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Can an Accused Be Denied a Copy of the FIR? The Statute Says Little, the Court Has Said Plenty

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Can an Accused Be Denied a Copy of the FIR? The Statute Says Little, the Court Has Said Plenty

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✓ Every fact web-verified against primary sources

On August 25, 2026, the Supreme Court directed the Ghaziabad Police to provide independent journalist Abhishek Upadhyay with a copy of the FIR registered against him in a road-rage case. A three-judge Bench of Chief Justice Surya Kant, Justice Joymalya Bagchi and Justice V. Mohana issued notice to the Uttar Pradesh government, sought a compliance report by September 7, protected him from coercive action, and gave him liberty to approach the Allahabad High Court thereafter.

The Court directed supply of the FIR. Upadhyay's separate grievance, that CCTV footage was being destroyed, was recorded by the Bench, which said it understood his apprehension, but was not made a direction. Do not write that the Court ordered the footage produced.

THE CASE

Upadhyay had reported on **alleged irregularities in donations to the Ram Mandir at Ayodhya**. On **August 20, 2026**, he said a police team arrived at his residence and told him a case had been registered at the **Indirapuram police station** over road rage and abusive behaviour. He said that despite repeated requests the police first sent him a page containing neither the sections invoked nor the details of the alleged offence, and later shared an older FIR registered against him at Lucknow.

He approached the Supreme Court alleging the case was built on concocted allegations to harass him for his journalism, seeking the FIR, quashing, or transfer of the probe to an independent agency.

The interim protection is broader than usual. It covers coercive action not only in the existing FIR but in **any FIR that may later be registered** in the matter.

WHAT THE STATUTE ACTUALLY PROVIDES

Here is the gap the case exposes, and it is the heart of the answer.

PROVISION	WHAT IT SAYS	DOES IT HELP AN ACCUSED?
BNSS Section 173(2)	“A copy of the information as recorded under sub-section (1) shall be given forthwith, free of cost, to the informant or the victim. ”	No. The accused is not mentioned.
BNSS Section 230	The magistrate shall furnish the accused within 14 days of appearance or production with copies of the police report, the FIR recorded under Section 173 , witness statements under Section 180(3), confessions and statements under Section 183, and other documents forwarded with the police report	Yes, but only after a chargesheet is filed

Section 230 corresponds to the old CrPC Section 207. Two features of the BNSS version are new and worth carrying: it supplies copies **free of cost to the victim as well** where represented by an advocate, and it permits **electronic supply** of voluminous documents.

*The statute gives the accused the FIR only **after** the investigation has concluded and a chargesheet has been filed before the magistrate. It says nothing at all about access during the investigation, which is precisely when an accused needs it to seek anticipatory bail or quashing. That entire right is judge-made.*

THE CASE LAW THAT FILLS THE GAP

Delhi High Court, 2010

Court on its Own Motion through Mr. Ajay Chaudhary v. State, W.P.(Crl.) No. 468 of 2010, decided **December 6, 2010** by a Bench of **Chief Justice Dipak Misra and Justice Manmohan**, reported at **2011 CriLJ 1347**.

It laid down a working mechanism: FIRs to be uploaded on the Delhi Police website **within 24 hours** unless reasons are recorded that the offence is sensitive; a decision not to upload to be taken **only by an officer of the rank of Deputy Commissioner of Police**, in writing, communicated to the Area Magistrate; an accused may apply to the police for a copy, to be given within 24 hours.

Himachal Pradesh High Court, 2014

Rama Nand Rathore v. State of Himachal Pradesh, Cr.MMO No. 276 of 2014, decided **December 19, 2014** by **Justice Tarlok Singh Chauhan**.

Its **doctrinal** contribution is the cleanest line in this whole area: **the FIR is a public document under Section 74 of the Indian Evidence Act, 1872**, and an accused should get a copy “at the earliest possible stage”. It directed FIRs to be uploaded on the Himachal Pradesh Police website within 24 hours of lodging, effective **January 26, 2015**, with sensitive-FIR withholding decided at no lower than **DySP** rank.

Supreme Court, 2016

Youth Bar Association of India v. Union of India, W.P.(Crl.) No. 68 of 2016, decided **September 7, 2016**, reported at **(2016) 9 SCC 473** and **AIR 2016 SC 4136**.

*This was a **two-judge Bench**, Justice Dipak Misra and Justice C. Nagappan. It is frequently described as three judges. It was not.*

Note who wrote both. Dipak Misra authored the 2010 Delhi High Court judgment and sat on the 2016 Supreme Court Bench that gave those directions national effect. The doctrine travelled with the judge.

The directions, with the numbers that get examined:

DIRECTION	DETAIL
Core holding	“An accused is entitled to get a copy of the First Information Report at an earlier stage than as prescribed under Section 207 of the Cr.P.C.”
Upload deadline	24 hours of registration, on the police website or the State government website where none exists
First extension	48 hours
Absolute maximum	72 hours , and only for connectivity problems arising from geographical location
Sensitive categories	Sexual offences, offences under POCSO 2012, and insurgency or terrorism , expressly “ illustrative and not exhaustive ”
Who may withhold	An officer not below Deputy Superintendent of Police or equivalent
If aggrieved	Representation to the Superintendent of Police , who constitutes a committee of three officers that must decide within three days
Fallback	The accused or an authorised representative may apply to the court for a certified copy, to be provided within three days
Operational from	November 15, 2016

The constitutional anchor. The Court grounded the right expressly in **Article 21**, and in **Article 22(1)**, quoting **D. K. Basu**, reasoning that where “criminal law is set in motion and liberty of an individual is at stake, he should have the information so that he can take necessary steps to protect his liberty.”

DOES IT WORK IN PRACTICE?

CCTNS, the **Crime and Criminal Tracking Network and Systems**, is the platform on which FIRs are meant to be uploaded. It is run by the **Ministry of Home Affairs** and was launched in **2009** under the National e-Governance Plan.

17,762 police stations were using CCTNS as of 2026, per the June 1 count given in a Rajya Sabha written reply of **August 5, 2026**.

*An earlier Ministry reply, the background to that number, put the figure at **17,798 as on February 1, 2026**. The count went **down**. It is a reporting count of stations using the system, not a measure of whether FIRs are actually being uploaded within 24 hours.*

Delhi advocate **Nipun Saxena** says police officials routinely fail to comply with the upload directive. **That is his assessment, and it should be read as such**, because of a finding worth stating plainly:

*Isolated press reports of missed deadlines exist. **The absence of systematic data is itself the finding.** A direction issued in 2016 and operational since November that year has, ten years on, no published compliance measurement.*

Why it matters concretely. Once an FIR is registered, the accused is entitled to seek **pre-trial remedies**, chiefly **quashing under Section 528 of the BNSS** or **anticipatory bail**. Neither can be effectively pursued without knowing the offences alleged. As Saxena puts it, without access to the FIR these remedies cannot be meaningfully pursued at all.

THE BALANCE THE COURT STRUCK

The case for withholding. In sexual offences, POCSO cases and terrorism investigations, publishing an FIR can identify a survivor, endanger witnesses, or compromise an ongoing operation.

The case for disclosure. A person cannot defend against an accusation they have not been told the contents of. Delay in access is, in practice, a denial of anticipatory bail.

How the Court reconciled them. Not by choosing, but by **raising the rank required to withhold, capping the delay, providing an appeal to a three-member committee on a three-day clock**, and **preserving a judicial fallback** through the magistrate. That structure, a discretionary power hedged by rank, time limits and review, is a model worth citing in any answer on balancing rights against investigative necessity.

UPSC RELEVANCE

GS Paper 2: Structure, organization and functioning of the Executive and the Judiciary. A right created wholly by judicial direction where the statute is silent is a live example of judicial law-making, and of the **Article 21** expansion that has characterised Indian constitutional practice since *Maneka Gandhi*.

GS Paper 2: Government policies and interventions for development in various sectors and issues arising out of their design and implementation. A 2016 direction with no published compliance data ten years later is an implementation-gap case study with a specific, citable absence.

GS Paper 2: Important aspects of governance, transparency and accountability, e-governance. CCTNS as digital infrastructure for rights delivery, and the difference between deployment and compliance.

Mains framing. “The Supreme Court has repeatedly created procedural rights that Parliament then declines to codify. The BNSS, drafted three decades after *Ajay Chaudhary*’s problem was identified, still does not address an accused’s access to the FIR during investigation.” That is a strong, precise opening line.

Prelims focus. BNSS Sections 173(2) and 230 and their CrPC equivalents, the *Youth Bar Association* timelines of 24, 48 and 72 hours, the DySP threshold, and the FIR as a public document under Section 74 of the Evidence Act.

★ FACTS CORNER — KNOWLEDGE PEDIA

The Supreme Court on August 25, 2026 directed Ghaziabad Police to give journalist Abhishek Upadhyay a copy of his FIR.

The Bench was CJI Surya Kant with Justices Joymalya Bagchi and V. Mohana; compliance report due September 7.

BNSS Section 173(2) requires an FIR copy forthwith and free to the informant or victim; the accused is not mentioned.

BNSS Section 230 gives the accused copies within 14 days of appearance, and corresponds to CrPC Section 207.

BNSS Section 230 also supplies free copies to the victim, a change from the old CrPC Section 207.

The BNSS is silent on an accused's access to the FIR during investigation; that right is entirely judge-made.

Youth Bar Association of India v Union of India, (2016) 9 SCC 473, was decided on September 7, 2016.

That Bench was two judges, Justice Dipak Misra and Justice C. Nagappan, not three.

FIRs must be uploaded within 24 hours, extendable to 48, and to a maximum of 72 hours only for connectivity reasons.

Sensitive categories are sexual offences, POCSO 2012 and terrorism, and are illustrative, not exhaustive.

A decision to withhold an FIR requires an officer not below Deputy Superintendent of Police or equivalent.

An aggrieved person may petition the SP, who forms a three-officer committee that must decide within three days.

The accused may also seek a certified copy from the court, which must be provided within three days.

The Court grounded the right in Article 21 and Article 22(1), citing D. K. Basu.

Court on its Own Motion through Ajay Chaudhary v State, Delhi HC, December 6, 2010, first framed the 24-hour rule.

Dipak Misra authored the 2010 Delhi High Court judgment and sat on the 2016 Supreme Court Bench that nationalised it.

Rama Nand Rathore v State of HP (2014) held the FIR is a public document under Section 74 of the Evidence Act, 1872.

CCTNS is run by the Ministry of Home Affairs and was launched in 2009 under the National e-Governance Plan.

17,762 police stations were using CCTNS as of 2026, per a June 1 count in a Rajya Sabha reply of

August 5.

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