

**Format of Order u/s 136 BNSS (117 CrPC) when the opponent doesn't plead guilty and his guilt is proved after the inquiry**

**COURT OF HONORABLE EXECUTIVE OFFICER, \_\_\_\_\_**

MAG No. -----/20

Presiding Officer

Sri \_\_\_\_\_

Date:

Applicant: .....

Age.....Year.....Occupation.....

**against**

Opponent: Opponent: 1) .....

Age.....Year.....Occupation.....

2) .....

3) .....

4) .....

1) Date of Application and section:

2) Prayer in application:

3) Date of order under section 130 BNSS (111CrPC):

4) Date of commencement and closure of inquiry:

**Order**

**Section 136 BNSS of the Bharatiya Nagarik Suraksha Sanhita (117 CrPC)**

1) The petitioner has filed an application against the respondent under Section \_\_\_\_ of the Criminal Procedure Code, the summary of the facts of the application is as follows

\_\_\_\_\_  
\_\_\_\_\_

2) On examination of the facts in the said application, it was apparent that there were reasonable grounds to proceed further and hence cognizance was taken and the case was registered. As per the applicant's prayer, an order under section 130 BNSS (111CrPC) was passed asking the opponent why a bond for Rs \_\_\_\_\_ and for the period of \_\_\_\_ should be taken against him.

- 3) Issued summons under section 132 BNSS (113 CrPC) to the respondent and copy of order under section 130 BNSS (111 CrPC) on date \_ \_ \_ \_ \_ Opponent was present with his lawyer. The order under Section 130 BNSS (111 CrPC) was read out to the respondent and the respondent denied the allegation made by the petitioner against him and replied that the case should be inquired. Accordingly, inquiry under Section 135(1) BNSS {116(1) CrPC} was taken up.
- 4) In favor of the petitioner, examination of the prosecution witnesses PW1 to PW\_\_ has been done and exhibits P1 to P\_\_ has been marked. In favor of opponents, examination of defense witnesses DW1 to DW\_\_\_\_ has been done and exhibits A1 to A\_\_ has been marked.
- 5) Both parties arguments were heard.
- 6) The facts of the case, examination of witnesses have given rise to the following determinable points –
  - A) Do the allegations made by the petitioner including disturbance to public peace and harmony/conspiracy of making a criminal plan and absconding/ habitually indulging in criminal activities and causing threat to public peace, /endangering behavior exist of the opponent?
  - B) Is the applicant's application worthy of acceptance?
  - C) Is it necessary to take bond for the period from \_\_\_\_to\_\_\_\_ for surety amount of Rs\_\_\_\_\_?
  - D) What Order?

The answer to the above determinable points is as follows-

- A) Positively;
- B) Positively;
- C) Positively;
- D) As per the final order

**:Reasons:**

**1) Determinable factor 1 and 2:**

Since these two factors are interdependent, both are considered together. The applicant in his application----- (Summary of the application) has shown that the opponent by his conduct, in the upcoming function/election/protest/etc./ he is likely to commit acts of disturbance of public peace and harmony/Plans to commit some crime and then abscond/ Indulge in habitual criminal activity and endanger public peace and order. To confirm this, the applicant has submitted various documents as evidence like the Intelligence report, Report of beat PC, the cases registered against the opponent, the chargesheet filed., rowdy sheet details etc. These documents are taken as exhibits and have been marked as P1 to P\_\_\_\_. In the upcoming ceremony/ election/protest, there is all possibilities of the committing crime and disturbing public peace and harmony. Therefore, the petitioner's application and the evidence presented to support them apparently prove the facts that are necessary to obtain security to maintain

good behavior of the opponent to prevent the criminal acts that may occur by him. On the other hand, as the stand taken by the respondent to refute the allegations against him and also the documents and witnesses produced have failed to refute the facts proved by the petitioner and therefore the petition of the petitioner is worthy of acceptance. **Hence Point 1 and 2 are answered in the affirmative.**

- 2) By the facts of the petition and the evidences produced in favour of this, when analyzed whether it is required to take a bond for a maximum period of 1 year/ 3 years under section 126/127/128/129 BNSS {107/108/109/110 CrPC}, it was found that if we take the bond for a lesser period, the opponents activities and his criminal behaviour can't be effectively controlled. Hence if we take this for the maximum period, it is possible to maintain public interest and since the opponent will be restrained for a long period of time and obeying the conditions of the bond there is a possibility of improvement in his behavior with the attitude of obeying the law. The argument of the petitioner that by fixing the bond period for maximum time, repeated filing of the application and hearing the case can be avoided, also seems to be valid contentions.

To prove the financial condition of the respondent, petitioner has produced immovable property documents which are marked as P\_\_\_ to P\_\_\_. The Respondent doesn't disprove this. Also, Petitioner has given in his statement that the monthly and yearly income of the opponents is Rs..... The opponent on the other hand has not produced any documents to prove that his income/salary is only this much. Hence as confirmed by the petitioner, the opponent is financially sound and it is required to get a bond signed for Rs \_\_\_\_\_. As the bond amount is more, it will increase his responsibility of keeping himself away from his bad behavior and also it will increase the responsibility of the guarantor to ensure that the opponent will maintain good behaviors without indulging in any criminal activities. All these arguments of the petitioner are positively taken and **hence this point is also determined in a positive way.**

- 3) **As per final order**

### **ORDER**

Petitioner's application is allowed. Respondent is ordered to give bond for Rs\_\_\_ and for period \_\_\_\_\_ along with two sureties from eminent persons. During this period, Respondent is hereby ordered not to indulge in any such activities which disturb public peace and harmony/shouldn't do any cognizable offence and abscond/should not habitually indulge in any criminal activities/shouldn't endanger the public peace and order/should not become dangerous and exhibit only good behaviour.

Place: \_\_\_\_\_

Date: \_\_\_\_\_

Sd-  
Executive Magistrate

**LIST OF WITNESSES**

In favour of the applicant

- 1)  
PW1 \_\_\_\_\_
- 2)  
PW2 \_\_\_\_\_

In favour of  
the  
Respondent

- 1)  
DW1 \_\_\_\_\_
- 2)  
DW2 \_\_\_\_\_

**LIST OF RECORDS**

In favour of the petitioner

- 1) EP1 \_\_\_\_\_
- 2) EP2 \_\_\_\_\_

In favour of the Respondent

- 1) ED1 \_\_\_\_\_
- 2) ED2 \_\_\_\_\_

Place

Date

Signature

Executive Magistrate