapter IX, Sections 127–143. Available through India Code: https://www.indiacode.nic.in/indiacode/handle/123456789/20099?view_type=browse

[2] *Madhu Limaye v. Sub-Divisional Magistrate, Monghyr*, AIR 1971 SC 2486; (1971) 2 SCR 711.

[3] *R.H. Bhutani v. Mani J. Desai*, (1969) 1 SCC 145.

[4] Government of India, *The Constitution of India*, Articles 19 and 21.

[5] Government of India, *The Code of Criminal Procedure, 1973*, Act No. 2 of 1974, provisions corresponding to the preventive proceedings considered in the cited decisions.

[6] Ministry of Home Affairs, Government of India, *New Criminal Laws*. Available at: https://www.mha.gov.in/en/commoncontent/new-criminal-laws