BLOGS

Questions on In-absentia Trials under BNSS, 2023 for CLAT PG

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In absentia trials have been introduced under BNSS, 2023, under section 356A. It empowers the courts to conduct trials against the proclaimed offenders who have evaded justice. The offense committed by them must be punishable with imprisonment of 7 years and above. The concept of in absentia trials has secured its constitutional validity under Article 21 and Article 22 of the Constitution of India.

The conviction under an in absentia trial needs to be proved beyond reasonable doubt in order to maintain evidentiary rigor. This provision reflects India's commitment to not allowing the accused person to frustrate the justice process in the country. Thereby, balancing swift justice with fundamental fairness."

1. Which section of BNSS, 2023, deals with the trial of the proclaimed offender in absentia?

a) Section 365
b) Section 356
c) Section 356A
d) Section 358

2. What is the minimum period after which a court can start a trial in absentia against a proclaimed offender under BNSS, 2023?

a) 90 days from proclamation
b) 60 days from proclamation
c) 45 days from proclamation
d) 30 days from proclamation

3. Which of the following is a condition to initiate an in absentia trial against a proclaimed offender under BNSS, 2023?

a) The accused needs to be a proclaimed offender

b) The offence must be punishable with imprisonment of 7 years and more

c) The court should be satisfied that the accused is a evading trial

d) All of the Above

4. Who is appointed to protect the interests of the proclaimed offender in absentia during trials as per BNSS, 2023?

a) Friend of the Court (Amicus Curiae)

b) Counsel appointed by the session court from the panel of district legal services authority

c) Public defender appointed by the state government

d) All of the above, depending on the gravity of the case and the discretion of the court.

5. What is the legal consequence if an accused appears or is arrested after conviction in absentia under BNSS, 2023?

a) The conviction is upheld and the accused can only appeal now

b) The accused is entitled to a fresh trial as a matter of right

c) The court can order a retrial at its discretion

d) The conviction is automatically set aside

6. Which of the following objectives is primarily addressed when it comes to the concept of in absentia trials?

a) Prevent the abuse of justice by the accused persons

b) Expedite the process of disposal of cases

c) Reduce the burden on the courts by eliminating the need for presence of the accused person

d) All of the Above

7. Which courts have jurisdiction to conduct in absentia trials under BNSS, 2023?

a) Magistrate’s Court where the offense has been committed

b) The sessions court

c) Supreme Court

d) Court of competent jurisdiction as determined by the nature of the offence

8. Which article of the Constitution of India provides constitutional validity to the concept of in absentia trials in India?

a) Article 21

b) Article 20 (3)

c) Article 22(1)

d) Both 1 and 2

9. The notion of summons or notice comes into effect through which modes when the matter is absentia in nature?

a) Through physical means at last known address

b) Electronic mode, affixation and publication in the local newspaper

c) Through SMS and Mail only

d) Through registered post

10. What is the difference in the concept of in absentia trials in BNSS, 2023, and CrPC, 1973?

a) CrPC, 1973, had no such concept

b) CrPC, 1973, allowed in absentia trials for all offences, but BNSS, 2023, has restricted it to only heinous offences

c) BNSS, 2023, has introduced a framework for in absentia trials whereas CrPC, 1973, allowed ex-parte proceedings in summons cases

d) No such difference exists among both legislation.

11. The property of the proclaimed offender has been attached under BNSS, 2023, and the trial begins in absentia. But during the trial, the accused's attached property is claimed by his wife. Now what will happen in this case?

a) The wife's claim will be put on hold till the completion of in absentia trial

b) The claim will be dealt separately under the civil law

c) The court conducting the in absentia trials has exclusive jurisdiction over such claims

d) None of the Above

12. What is the standard of proof required under BNSS, 2023, when it comes to conviction with regard to in absentia trials?

a) Balance of probabilities

b) Proof beyond reasonable doubt

c) Prima facie satisfaction of the court

d) Clear and conclusive evidence

13. Which of the following incidents will qualify for initiation of in absentia proceedings against the proclaimed offender?

a) An accused has been declared a proclaimed offender and has fled abroad after framing of charges against him
b) An accused who has absconded before framing of charges
c) An accused who has been evading process for more than 90 days post-proclamation
d) All of the Above

14. Who has the right to appeal against a conviction rendered in an in absentia trial?

a) Only the appointed counsel for the accused
b) The state alone
c) The accused personally upon appearance or through duly authorised representative
d) An aggrieved party, including the victim

15. Which international instrument has mentioned the in absentia trial, particularly for fugitive offenders?

a) International Covenant on Civil and Political Rights (Article 14)
b) United Nations Convention Against Transnational Organised Crimes (Article 11)
c) United Nations Convention Against Corruption (Article 44)
d) European Convention on Human Rights (Article 6)

Answers

1. Option c
2. Option a
3. Option d
4. Option b
5. Option c
6. Option a
7. Option d
8. Option d

9. Option b
10. Option c
11. Option b
12. Option b
13. Option d
14. Option c
15. Option a