

# PLEA BARGAINING

*Who may apply for plea bargaining?  
Cases where plea bargaining is allowed.*

**MUTUAL SATISFACTORY DISPOSITION**

## PLEA BARGAINING : CRPC

The concept of **plea bargaining** has been taken from USA. It was added in 2006. It is also one of the ways of ADR. (Alternative Dispute Resolution)

### **Who may apply for plea bargaining?**

According to **section 265B** a person who is accused of an offence may file an application for plea bargaining in the court in which such offence is pending for trial.

The application will contain a brief description of the case and shall be accompanied by an affidavit.

After receiving the application the court shall issue notice to the public prosecutor or the complainant of the case as the case may be and to the accused to appear on date fixed for the case.

When the PP (public prosecutor) or the complainant of the case and the accused appears on the date fixed, the court will examine the accused in camera.

### **Cases where plea bargaining is allowed.**

1. Offence where punishment is not more than 7 years.
2. The offence which are not against the women and children.
3. The offence which does not affect the socio-economic condition of the country.

**The central government has determined the offences which are affecting the socio economic condition of country-**

- \* Dowry Prohibition Act, 1961
- \* Sati Prevention Act, 1987
- \* Protection of Women From Domestic Violence Act, 2005?
- \* Immoral Traffic Act, 1956
- \* Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989
- \* Army Act, 1950

- \* Air Force Act, 1950
- \* Navy Act, 1957
- \* Juvenile Justice Act, 2000
- \* Delhi Metro Railway Act, 2002
- \* The Explosive Act, 1884
- \* Cinematograph Act, 1952

4. No plea bargaining is allowed in case of habitual offender.

## **THE MUTUAL SATISFACTORY DISPOSITION**

According to **section 265C**, in working out a mutually satisfactory disposition, the court shall follow the following procedure.

When a case is instituted on a police report, the court shall issue notice to the public prosecutor, the P.O/I.O (police officer/investigating officer) who has investigated the case, the accused and the victim of the case to participate in the meeting to work out a satisfactory disposition of the case. Proviso of this section says that if accused desires then he may participate in such meeting with his pleader.

When a case is instituted otherwise than on police report, the court shall issue notice to the accused and the victim of the case to participate in a meeting to work out a satisfactory disposition of the case.

It is the duty of the court to ensure that the proceedings must be voluntarily by the parties.

According to **section 265D** where in a meeting under **section 265C** a satisfactory disposition of the case has been worked out, the court shall prepare a report of such disposition which shall be signed by the presiding officer of the court and all other person who participated in the meeting.

If no such disposition has been worked out, the court shall record such observation and proceed further according to the provisions of this court.

According to **section 265E** where a satisfactory disposition of the case has been worked out under section 265D, the court shall dispose off the case in the following manner-

1. The court shall award the compensation to the victim according to the disposition and hear the parties on the quantum of punishment, if possible, then the benefit will be given to the accused under the provisions of probation of Offender's Act, 1958.

*For Example-*

*Releasing the accused on probation on good conduct.*

2. After hearing the parties when the court finds that minimum punishment has been provided under the law for the offence committed by the accused, court may sentence the accused to half of such minimum punishment.

3. After hearing the parties when the court finds that the offence committed by the accused is not having the

minimum punishment then the 1/4th of the maximum punishment of the offence may be provided to the accused.

According to [section 265F](#), the court will deliver its judgement in the open court and the same shall be signed by the presiding officer of the court.

### **Section 265G : Finality of the Judgement**

The judgement delivered by the court under section 265G shall be final and there is no provision for appeal but there are two exceptions to this rule-

1. Special leave petition under [article 136](#).
2. Writ petition under [article 226 and 227](#) in High Court.

### **Section 265H : Power of the court in Plea Bargaining**

For the purpose of discharging its functions under this chapter, the court which is allowing the plea bargaining must have the powers in respect of bail, trial of offences and other matters relating to the disposal of a case.

### **Section 265K : Statement of accused not to be used**

The statement or facts given by an accused in an application for plea bargaining shall not be used for any other purpose except for the purpose of this chapter.

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