



Jus Corpus Law Journal

Open Access Law Journal – Copyright © 2026 – ISSN 2582-7820

Editor-in-Chief – Prof. (Dr.) Rhishikesh Dave; Publisher – Ayush Pandey

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Statutory Identity of Snatching in Section 304 of Bharatiya Nyaya Sanhita 2023

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Received 18 April 2026; Accepted 22 May 2026; Published 26 May 2026

This paper is intended to critically evaluate the label of ‘snatching’ under Section 304 of the Bharatiya Nyaya Sanhita, 2023, which has replaced the Indian Penal Code and incorporated snatching as an independent offence of theft at the national level. The paper begins with an overview of how chain snatching, snatching of mobile phones, and pulling of handbags were spread across the law of theft, assault with an intent to commit theft, and robbery under the IPC, which led to confusion in the labelling of offences and the ‘void’ in law between theft and robbery. Against the above background, the paper examines the legislative history of Section 304 BNS along the axes of state amendments in the legislation in the States of Punjab, Haryana, and Gujarat; the linguistic and doctrinal structure of the provision in relation to the related crimes of theft and robbery; the procedural and evidence-related aspects; and the relationship with the concepts of joint liability, homicide provisions, and the constitutional provisions of Articles 14 and 21. It is asserted that Section 304 is, at the same time, a rationalisation of the gradation of property-related offences and the legislative response to sociological concerns about the rising incidence of street snatching, but at the same time, there are some concerns about non-bailability, the absence of the carve-out of the offence of ‘petty snatching,’ and the risk of over-criminalisation in urban environments.

Keywords: BNS, section 304, void, snatching.

INTRODUCTION

The Bharatiya Nyaya Sanhita, 2023 (BNS) replaces the Indian Penal Code, 1860, to explicitly modernise Indian criminal law and respond to the crime trends of the day, such as mob lynching, cyber-crimes and urban street violence.¹ Among such sweeping changes, it is structurally and symbolically significant to introduce the idea of snatching as a separate crime, which is defined by Section 304.²

Snatching has been codified, at the national level, as a distinct, theft-based offence, not as a matter in the law to be arbitrarily decided by a theft or robbery provision. The IPC era case law demonstrates that the cases of: chain snatching, mobile phone grabbing, or handbag pulling were all prosecuted differently as: theft in the Sections 379-380 IPC,³ assault to commit theft in Section 356 of the IPC,⁴ or robbery and aggravated robbery in Sections 392 and 397 of the IPC,⁵ in cases where it was possible to prove that there was some overt violence or the weapon was used.⁶

In *Suresh v State of Gujarat*, the accused snatched a gold chain away, which was carried by a woman in the train. The court affirmed the convictions on the grounds of Sections 392 and 379 IPC,⁷ since the pulling of the neck chain was sudden, and this in itself constituted an act of robbery because there was an inherent use of force and fear.

In *Abdul Gafoor Goga v State*, the use of a pistol during a house intrusion while a companion snatched a chain led to conviction under Sections 392/34 and 397 IPC,⁸ firmly locating that pattern at the robbery end of the spectrum.⁹

¹ Dr Rahul Kailas Bharati, 'The New Criminal Law Paradigm in India and Its Impact on Cybercrime Adjudication' (2025) SSRN <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5378219> accessed 15 April 2026

² Bharatiya Nyaya Sanhita 2023, s 304

³ Indian Penal Code 1860, ss 379-380

⁴ *Ibid* s 356

⁵ *Ibid* ss 392, 397

⁶ H M Chaithanaya Swamy, 'Chain snatchers will now get 7 years under sec 397' (*Bangalore Mirror*, 24 June 2016) <<https://bangaloremirror.indiatimes.com/bangalore/others/chain-snatchers-will-now-get-7-years-under-sec-397/articleshow/52890139.cms>> accessed 15 April 2026

⁷ Indian Penal Code 1860, ss 392, 397

⁸ Indian Penal Code 1860, ss 392, 397

⁹ *Abdul Gafoor Goga v The State* (1984) 8 DRJ 34

Snatching has been frequently discussed as having fallen in a void between theft and robbery with reference to the IPC.¹⁰ However, with such decisions, it was found to be within the capability of courts to calibrate liability through the use of existing provisions; the only challenge was the inconsistency in labelling and the lack of some middle ground between robbery and sudden, bodily proximate takings.¹¹ Section 304 BNS should thus be interpreted to mean a doctrinal rationalisation as well as a legislative reaction to sociological anxieties over increasing snatching on the streets.

This project focuses on the statutory definition of snatching under Section 304 BNS in four dimensions: (i) its legislative history, with State amendments, (ii) the linguistic and doctrinal structure of Section 304 and its connection to theft and robbery, (iii) the procedural and evidentiary dimension of snatching and (iv) its engagement with joint liability and homicide provisions and proportionality of its punishment. The analysis presupposes constitutional issues governed by Articles 14 and 21 and is based on the synthesis of various sources.¹²

THEORETICAL BACKGROUND: THEFT, ROBBERY AND SNATCHING ACCORDING TO PRE BNS LAW

Theft and Its Doctrinal Building Blocks: Theft is the base property crime in both the BNS and the IPC. BNS Section 303(1) is in large part a copy of Section 378 IPC:¹³ “A person who, without the consent of a person, intends to steal any movable property out of his or her possession, moves that property, thereby commits the offence of theft.”¹⁴ The conceptualisations of theft as per the common law under Section 378 IPC focused on the five elements of the offence, which were: dishonest intention, movable property, possession by another person other than the taker, absence of permission, and transfer of the property.¹⁵ These components still form the interpretation of the Section 303 BNS.

The BPR&D ready reckoner on offences against property emphasises that:

¹⁰ ‘Section 304 BNS: Snatching Definition, Punishment & Legal Guide 2023’ (*Testbook*) <<https://testbook.com/judiciary-notes/section-304-bns>> accessed 15 April 2026

¹¹ Rithvik Kumar et al., ‘Is Snatching a Crime Without Penalty?’ (2023) 5(4) *Indian Journal of Law and Legal Research* <https://www.academia.edu/112658286/Is_Snatching_A_Crime_Without_Penalty> accessed 15 April 2026

¹² *Bharatiya Nyaya Sanhita* 2023, s 304

¹³ *Indian Penal Code* 1860, s 378

¹⁴ *Bharatiya Nyaya Sanhita*, 2023, s 303(1)

¹⁵ *K N Mehra v State of Rajasthan* AIR 1957 SC 369

(i) 'normal theft' comes within the maximum penalty of 3 years imprisonment plus fine under Section 303(2) BNS (equivalent to Section 379 IPC)¹⁶

(ii) a proviso now requires community service in cases of petty thefts (value less than Rupees 5,000) by first-time offenders, on restitution.¹⁷ This is an important innovation in the subsequent discourse of the property value asymmetry between snatching and theft.

Robbery and the Binary Problem: Robbery, which is now included in Section 309 BNS, retains the traditional form of the IPC: "Theft becomes robbery if, in committing or attempting to commit theft, or in carrying away stolen property, the offender voluntarily causes or attempts to cause death, hurt or wrongful restraint, or fear of instant death, hurt or wrongful restraint."¹⁸ Within this paradigm, cases of chain snatching and mobile snatching were regarded as robbery where the prosecution could demonstrate either actual hurt or an intentional design to frighten the victim.¹⁹ But real-world snatching was usually not very well absorbed within the theft/robbery dichotomy. Most cases involved a sharp pull on a chain or a bag, which led to loss of property and shock but did not show any evident threat, weaponry, or intention to harm a person. In some cases, courts would only convict for theft, though there was major harm to the victim; however, in other courts, the robbery doctrine would be the basis of the conviction.²⁰

Judicial and Preventive-Detention Practice on Chain-Snatching: In addition to the categorisation based on doctrine, there was also a state reaction to chain snatching in the form of preventive detention and tough baili positions. In *Nenavath Bujji v State of Telangana*, the Supreme Court considered the detention orders under the Telangana Prevention of Dangerous Activities Act, which was based on a series of chain snatching FIRs filed under Sections 356, 379 and 392 IPC.²¹

¹⁶ Indian Penal Code 1860, s 378

¹⁷ Bharatiya Nyaya Sanhita, 2023, s 303(2)

¹⁸ *Ibid* s 309

¹⁹ *Vicky @ Vivek v State of Madhya Pradesh* 2025:MPHC-IND:32712

²⁰ *Smt Gian Kaur v State of Punjab* (1996) 2 SCC 648

²¹ The Telangana Prevention of Dangerous Activities of Bootleggers, Dacoits, Drug-Offenders, Goondas, Immoral Traffic Offenders, Land-Grabbers, Spurious Seed Offenders, Insecticide Offenders, Fertiliser Offenders, Food Adulteration Offenders, Fake Document Offenders, Scheduled Commodities Offenders, Forest Offenders, Gaming Offenders, Sexual Offenders, Explosive Substances offenders, Arms Offenders, Cyber Crime Offenders and White Collar or Financial Offenders Act 1986

The Court finally dismissed the detention without having material to demonstrate a threat to ‘public order’ rather than ordinary ‘law and order’, but did note that chain snatching had frequently been treated administratively as a menace, leading to extraordinary action.²² At the bail stage, some High Courts had characterised chain snatching defendants as habitual offenders and denied them bail on that basis alone, without taking much care to determine whether particular cases qualifying as robbery were better understood as aggravated theft.²³ All these irregularities and inconsistencies in the law, lead the stage for legislative intervention.

LEGISLATIVE EVOLUTION: FROM STATE AMENDMENTS TO SECTION 304 BNS

Punjab, Haryana and Gujarat’s Early Amendments: Early adopters of codification of snatching as an independent IPC offence were Punjab and Haryana. The Indian Penal Code (Punjab Amendment) Act introduced Sections 379A and 379B IPC. Section 379A defines snatching in the modern meaning of Section 304 BNS:²⁴ “Theft committed when the offender suddenly or quickly or forcibly seizes or secures or grabs or takes away” any movable property from any person or from his possession and attempts to escape.²⁵

Section 379B(1) provided a strict imprisonment term of not less than five but extending to ten years and a fine of at least Rupees 10,000.²⁶ Section 379B(2) provided a minimum of ten years where an injury or fear of injury was caused to aid the crime or escape.²⁷

In 2014, Haryana’s amendment used the same language of the definition, but the sentencing structure was more severe. Snatching was made a punishable offence by Section 379A IPC (Haryana) with a sentence of rigorous imprisonment of at least five but up to ten years and a fine of at least Rupees 25,000. Wherever harm, wrongful detention or fear of harm were present, the punishment was increased to a minimum of ten years, extending to fourteen in Section 379B. Both crimes were cognizable, non-bailable and sessions triable.²⁸

²² *Nenavath Bujji Etc v State of Telangana & Ors* (2024) SCC OnLine SC 367

²³ ‘Chain snatching: HC denies bail,says it’s very serious offence’ *The Indian Express* (25 November 2009) <<https://indianexpress.com/article/cities/ahmedabad/chain-snatching-hc-denies-bail-says-it-s-v/>> accessed 15 April 2026

²⁴ The Indian Penal Code (Punjab Amendment) Act 2010

²⁵ The Indian Penal Code 1860, s 379A

²⁶ The Indian Penal Code 1860, s 379B(1)

²⁷ The Indian Penal Code 1860, s 379B(2)

²⁸ The Indian Penal Code (Haryana Amendment) Act 2014

Similar amendments were proposed and passed by Gujarat, which added up to ten years imprisonment as a chain-snatching punishment to the general three-year maximum punishment under Section 379 IPC, the express rationale being that the general three-year punishment was insufficient to deter the vice. In combination, these state-level experiments saw snatching as a high gravity crime, which was placed between robbery and simple theft in terms of punishment and procedure.²⁹

Central Codification in Section 304 BNS and Divergence from State Models: The definition used in Section 304 BNS is similar to that of Punjab and Haryana: “Theft is ‘snatching’ if, to commit theft, the offender suddenly or quickly or forcibly seizes or secures or grabs or takes away from any person or from his possession any movable property.”³⁰

Section 304(2) then states that every person who commits snatching: “Shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine”.³¹

The BPR&D ready reckoner on snatching makes it clear that the offence is cognizable, non-bailable, non-compoundable and may be tried by any Magistrate and summarily tried under Section 283(2) BNSS.³² So, even though Parliament took the State level definition, it sharply diverged in the State models of punishment: no minimum sentences are provided in statute; maximum is three years (as with general theft); and trial is in the magisterial court, not the Court of Session. Meanwhile, non-bailable and non-compoundable status puts snatching in a more serious procedural category than a lot of routine theft.

Proportionality of Punishment: Between Theft and Robbery: The resulting structure forms a unique proportionality profile. In the same property chapter, horizontally, both Section 303(2) (theft) and Section 304(2) (snatching) have the same maximum of three years imprisonment and fine, indicating that snatching is not a serious aggravation.

Upwards vertically, non-bailability and non-compoundability drag upwards Section 304, nearer to robbery and serious bodily offences, in process. BNS seems to be lenient in sentencing and strict in procedure as compared to the Punjab and Haryana models. Articles

²⁹ The Criminal Law (Gujarat Amendment) Act 2018

³⁰ Bharatiya Nyaya Sanhita 2023, s 304

³¹ Bharatiya Nyaya Sanhita 2023, s 304(2)

³² Bharatiya Nagarik Suraksha Sanhita 2023, s 283(2)

14 and 21, the primary issue is that the customary denial of bail in non-injury and low-value snatching might result in undertrial custody that would counter or surpass the ultimate sentences, making the calibration that Parliament was trying to achieve with a three-year maximum meaningless.³³ Such combinations of low maxima and inflexible procedural harshness have generally been cautioned by academic commentary on BNS sentencing to transfer discretionary power to the prosecutorial and bail phases and exacerbate disparities.³⁴

LINGUISTIC AND DOCTRINAL ANALYSIS OF 304 BNS

Maitlandian Style Deverbing of Verbs and Adverbs: Maitland style interpretation of Section 304(1) identifies every adverb and the verb as a doctrinal marker that aids in differentiating between snatching and theft, as well as robbery. The manner of the taking is qualified by the adverbs ‘suddenly, quickly, forcibly’³⁵.

- Suddenly is centred around the concept of temporal surprise as viewed through the lens of the victim: The act is something that suddenly enters into normal activity and does not provide any realistic possibility to predict or prevent it.
- Quickly emphasising speed, not necessarily surprise, the criminal exploits a momentary exposure of property (such as an unlocked phone in hand) and completes the crime in a momentary flash.
- Forcibly presents a quantum of physical force, which acts on the property or body, which passes through the natural resistance (chains on the neck, bags on the shoulder, tight hold of the phone).³⁶

The mechanics of appropriation are characterised by the following verbs: ‘seizes, secures, grabs, takes away’:

- Seize is a phrase that implies a fast, aggressive action of seizing.

³³ Constitution of India 1950, art 21

³⁴ Rahul Katara, ‘The Impact of Bharatiya Nyaya Sanhita (BNS), 2023, on Sentencing Disparities in India’ (2025) 14(12) International Journal of Humanities and Social Science Invention <[http://www.ijhssi.org/papers/vol14\(12\)/14124248.pdf](http://www.ijhssi.org/papers/vol14(12)/14124248.pdf)> accessed 15 April 2026

³⁵ Bharatiya Nyaya Sanhita 2023, s 304(1)

³⁶ ‘Snatching Under Bharatiya Nyaya Sanhita, 2023 (BNS)’ (*Drishti Judiciary*, 23 July 2025)

<<https://www.drishtijudiciary.com/to-the-point/bharatiya-nyaya-sanhita-&-indian-penal-code/snatching-under-bharatiya-nyaya-sanhita-2023-bns>> accessed 15 April 2026

- Securing implies gaining strong possession of the property, more than temporary contact.
- Grabs are rough or sudden physical movements that tend to be jerky or tug-of-war.
- Takes away adds movement out of the person or immediate possession of the victim.³⁷

Combined, these terms mean that snatching is not any theft of the person, but theft effected by a bodily proximate, abrupt or forceful action with which the victim feels an immediate intrusion of personal security.³⁸ This offers a textual reason as to why Section 304 should be restricted to paradigmatic chain snatching, phone grabbing and such like behaviour and not to devour all the fast thefts in busy places.

The Moment of Awareness Theory: Snatching, Theft, Robbery: Based on this linguistic basis, the novel moment of awareness theory provides a systematic approach in distinguishing theft, snatching and robbery and can be incorporated in the legislature:³⁹

In Theft (e.g. pick pocketing or stealing bags), the victim would only realise that he/she has been robbed at a later stage. The consciousness is ex post and cognitive in nature.⁴⁰

Awareness in snatching is contemporary and experience-based. The victim experiences the jerk of the chain, the wrenching of the bag, the pulling away of the phone; shock and physical feeling are there to accompany the deprivation, although no direct threats may have been made.⁴¹

In Robbery, the awareness is usually pre-event. The victim is put in the dread of immediate death, injury or wrongful detention, by the presentation of a knife, gun or express threat, and gives up possession under that threat.⁴²

³⁷ Advocate Chikirsha Mohanty, 'BNS Section 304 - Bharatiya Nyaya Sanhita' (*Law Rato*)

<<https://lawrato.com/bharatiya-nyaya-sanhita/bns-section-304#:~:text=The%20punishment%20for%20snatching%20includes%20imprisonment%20for%20up%20to%20three,for%203%20years%20and%20fine>> accessed 16 April 2026

³⁸ Advocate Dr. Abhishek Gandhi, 'Chain Snatching in India: Legal Provisions, Challenges, and Preventive Measures' (*Dr Abhishek Gandhi*, 05 July 2025) <<https://advocategandhi.com/chain-snatching-in-india-legal-provisions-challenges-and-preventive-measures>> accessed 16 April 2026

³⁹ *Regina v Miller* [1983] 2 AC 161

⁴⁰ 'Larceny-Theft' (*Justia*) <<https://www.justia.com/criminal/docs/uniform-crime-reporting-handbook/larceny-theft/>> accessed 16 April 2026

⁴¹ Florida Statutes § 812.131

⁴² 'ROBBERY, BURGLARY AND OTHER OFFENCES IN THE THEFT ACTS' (*Law Explores*, 07 October 2015) <<https://lawexplores.com/robbery-burglary-and-other-offences-in-the-theft-acts/>> accessed 16 April 2026

This triple is not substitutive of statutory elements, but it clears their conceptual landscape. *Suresh v State of Gujarat* considered the chain snatching incident in a busy train robbery, reading the shock of being suddenly pulled by the neck chains as the fear of immediate injury. Section 304 permits a more specific method: where the evidence consists of no design to terrorise other than the bodily jolt, snatching is a better form of capturing the wrongdoer. Robbery should still be the main charge where the accused intentionally employs threats or harms the victim to get them to comply.

An Article 14 Challenge and Property Value Asymmetry: Section 303(2) BNS provides a community service regime of petty theft: in cases where the value of the property is less than Rupees 5,000, the offender is a first-time convict, and restitution is paid, the court may or shall impose community service rather than imprisonment or fine.⁴³ This has generally been hailed as a step towards decarceration and restorative justice in low-harm property crimes. Section 304 does not have a comparable carve-out. A first-time offender who steals a Rupees 3,000 phone or an insignificant value chain out of the possession of another is, in theory, wholly liable to up to three years of imprisonment and fine, and has no statutory right to community service even by way of restitution.

The State may consider the bodily intrusion and increased danger of harm to warrant this asymmetry. The difference between stealthy theft and bodily proximate snatching is clearly an intelligible differentia with rational nexus to the public order and victim protection objectives on a traditional reasonable classification analysis. But when proportionality and substantive equality principles are considered, and particularly after *Maneka Gandhi* and *Puttaswamy*, the lack of any gradation in snatching as such becomes an issue.⁴⁴

It is hard to explain why petty snatching without injury should be treated the same way as the higher value and organised snatching, simply because both involve a jerk to the body. A more closely focused expansion of community service alternatives to first-time, non-injury snatching at a reduced monetary level would better balance the Section 304 with Article 14 without watering down its expressive denunciation of the unique injury.⁴⁵

⁴³ *Bharatiya Nyaya Sanhita* 2023, s 303(2)

⁴⁴ *Maneka Gandhi v Union of India* AIR 1978 SC 597

⁴⁵ *Constitution of India* 1950, art 14

PROCEDURAL AND EVIDENTIARY DIMENSIONS: BNSS AND BSA

BNSS Bail Regime, First-time Offenders and Undertrials: The BNSS largely reenacts the CrPC structure on bail for non-bailable offences in Section 480, while also introducing a structured undertrial-release regime in Section 479. Section 480 directs Magistrates to consider bail in non-bailable cases not punishable with death or life imprisonment, subject to constraints for serious repeat offenders and certain categories of crime. General guidelines and academic commentary emphasise that the nature of the offence, severity of punishment and risk of absconding are relevant but not alone decisive; individual circumstances and presumption of innocence must also weigh heavily.⁴⁶

Section 479 BNSS, reflecting Supreme Court jurisprudence in *Satender Kumar Antil*, creates a graduated system under which undertrials are to be released once they have undergone specified fractions of the maximum sentence in pre-trial detention, with a special first-time-offender rule at the one-third mark. For Section 304 BNS, this means that a first-time snatching accused who has spent approximately one year in custody must ordinarily be released on bond, even if the trial remains pending.⁴⁷

The BPR&D snatching ready-reckoner integrates these provisions, noting that snatching is cognizable, non-bailable and non-compoundable but triable by any Magistrate, and that summary trial under Section 283(2) BNSS is available in appropriate cases. This combination offers both risk and protection: non-bailability may encourage aggressive remand practices in the name of deterrence, but structured undertrial release and summary-trial options can, if properly applied, prevent disproportionate pre-trial incarceration in low-harm cases.

Digital Evidence Under BSA: Proving ‘Suddenness’ and Modus Operandi: The *Bharatiya Sakshya Adhinyam, 2023* significantly updates the admissibility regime for electronic records, including CCTV, mobile-phone data and other digital traces. Articles and practice notes on BSA emphasise two points relevant to snatching:

⁴⁶ *Bharatiya Nagarik Suraksha Sanhita 2023*, ss 479, 480

⁴⁷ *Satender Kumar Antil v Central Bureau of Investigation & Anr* (2022) 10 SCC 51

Properly certified CCTV and video footage can directly record the manner of the taking: whether the act was sudden, quick or forcible, whether the property was attached to the person, and whether the victim was dragged or pushed.⁴⁸

Mobile phone location and call detail records, once authenticated, can demonstrate patterns: for example, repeated presence of the accused's device along known snatching 'corridors' or rapid post-incident movement of the stolen phone consistent with flight.

In a Kerala High Court decision reported in 2025, the court stressed that recovery of stolen property alone cannot sustain a conviction for chain-snatching under theft provisions without reliable identification; proper evidentiary linkage is essential. Under the BNS-BSA framework, courts can and should demand digital corroboration wherever feasible before branding an incident as snatching rather than theft simpliciter.

This evidentiary rigour serves a double function. It helps satisfy the specific 'suddenly/quickly/forcibly' and 'from the person or possession' elements of Section 304 where they genuinely exist, and it guards against over-extension of snatching charges in marginal cases where the evidence only supports stealthy removal of property with later discovery.

JOINT LIABILITY, PILLION RIDERS AND ESCALATION TO HOMICIDE

BNS and Pillion Rider Liability under Section 3(5): Section 3 (5) BNS maintains the material of Section 34 IPC:⁴⁹ "Where a criminal act is performed by multiple persons in pursuance of a shared intention, every one of them is considered to be guilty as though he had done the act by himself."⁵⁰

This is the principle of motorcycle-based snatching, which nearly always involves two actors, i.e., the driver and pillion rider who performs the grab. In *Ravi alias Ravi Kumar v State*, the court affirmed convictions under the 397/34 IPC in which the pillion rider laid a knife on the stomach of the complainant and ordered him to give him a thali chain. The driver then

⁴⁸ 'Adequate steps being taken to counter snatching incidents in city, finds Delhi High Court' *Hindustan Times* (18 February 2020) <<https://www.hindustantimes.com/cities/adequate-steps-being-taken-to-counter-snatching-incidents-in-city-finds-delhi-high-court/story-IATOCgNesWkGoBjNSeapHO.html>> accessed 16 April 2026

⁴⁹ Indian Penal Code 1860, s 34

⁵⁰ Bharatiya Nyaya Sanhita 2023, s 3(5)

positioned him and accelerated the motorcycle to facilitate escape. They were both considered co-principals in the robbery.⁵¹

Similarly, in *Mohd. Riyaz v State*, in a case of two youths on a motorcycle snatching a gold chain from behind, the Delhi High Court was forced to evaluate facts with an identification doubt, ultimately influencing the case, yet the court identified pillion rider snatching to be a paradigmatic common intention scenario.⁵²

The identical patterns will now habitually fall within Section 304 (or, in the event of weapons and express threats being employed, within Section 309 and aggravated robbery), and the provision of Section 3(5) will act to guarantee that the drivers are not regarded as accessories.⁵³

Escalation to Sections 103 and 105 BNS: The Escalation Clause in Practice: There is no direct statutory provision of an escalation clause in BNS, which would turn snatching into a death case. Rather, there are common principles of concurrence of offences and homicide provisions. Successor of Section 302 IPC, Section 103 BNS, stipulates punishment of murder, death or life imprisonment and fine. Section 105 BNS (which replaces Section 304 IPC) sentences culpable homicide that does not constitute murder, by life imprisonment or a term of not less than five years (in the more culpable arm) or a term of up to ten years (in the knowledge-based arm), and by fine.⁵⁴

In snatching cases, involving the victim being pulled off a moving vehicle, dragged along the road or otherwise placed in an evident danger of fatal harm, the court has to decide whether the mental element satisfies the tests of Section 103 or 105. Section 103 BNS is suitable where a clear intention to kill, or rather cause such physical harm that would be deemed sufficient to cause death, would be established. Where the offender has a likelihood of knowing that his actions will result in death, but lacks the heightened intention, e.g., snatching off a moving scooter in a reckless fashion that a fatal fall will inevitably result, but not purposely, the

⁵¹ *Ravi @ Ravi Kumar v State* (2002) Crim App No 922/1997

⁵² *Mohd. Riyaz v State (Govt of NCT of Delhi)* (2018) Crim Appeal No 1091/2017

⁵³ Bharatiya Nyaya Sanhita 2023, s 309

⁵⁴ Bharatiya Nyaya Sanhita 2023, s 103

knowledge-based limb of Section 105 should generally be used, with all knowing participants jointly liable.⁵⁵

The study of comparative jurisprudence is didactic. In *Stokeling v United States*, the U.S. Supreme Court ruled that robbery, which involves the use of force to overcome the resistance of the victim (including snatching of a necklace), should be considered a violent felony under the Armed Career Criminal Act.⁵⁶

This highlights the fact that even a seemingly minor force in snatching can be redefined as serious violence after its pragmatic dangers are realised. The Indian courts, operating within the framework of homicide in BNS, can also accurately categorise the lethal snatching results under Sections 103 or 105, as the contextual starting point (not the limit of liability) of Section 304.⁵⁷

Preventive Detention and Post-BNS Organised Snatching: Although Section 304 is available, the States still find themselves using preventive detention laws against suspected serial snatchers. The case of *Nenavath Bujji* is a valuable warning case: the Supreme Court again stated that preventive detention requires a clear, proximate nexus to ‘public order’, not just recidivist street crime, which can be treated by normal criminal law. As Section 304 has offered a clear, intermediate offence, being non bailable, police and prosecutors no longer have a reason to invoke the regimes of preventive detention in the context of a regular chain snatching incident. They should only apply it to truly extraordinary cases where organised gangs represent a system-wide threat that criminal prosecution can no longer contain.⁵⁸

NORMATIVE ASSESSMENT AND REFORM PROPOSALS

Doctrinal Steering: Demarcation and Moderation: To ensure that Section 304 remains a principled intermediate offence instead of an over-inclusive term, the courts are advised to embrace three commitments to doctrine:

Demand Actual Abruptness or Violence: The taking must be demonstrated in a way, often using digital corroboration, that the person or immediate possession was perceptually

⁵⁵ *Ibid* s 105

⁵⁶ Armed Career Criminal Act 1984

⁵⁷ *Stokeling v United States* [2019] 139 S Ct 544

⁵⁸ *Nenavath Bujji Etc v State of Telangana* (2024) SCC OnLine SC 367

interfered with abruptly, not just in a rapid manner. This protects against the possibility of considering all fast thefts in buses or markets as snatching.⁵⁹

Have a Definite Robbery Threshold: Where deliberate use of weapons is proven, express threats, or willful infliction of injury to obtain property or escape, as in *Abdul Gafoor Goga*, robbery under Section 309 BNS (as well as aggravated forms thereof) should be the main count, with snatching as an optional count where it is necessary.⁶⁰

Apply Homicide Provisions to Lethal Results: Courts must not be tempted to stretch Section 304 through sentencing when snatching results in death or grievous injury. Honest application of Sections 103 and 105, including joint liability under Section 3(5), is more reflective of such outcomes and does not label serious violence.

Proportionality and Article 14 Issues: Two legislative fine-tunings would put the snatching framework in a better proportionate place and retain its fundamental deterrent message:

Implement a Petty Snatching Community Service Window: To acknowledge the unique bodily affront of snatching, but not to incur unwarranted carceralization in response to minor instances, a limited form of the community service regime under Section 303 can be extended to first-time, non-injury snatching with a reduced monetary limit (such as Rupees 3,000).⁶¹

Reconsider Blanket Non-Bailability: Following sometime of gathering empirical data, especially in the form of monitoring property values, levels of injuries and offender profiles in section 304 prosecutions, Parliament might contemplate a differentiated bailability scheme based on previous convictions, value and injury. Not all snatching should be treated as non-bailable and without any distinction.⁶²

⁵⁹ Adv Hemant More, 'Snatching: (S. 304 BNS)' (*The Legal Quotient*, 04 April 2025)

<<https://thelegalquotient.com/criminal-laws/bharatiya-nyaya-sanhita/snatching-s-304-bns/6663/>> accessed 16 April 2026

⁶⁰ Gary Betts, 'Robbery and the Principle of Fair Labelling' (2019) 83(3) *Journal of Criminal Law* 205–216 <<https://doi.org/10.1177/0022018319829264>> accessed 16 April 2026

⁶¹ Juhi Newar and Akanksha Singh, 'Community Service as a Sentencing Alternative in India: A Legal Study' (2025) 3(8) *The Academic* <<https://theacademic.in/wp-content/uploads/2025/09/87.pdf>> accessed 16 April 2026

⁶² 'Research on Proportionality in Criminal Sentencing with Indian Supreme Court Precedents and Tanzanian Appellate Decisions' (*Law Gratis*, 17 December 2025) <<https://lawgratis.com/blog-detail/research-on-proportionality-in-criminal-sentencing-with-indian-supreme-court-precedents-and-tanzanian-appellate-decisions>> accessed 16 April 2026

Reforms Focused on Practice: Executive practice can greatly enhance Section 304's operation even in the absence of a statutory amendment:

Guidelines for Charges and Investigations: Drawing from cases such as Suresh and Abdul Gafoor Goga as well as BPR&D illustrations, police standing orders, and prosecution manuals should provide explicit criteria, along with examples, for charging under theft, snatching, or robbery.

Digital Evidence Collection that Complies with BSA Regulations: In addition to strengthening justified prosecutions, training investigators to methodically secure and certify CCTV, mobile data, and other electronic evidence in snatching cases will prevent an excessive reliance on weak, recovery-only cases that have been criticised by courts like the Kerala High Court.

Urban Planning and Victim Assistance Strategies: Improved lighting, CCTV coverage of hotspots, quick mechanisms to block stolen phones, and dedicated victim assistance desks are essential supplements to criminal responses in combating snatching, as noted by government advisories and criminological commentary.

CONCLUSION

Snatching is defined by Section 304 BNS as a deliberate step 'beyond theft and robbery,' characterised by abrupt, swift, or coercive takings from the person or immediate possession. Although it chooses a more moderate sentencing range while maintaining strong procedural features like non-bailability and non-compoundability, it is based on state-level experiments in Punjab, Haryana, and Gujarat. Its linguistic structure, placement in the property offence chapter, and relationship to BNSS and BSA tools, when properly interpreted and applied, provide a framework that can be used for both proportionate punishment and fair labelling.

However, the lack of a parallel petty snatching carve-out to Section 303, the possibility of an overly inclusive application in densely populated urban areas, and the potential underutilization of homicide provisions in fatal outcomes all point to areas that need doctrinal development and policy improvement. Section 304 can develop into a cogent statutory identity for snatching, which respects both victim experience and constitutional constraints through evidence-based legislative review of punishment and bailability,

cautious application of joint liability rules, and principled judicial steering on the novel 'moment of awareness' theory.