

HIGH COURT OF UTTARAKHAND, NAINITAL
NOTIFICATION

No. 344/UHC/Admin.A/2021

Dated: October 20, 2021.

In exercise of the powers conferred by Article 227 of the Constitution of India, High Court of Uttarakhand with the approval of the Governor, hereby makes the following Rules for regulating the procedure and practice in the Criminal Courts, subordinate to the High Court:-

**THE UTTARAKHAND CRIMINAL COURTS PROCEDURE
AND PRACTICE RULES, 2021**

(as amended by Not. Dated 18.07.2022 & 21.06.2023)

PART I : PRELIMINARY

- 1. Short title, extent and commencement-** (1) These rules shall be called The Uttarakhand Criminal Courts Procedure and Practice Rules, 2021.

(2) These rules shall apply to all proceedings and matters in all Criminal Courts subordinate to the High Court.

(3) They shall come into force at once.
- 2. Interpretation-** (1) In these rules, unless the context otherwise requires-
 - (a) 'Code' means the Code of Criminal Procedure, 1973.
 - (b) 'Court' means any Criminal Court established under the Code, any special law or any local law, time being in force.
 - (c) 'Existing rules' mean all rules, including the General Rules (Criminal), 1977 regulating the procedure and practice in the Courts.
 - (d) 'High Court' means the High Court of Uttarakhand.
 - (e) 'Presiding Officer' means Presiding Officer of the Court.
 - (f) 'Rules' mean the Uttarakhand Criminal Courts Procedure and Practice Rules, 2021
 - (g) 'Sessions case' means a case triable by Court of Sessions.

- (2) Words and expressions used in these rules and not defined, but defined in the Code, shall have the meanings respectively assigned to them in that Code.

PART II : SUPPLY OF DOCUMENTS

3. ¹[Every accused shall be supplied with statements of witness recorded under Section 161 and 164 of the Code and a list of documents, material objects and exhibits seized during investigation and relied upon by the Investigating Officer (IO) in accordance with Section 207 and 208 of the Code and not before this stage. Concerned Judicial Magistrate shall direct the I.O. of the case that he shall not disclose the contents of the statement recorded under Section 164 Cr.P.C. to anyone.

Explanation 1: In case of electronic record involving issues such as of privacy of the complainant/witness or his/her identity, the Court may be justified in providing only inspection thereof to the accused and his/her lawyer or expert for presenting effective defence during the trial. The Court may issue suitable directions to balance the interests of both sides.

Explanation 2: The list of statements, documents, material objects and exhibits shall specify statements, documents, material objects and exhibits that are not relied upon by the Investigating Officer.]

¹ As amended by Not. No. 271/UHC/Admin.A/2023, dated June 21, 2023

PART III : CHARGE

4. The order framing charge shall be accompanied by a formal charge in Form 32, Schedule II of the Code to be prepared personally by the Presiding Officer after complete and total application of mind.

PART IV : TRIAL

CHAPTER 1 RECORDING OF EVIDENCE :PROCEDURE

5. The depositions of witnesses shall be recorded, in typed format, if possible. The record of evidence shall be prepared on computers, if available, in the Court on the dictation of the Presiding Officer :

Provided that in case the language of deposition is to be recorded in a language other than English or the language of the State, the Presiding Officer shall simultaneously translate the deposition either himself or through a competent translator into English.

6. The deposition shall be recorded in the language of the witness and in English when translated as provided in rule 5.
7. The depositions shall without exception be read over by the Presiding Officer in Court. Hard copy of the testimony so recorded duly signed to be a true copy by the Presiding Officer or the Reader of the Court, shall be made available free of cost against receipt to the accused or the advocate representing the accused, to the witness and the prosecutor on the date of recording.
8. A translator shall be made available in each Court and Presiding Officers shall be trained in the local languages, on the request of the Presiding Officer.

9. The Presiding Officers shall not record evidence in more than one case at the same time.

CHAPTER 2
RECORDING OF EVIDENCE : FORMAT OF WITNESSES

10. The deposition of each witness shall be recorded dividing it into separate paragraphs assigning paragraph numbers.
11. Prosecution witnesses shall be numbered as PW-1, PW-2 etc, in *seriatim*. Similarly, defence witnesses shall be numbered as DW-1, DW-2, etc., in *seriatim*. The Court witnesses shall be numbered as CW-1, CW-2, etc, in *seriatim*.
12. The record of depositions shall indicate the date of the examination-in- chief, the cross examination and re-examination.
13. The Presiding Officers, shall, wherever necessary, record the deposition in question and answer format.
14. Objections by either the prosecution or the defence counsel shall be taken note of and reflected in the evidence and decided immediately, in accordance with law, or, at the discretion of the Presiding Officer, at the end of the deposition of the witness in question.
15. The name and number of the witness shall be clearly stated on any subsequent date, if the evidence is not concluded on the date on which it begins.

CHAPTER 3

EXHIBITING OF MATERIAL OBJECTS AND EVIDENCE

16. Prosecution exhibits shall be marked as Exhibit P-1, P-2 etc in *seriatim*. Similarly, defence Exhibits shall be marked as Exhibit D-1, D-2, etc in *seriatim*. The Court exhibit shall be marked as Exhibit C-1, C-2, etc in *seriatim*.
17. To easily locate the witness through whom the document was first introduced in evidence, the exhibit number shall further

show the witness number of such witness after the Exhibit number. If an exhibit is marked without proper proof, the same shall be indicated by showing in brackets (subject to proof).

Explanation: *If Prosecution witness No. 1 (PW1) introduces a document in evidence, that document shall be marked as Exhibit P-1/PW1. If proper proof is not offered for that document at the time when it is marked, it shall be marked as Exhibit P-1/PW1 (subject to proof). The Second document introduced by PW1 will be Exhibit P-2/PW1.*

18. The Material objects shall be marked in *seriatim* as MO-1, MO-2 etc.

CHAPTER 4 SUBSEQUENT REFERENCES TO ACCUSED, WITNESS, EXHIBITS AND MATERIAL OBJECTS

19. After framing of charges, the accused shall be referred to only by their ranks in the array of accused in the charge and not by their names or other references except at the stage of identification by the witness.
20. After recording the deposition of witnesses, marking of the exhibits and material objects, while recording deposition of other witnesses, the witnesses, exhibits and material objects shall be referred by their numbers and not by names or other references.
21. Where witness cited in the complaint or police report are not examined, they shall be referred to by their names and the numbers allotted to them in the complaint or police report.

CHAPTER 5 REFERENCES TO STATEMENTS UNDER SECTION 161 AND 164 OF THE CODE

22. During cross examination, the relevant portion of the statements recorded under Section 161 of the Code used for contradicting the respective witness shall be extracted. If it is

not possible to extract the relevant part as aforesaid, the Presiding Officer, in his discretion, shall indicate specifically the opening and closing words of such relevant portion, while recording the deposition, through distinct marking.

23. In such cases, where the relevant portion is not extracted, the portions only shall be distinctly marked as prosecution or defence exhibit as the case may be, so that other inadmissible portions of the evidence are not part of the record.
24. In cases, where the relevant portion is not extracted, the admissible portion shall be distinctly marked as prosecution or defence exhibit as the case may be.
25. The aforesaid rule applicable to recording of the statements under Section 161 shall *mutatis mutandis* apply to statements recorded under Section 164 of the Code, whenever such portions of prior statements of living persons are used for contradiction/corroboration.
26. Omnibus marking of the entire statement Under Section 161 and 164 of the Code shall not be done.

CHAPTER 6

MARKING OF CONFESSIONAL STATEMENTS

27. The Presiding Officers shall ensure that only admissible portion of Section 8 or Section 27 Indian Evidence Act, 1872 is marked and such portion alone is extracted on a separate sheet and marked and given an exhibit number.

PART V : THE JUDGMENT

28. Every judgement shall contain the following
 - (A) Start with a preface showing the names of parties as per FORM A to the Rules.
 - (B) A tabular statement as per FORM B to the Rules.

- (C) An appendix giving the list of prosecution witnesses, defence witnesses, Court witnesses, Prosecution Exhibits, Defence Exhibits and Court Exhibits and Material Objects as per FORM C to the Rules.
- 29.** In compliance with Section 354 and 355 of the Code, in all cases, the judgments shall contain:
- (A) the point or points for determination,
 - (B) the decision thereon, and
 - (C) the reasons for the decision
- 30.** In case of conviction, the judgment shall separately indicate the offence involved and the sentence awarded. In case there are multiple accused, each of them shall be dealt with separately. In case of acquittal and if the accused is in confinement, a direction shall be given to set the accused at liberty, unless such accused is in custody in any other case.
- 31.** In the judgment, the accused, witnesses, exhibits and material objects shall be referred to by their nomenclature or number and not only by their names or otherwise. Wherever, there is a need to refer to the accused or witnesses by their name, the number shall be indicated within brackets.
- 32.** The judgment shall be written in paragraphs and each paragraph shall be numbered in *seriatim*. The Presiding Officers, may, in their discretion, organize the judgment into different sections.

PART VI : BAIL

- 33.** The application for bail in non-bailable cases must ordinarily be disposed of within a period of 3 to 7 days from the date of first hearing. If the application is not disposed of within such period, the Presiding Officer shall furnish reasons thereof in the order itself. Copy of the order and the reply to the bail application or status report (by the police or prosecution) if any, shall be

furnished to the accused on the date of pronouncement of the order itself ²[and to prison concerned. The bail order should be furnished by the prison authorities to the accused.]

34. The Presiding Officer may, in an appropriate case in its discretion insist on a statement to be filed by the prosecutor in charge of the case.

PART VII : DIRECTIONS FOR EXPEDITIOUS TRIAL

35. In every enquiry or trial, the proceedings shall be held as expeditiously as possible, and, in particular, when the examination of witnesses has once begun, the same shall be continued from day to day until all the witnesses in attendance have been examined, unless the court finds the adjournment of the same beyond the following day to be necessary for reasons to be recorded.

Note: Please see sub-section (1) of Section 309 of the Code.

36. For the aforesaid purpose, at the commencement, and immediately after framing charge, the court shall hold a scheduling hearing, to ascertain and fix consecutive dates for recording of evidence, regard being had to whether the witnesses are material, or eye witnesses, or formal witnesses or are experts.
37. The court then shall draw up a schedule indicating the consecutive dates, when witnesses would be examined; it is open to schedule recording of a set of witnesses depositions on one date, and on the next date, other sets, and so on. The court shall also, before commencement of trial, ascertain if the parties wish to carry out admission of any document under Section 294, and permit them to do so, after which such consecutive dates for trial shall be fixed.
38. After the commencement of the trial, if the court finds it

² Amended by Not. No. 198/UHC/Admin.A/2022, dated 18.07.2022

necessary or advisable to postpone the commencement of, or adjourn, any inquiry or trial, it may, from time to time, for reasons to be recorded postpone or adjourn the same on such terms as it thinks fit, for such time as it considers reasonable. If witnesses are in attendance, no adjournment or postponement shall be granted, without examining them, except for special reasons to be recorded, in writing.

Note: Please see sub-section (2) of Section 309 of the Code.

39. Sessions cases may be given precedence over all other work and no other work should be taken up on sessions days until the sessions work for the day is completed. A Sessions case once posted should not be postponed unless that is unavoidable, and once the trial has begun, it should proceed continuously from day to day till it is completed. If for any reason, a case has to be adjourned or postponed, intimation should be given forthwith to both sides and immediate steps be taken to stop the witnesses and secure their presence on the adjourned date.

PART VIII: AMENDMENTS IN EXISTING RULES

40. All existing rules, notifications, orders, practice and directions on the subject, which are covered under these rules, shall stand amended to the extent that these rules shall only apply.
41. All existing rules, notifications, orders, practice and directions on the subject, which are not covered under these rules shall remain unaffected and shall continue apply.

FORM A

IN THE COURT OF Present: Sessions Judge[Date of the Judgement] [Case No...../20..] (Details of FIR/Crime and Police Station)	
Complainant	STATE OF..... OR NAME OF THE COMPLAINANT
REPRESENTED BY	NAME OF THE ADVOCATE
ACCUSED	1. NAME WITH ALL PARTICULARS (A1) 2. NAME WITH ALL PARTICULARS (A2)
REPRESENTED BY	NAME OF THE ADVOCATES

FORM C

LIST OF PROSECUTION/DEFENCE/COURT WITNESSES

A. Prosecution

RAN K	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICALWITNESS, PANCH WITNESS, OTHER WITNESS)
PW1		
PW2		

B. Defence Witnesses, if any:

RAN K	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICALWITNESS, PANCH WITNESS, OTHER WITNESS)
DW1		
DW2		

C. Court Witnesses, if any:

RAN K	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICALWITNESS, PANCH WITNESS, OTHER WITNESS)
CW1		
CW2		

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS

A. Prosecution:

SL. No	Exhibit Number	Description
1	Exhibit P- 1/PW1	
2	Exhibit P- 2/PW2	

B. Defence:

SL. No	Exhibit Number	Description
1	Exhibit D- 1/DW1	
2	Exhibit D- 2/DW2	

C. Court Exhibits

SL. No	Exhibit Number	Description
1	Exhibit C-1/CW1	
2	Exhibit C-2/CW2	

D. Material Objects:

SL. No	Material Object Number	Description
1	MO1	
2	MO2	