

## Role of Electronic Records and Video Conferencing in Accelerating Summary Trials Under Bnss, 2023

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**Abstract:** The Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) marks a decisive shift in India's criminal procedure by mainstreaming audio-video electronic processes and digital records across investigation, inquiry, and trial. Read together with the Bharatiya Sakshya Adhiniyam, 2023 (BSA), which elevates many electronic records to the status of primary evidence, these reforms are poised to compress timelines and reduce friction in summary trials—the forum intended for swift resolution of less complex cases. This article critically examines how (i) e-summons and other electronic communications, (ii) examination of accused and witnesses via live link/video conferencing (VC), and (iii) presumptions and custody rules for digital evidence can shorten case cycles without diluting due-process. It traces the doctrinal roots from *State of Maharashtra v. Praful B. Desai* (2003) through the Supreme Court e-Committee's Model VC Rules (2020), before unpacking BNSS provisions on summary trials (chs. XXII; ss. 283–288), e-service of summons (ss. 63–71), recording by audio-video means in investigation and trial, and allied rules. Comparative vignettes from the UK, US, and Singapore show that speed gains from VC and e-evidence are real but contingent on consent, courtroom control, digital divide safeguards, and calibrated use (especially for vulnerable witnesses). The piece concludes with a workload-sensitive roadmap: standard operating procedures for e-summons, authenticated VC hubs at police stations/courts, bench-bar training, and privacy-security baselines. Properly implemented, BNSS + BSA can convert summary trials into a genuinely time-bound, digital-first track while keeping the fairness compass steady.

**Keywords:** BNSS 2023; Summary Trials; Video Conferencing; Electronic Records; Electronic Summons; Digital Evidence; Bharatiya Sakshya Adhiniyam; e-Courts; Due Process; Access to Justice

### INTRODUCTION

India's criminal courts carry chronic arrears; the idea of **summary trial** is to move appropriate cases through a short, standardized pipeline without compromising core rights. The BNSS,

enforced from **1<sup>st</sup> July 2024**, recasts that pipeline for a digital era: it frames **audio-video electronic** processes throughout the criminal chain, encourages **e-service** of process, and sits alongside the BSA's modernized evidentiary rules for electronic/digital proof. This alignment matters most in summary trials, where every procedural economy (service of summons, presence of parties and witnesses via VC, quick proof of electronic records) can shave weeks or months from timelines. The central hypothesis of this article is that **BNSS, BSA & VC** can materially accelerate summary trials provided three conditions hold:

- (1) **Authenticity and integrity** of electronic records are reliably established;
- (2) **Presence and participation** rights through VC meet constitutional fairness; and
- (3) There is **operational standardization** across police, prosecution, defence, and courts. We set the legal context, trace the historical and comparative pathways, and then articulate a practical reform checklist calibrated to Indian realities.

## **HISTORICAL BACKGROUND**

India's legal system began its digital turn with the **Information Technology Act, 2000** and its 2008 amendment, granting legal recognition to electronic records and signatures. In courts, the Supreme Court's e-Committee (2005 onward) created the e-Courts Mission Mode Project, culminating in **Model Rules for Video Conferencing for Courts (2020)** that many High Courts adopted during the pandemic and then retained in customized forms. Even before BNSS, the Supreme Court in *Praful B. Desai (2003)* interpreted "presence" under then-CrPC §273 to include **video conferencing**, legitimizing remote testimony. These strands converge in **BNSS (2023)** and **BSA (2023)**: BNSS structurally authorizes **audio-video electronic** modes for several steps of inquiry and trial, while BSA clarifies **presumptions, primary-evidence status, and proper custody** of electronic/digital records. In parallel, **e-summons** and **e-warrants** rules are emerging at the state level (e.g., Delhi rules under BNSS), institutionalizing electronic communication for service, with image/digital seal requirements and audit trails. Together, these elements form the backbone for a digital-first summary-trial track. (India Code)

## **BNSS, BSA and the Summary-Trial Pipeline: Where Speed Meets Safeguards**

### **Scope of Summary trials under BNSS,2023**

Chapter XXII of BNSS (ss. 283–288) sets the framework: Magistrates may try specified less serious offences summarily, maintain concise records, and pronounce short judgments, with a built-in ability to **convert** to a regular trial if complexity warrants. This design presumes quick service, attendance, and proof areas where **e-communication and VC** can deliver disproportionate gains.

### **Electronic service of summons and attendance**

BNSS provisions on **service of summons** (ss. 63–71) enable e-service under prescribed safeguards (e.g., court seal/digital signature; state rules), and some High Courts/States are now issuing **BNSS Service of Summons Rules** to standardize WhatsApp/e-mail service and digital attestation logs. The Supreme Court has also clarified boundaries: **police notices** under certain investigative provisions cannot be presumed e-servable unless legislation/rules expressly allow it guarding against overreach while keeping judicial e-service intact. For summary trials, reliable e-service shrinks the latency between filing and first appearance, reduces return-of-summons failures, and enables “**same-day**” **VC attendance** for counsel and witnesses when appropriate.

### **Video conferencing for “presence” and examination**

BNSS uses the **audio-video electronic** architecture in multiple stages, building on *Praful B. Desai* and on the **Model VC Rules (2020)** of the e-Committee. Courts may examine witnesses/accused via **live link** at notified locations; public servant depositions and confession/statement recording can be supported by audio-video means, with presence of counsel and certified logs. For summary trials, this can convert adjournment-prone “no-show” days into productive sittings witnesses join from police stations, district VC rooms, or verified endpoints. The normative anchor remains **fair trial**: visibility, contemporaneous participation, and the court’s ability to control the witness environment (no coaching; identity checks; open justice where required).

## **ELECTRONIC/DIGITAL RECORDS AS EVIDENCE UNDER THE BSA,2023**

The **Bharatiya Sakshya Adhiniyam, 2023** treats many electronic records as **primary evidence**, prescribes **proper custody** presumptions, and refines the courts’ approach to

official e-records. This relieves parties from duplicative “*original-secondary*” debates and makes **hash-based integrity and chain-of-custody** protocols central. In summary trials where disputes often hinge on CCTV clips, mobile messages, payment screenshots, or body-cam footage clear presumptions and admissibility pathways reduce argument time and satellite litigation, enabling quicker judgments with reasoned brevity. (Ministry of Home Affairs)

### **Upstream capture: audio-video recording in investigation**

BNSS,2023 incorporates audio-video use **at the investigation stage** (e.g., search-and-seizure recording; statement/confession safeguards in the presence of counsel). When the upstream capture is standardized and authenticated, downstream admissibility in summary trials improves; depositions can be shorter because foundational integrity is clearer. This also mitigates witness intimidation risks by reducing unnecessary in-person travel for routine testimony. (jhpolicе.gov.in)

## **INTERNATIONAL PERSPECTIVES**

### **United Kingdom**

The UK has long operationalized “**live links**” under the **Criminal Justice Act 2003** (amended in 2022), with detailed **judicial guidance** on when remote participation is in the interests of justice across preliminary hearings, trials (including summary trials), and sentencing. The Crown Prosecution Service sets practical criteria for live links, while guidance such as **Achieving Best Evidence (2023)** addresses video-recorded testimony for vulnerable witnesses. Post-pandemic, debates continue about **conviction rates** and **witness experience** with pre-recorded or remote evidence highlighting that the **context and case-type** matter for outcomes. For India, the UK shows the importance of **structured discretion** and **granular guidance** rather than a one-size-fits-all mandate.

### **United States**

US federal criminal procedure presumes physical presence (**Rule 43**) but allows **video teleconferencing** for certain proceedings with **defendant’s written consent** and court permission; during COVID-19, the **CARES Act** temporarily expanded remote criminal proceedings in defined classes. Post-emergency analyses counsel caution for trials and plea colloquies while recognizing clear efficiency for initial appearances and status conferences. The comparative lesson is that **consent, record of advisement, and voluntariness** are crucial

when substituting VC for in-person presence useful for Indian summary trials where accused may consent to VC to avoid travel and lost wages.

## **Singapore**

Singapore's courts normalized **Zoom** hearings via detailed **practice directions** and public guides, treating online hearings with the same **decorum and discipline** as physical courts. The jurisdiction shows how **clear, user-facing documentation**, uniform toolsets, and **court-controlled VC endpoints** create predictability that, in turn, accelerates short-format matters. For India, this argues for nationwide templates for **virtual cause-lists, e-token systems, and verified joining protocols** for summary matters.

## **ACCELERATING SUMMARY TRIALS: A PRACTICAL WORKFLOW UNDER BNSS, 2023**

- **e-Summons & Scheduling:** Court issues summons through approved channels (court e-mail/WhatsApp gateway) with **digital seal/signature**; service logs are auto-captured into the case file. Contested service is resolved from metadata and delivery receipts, not field affidavits. Where state rules exist (e.g., Delhi), clerks follow standardized checklists.
- **First Appearance by VC:** Accused and counsel may seek **VC appearance** from a notified facility (police station VC room, legal aid center, district e-court kiosk), ensuring identity checks and private counsel consultation rooms. This minimizes adjournments due to distance or illness. **Consent and waiver** are recorded where required.
- **Evidence Intake:** Electronic items (CCTV, phone extractions, e-wallet receipts) are uploaded with **hash values**, source device details, and **proper-custody** statements per BSA; where the record is an official e-record, statutory presumptions cut down proof time. Objections are narrowed to authenticity/integrity rather than formal "originality" challenges. (Ministry of Home Affairs)
- **Witness Examination via Live Link:** Routine or official witnesses testify from verified VC endpoints with screen-share of exhibits; the court controls the witness environment (no prompts; 360° room scan where needed). Public servant depositions

can be slotted in **clustered VC sessions**, saving court travel days. (e-Committee Supreme Court of India)

- **Reasoned Short Judgment:** With records already digital and transcripts auto-generated, magistrates can issue **concise judgments** the same day or shortly thereafter, consistent with BNSS Chapter XXII expectations.

## **RISKS AND SAFEGUARDS**

- **Digital Divide & Access:** Parties without devices/bandwidth must have access to **public VC kiosks** (court complexes, legal aid centers).
- **Privacy & Data Security:** VC platforms and storage must meet **encryption, access-control, and retention** norms; recordings should be watermarked and access-logged.
- **Open Justice:** Where hearings are remote, the court should preserve **public access** (limited live stream or controlled viewing rooms) except where law mandates closure.
- **Witness Management:** Courts must prevent **coaching**—identity verification, camera sweeps, and penalties for interference.
- **Consent & Coercion:** For accused appearances and plea discussions, courts should record **informed consent** and ensure private counsel consultations, echoing US practice. (Legal Information Institute)

## **CONCLUSION**

BNSS and BSA do not merely digitize paperwork they **re-engineer** the mechanics of summary trials. E-summons condense the “service-to-attendance” gap; VC turns adjournment-days into action-days; and BSA’s electronic-record presumptions streamline proof. International experience cautions that **speed must ride with fairness**. The right architecture is **court-controlled VC**, clear VC rules adopted by High Courts, secure e-file/e-evidence protocols, and state-level rules (like Delhi’s) to normalize electronic service. If implemented with training and careful calibration, India can transform summary trials into a fast, credible, and citizen-friendly track that meaningfully reduces backlog while respecting rights.

## FUTURE SCOPE

1. **National VC & e-Summons SOPs:** A harmonized **All-India SOP** tying BNSS sections to standard checklists, metadata to be captured, and fallback steps when e-service fails.
2. **Accredited VC Endpoints:** Notification of **secure VC rooms** police stations, jails, court kiosks meeting camera/lighting, identity-proofing, and recording specs.
3. **Bench-Bar Training:** Periodic modules on **digital evidence integrity**, BSA presumptions, and VC courtroom management (mute controls, environment checks).
4. **AI-Assisted Transcription:** Court-approved offline transcription tools with **hash-locked** transcripts appended to e-records, cutting dictation time for summary judgments.
5. **Empirical Dashboards:** e-Courts Phase-III style dashboards to track **cycle time** for summary trials with/without VC and e-service; publish district-wise benchmarks.
6. **Victim/Witness Experience Studies:** Following UK debates, India should commission studies on **conviction rates, witness stress, and accuracy** in VC vs in-person settings to calibrate policy.

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