



Research Article

Offences Against the State Under the Bharatiya Nyaya Sanhita, 2023: A Critical Analysis with Special Reference to Section 152 and Judicial Approach

Dr. Rafiul Ahmed

Assistant Professor & Research Coordinator, Arunodaya University, Arunachal Pradesh, India

Corresponding Author: * Dr. Rafiul Ahmed

DOI: <https://doi.org/10.5281/zenodo.22124103>

Abstract

Offences against the State are concerned with the protection of India's sovereignty, unity, integrity and national security. The Bharatiya Nyaya Sanhita, 2023 (BNS) retains a separate chapter on such offences, with Section 152 specifically addressing acts endangering the sovereignty, unity and integrity of India. This article examines the scope and legal implications of Section 152, particularly its application to secession, armed rebellion, subversive activities and separatist activities. It also examines the relationship between Section 152 and the fundamental right to freedom of speech and expression under Article 19(1)(a) of the Constitution. The judicial principles laid down in Kedar Nath Singh v. State of Bihar, Balwant Singh v. State of Punjab and Vinod Dua v. Union of India are analysed to determine the constitutional limits of offences affecting State security. The Mohd. Ajmal Amir Kasab v. State of Maharashtra case is discussed as a comparative illustration of serious threats to national security. The article argues that Section 152 must be interpreted carefully to protect the State from genuine threats while preserving legitimate democratic criticism and dissent.

Manuscript Information

- ISSN No: 2583-7397
- Received: 12-07-2026
- Accepted: 20-08-2026
- Published: 27-08-2026
- IJCRM:5(4); 2026: 933-937
- ©2026, All Rights Reserved
- Plagiarism Checked: Yes
- Peer Review Process: Yes

How to Cite this Article

Ahmed R. Offences Against the State Under the Bharatiya Nyaya Sanhita, 2023: A Critical Analysis with Special Reference to Section 152 And Judicial Approach. Int J Contemp Res Multidiscip. 2026;5(4):933-937.

Access this Article Online



www.multiarticlesjournal.com

KEYWORDS: Bharatiya Nyaya Sanhita, Section 152, Offences Against the State, Sovereignty, National Security, Freedom of Speech, Kasab.

1. INTRODUCTION

The State is the principal institution through which constitutional government, territorial integrity, public authority and national security are maintained. A modern criminal justice system therefore recognises certain offences as particularly serious because their consequences extend beyond an individual victim and affect the security and constitutional existence of the nation.

Indian criminal law has historically maintained a separate category of offences against the State. Under the Indian Penal Code, 1860 (IPC), offences relating to waging war against the Government of India, conspiracy to wage war, sedition and other acts threatening the State were dealt with as offences against the State. The Bharatiya Nyaya Sanhita, 2023 (BNS) has retained this legislative approach, although it has altered the language and structure of certain offences.

The BNS was enacted on 25 December 2023 and came into force on 1 July 2024.¹ Chapter VII of the BNS is expressly titled “Of Offences Against the State” and contains Sections 147 to 158.² These provisions cover waging or attempting to wage war against the Government of India, conspiracy to commit such offences, collection of arms with the intention of waging war, concealment of designs to wage war, assaulting constitutional authorities, acts endangering sovereignty, unity and integrity, offences relating to foreign States and certain offences concerning prisoners of State or war.³

Among these provisions, Section 152 is particularly important. It creates an offence concerning acts endangering the sovereignty, unity and integrity of India. The provision covers conduct undertaken purposely or knowingly through spoken or written words, signs, visible representation, electronic communication, financial means or otherwise.⁴

The provision is significant not merely from the perspective of national security but also from the standpoint of constitutional liberty. Article 19(1)(a) of the Constitution guarantees freedom of speech and expression, while Article 19(2) permits reasonable restrictions in the interests of, among other matters, the sovereignty and integrity of India and the security of the State.⁵

The central issue is therefore one of constitutional balance: how can the State effectively protect itself from genuine threats while ensuring that legitimate criticism, political dissent and democratic disagreement do not become criminal offences?

2. CONCEPT OF OFFENCES AGAINST THE STATE

Offences against the State may broadly be understood as offences directed against the sovereignty, security, constitutional authority or territorial integrity of the State. Unlike ordinary offences primarily directed against individuals

or property, offences against the State are considered capable of affecting the larger political and constitutional order.

The expression “State” in this context should not be equated merely with the Government of the day. A democratic State includes the constitutional structure, territorial integrity, sovereignty and institutions established by law. Consequently, criticism of a particular Government or governmental policy cannot automatically be treated as an offence against the State.

This distinction is especially important under a constitutional democracy. Governments are temporary and subject to electoral accountability, whereas the constitutional State continues irrespective of changes in political leadership.

The purpose of criminal provisions relating to offences against the State should therefore be understood as protecting the constitutional and territorial existence of India rather than protecting a particular political administration from criticism.

3. CHAPTER VII OF THE BHARATIYA NYAYA SANHITA, 2023

Chapter VII of the BNS specifically deals with offences against the State. Sections 147 to 158 establish a range of offences reflecting different forms of threats to national security.⁶

3.1 Waging War against the Government of India

Section 147 deals with waging, attempting to wage or abetting the waging of war against the Government of India.⁷ The offence is directed towards conduct of an exceptionally serious nature because an organised attempt to wage war challenges the authority and security of the State itself.

The provision also recognises attempt and abetment, thereby permitting criminal liability to arise at stages preceding the successful completion of the intended act.

3.2 Conspiracy to Commit Offences Relating to Waging War

Section 148 criminalises conspiracy to commit offences punishable under Section 147 and conspiracy to overawe the Central or State Government by criminal force or the show of criminal force.⁸ Significantly, the provision states that it is not necessary that an act or illegal omission take place in pursuance of the conspiracy.

This reflects the preventive character of criminal law in matters involving national security.

3.3 Collection of Arms for Waging War

Section 149 deals with collecting men, arms or ammunition or otherwise preparing to wage war against the Government of India with the requisite intention.⁹

The provision demonstrates that criminal law may intervene before the actual commencement of hostilities where preparation itself creates a substantial threat to national security.

¹ The Bharatiya Nyaya Sanhita, 2023, No. 45 of 2023, § 152.

² Ibid., Explanation to § 152.

³ The Bharatiya Nyaya Sanhita, 2023, No. 45 of 2023, § 1; India Code, The Bharatiya Nyaya Sanhita, 2023

⁴ The Bharatiya Nyaya Sanhita, 2023, Preamble.

⁵ The Bharatiya Nyaya Sanhita, 2023, Chapter VII, §§ 147–158.

⁶ Ibid., § 152.

⁷ The Constitution of India, arts. 19(1)(a) and 19(2).

⁸ The Bharatiya Nyaya Sanhita, 2023, Chapter VII.

⁹ Ibid., §§ 147–152

3.4 Concealment of Design to Wage War

Section 150 concerns concealment of a design to wage war where the person intends, or knows it to be likely, that the concealment will facilitate the waging of such war.¹⁰

The provision consequently extends criminal responsibility beyond the principal actors to conduct that facilitates a serious threat against the State.

3.5 Protection of Constitutional Authorities

Section 151 addresses assault, wrongful restraint or attempts to overawe the President of India or a Governor with the intention of compelling or restraining the exercise of lawful constitutional powers.¹¹

The provision protects the functioning of constitutional offices and prevents the use of criminal force to interfere with constitutional decision-making.

4. SECTION 152: ACT ENDANGERING SOVEREIGNTY, UNITY AND INTEGRITY OF INDIA

Section 152 is arguably the most debated provision within the contemporary law of offences against the State.

The provision states that whoever purposely or knowingly, by words spoken or written, signs, visible representation, electronic communication, financial means or otherwise, excites or attempts to excite secession, armed rebellion or subversive activities, encourages feelings of separatist activities, or endangers the sovereignty or unity and integrity of India, or indulges in or commits any such act, shall be punishable with imprisonment for life or imprisonment up to seven years and fine.¹²

The provision therefore identifies several forms of prohibited conduct:

secession;
armed rebellion;
subversive activities;
encouragement of separatist activities; and
conduct endangering sovereignty, unity and integrity.

The provision also expressly recognises modern forms of communication, including electronic communication and the use of financial means.¹³

5.1 Purposeful or Knowing Conduct

The provision uses the expressions “purposely or knowingly.”¹⁴ This requirement is important because criminal liability should ordinarily depend upon the mental element prescribed by the legislature.

An accidental statement or conduct having no connection with the prohibited objectives should not automatically attract criminal liability merely because it is capable of being misunderstood.

5.2 Mode of Communication

Section 152 is technologically broad. It covers spoken or written words, signs, visible representation, electronic communication, financial means and other methods.¹⁵

The inclusion of electronic communication is particularly relevant in the contemporary digital environment, where political messages, propaganda, mobilisation and fundraising can take place through social media and digital platforms.

5.3 Prohibited Objective

The communication or conduct must relate to one or more of the prohibited objectives identified in the section. Mere criticism of the Government, without the statutory connection to secession, armed rebellion, subversive or separatist activities, should not by itself be treated as sufficient.

5.4 Punishment

Section 152 provides imprisonment for life or imprisonment which may extend to seven years and fine.¹⁶ The severity of the punishment reflects the legislature's assessment that conduct threatening the sovereignty, unity and integrity of India constitutes a serious criminal wrong.

6. THE EXPLANATION TO SECTION 152

The Explanation to Section 152 is constitutionally important. It provides that comments expressing disapprobation of measures or administrative or other action of the Government, with a view to obtaining alteration through lawful means, do not constitute an offence under the section, provided they do not excite or attempt to excite the activities referred to in the provision.¹⁷

This explanation creates an important distinction between lawful criticism and criminal conduct directed towards secession, armed rebellion or similar prohibited activities.

A democratic system cannot function without criticism of governmental policies. Political parties, academics, journalists, civil society organisations and ordinary citizens must have the ability to question governmental decisions.

The statutory protection of lawful criticism is therefore essential for maintaining the constitutional balance between national security and freedom of expression.

7. SECTION 152 AND ARTICLE 19(1)(a) OF THE CONSTITUTION

Article 19(1)(a) guarantees to citizens the right to freedom of speech and expression.¹⁸ However, Article 19(2) permits the State to impose reasonable restrictions on this right in the interests of the sovereignty and integrity of India, security of the State, public order and other constitutionally specified grounds.¹⁹

¹⁵ Ibid.

¹⁶ Ibid.

¹⁷ Ibid.

¹⁸ Ibid., Explanation to § 152.

¹⁹ Kedar Nath Singh v. State of Bihar, AIR 1962 SC 955; (1962) Supp. 2 SCR 769.

¹⁰ Ibid., § 152

¹¹ Ibid.

¹² Ibid.

¹³ Ibid.

¹⁴ Ibid.

Section 152 must therefore be interpreted consistently with the constitutional framework.

The existence of a threat to national security may justify restrictions on expression, but the restriction must have a sufficient connection with the constitutionally recognised grounds. Criminal law should not be used merely because a statement is politically inconvenient, unpopular or critical of the Government.

The Supreme Court's jurisprudence concerning sedition under the IPC provides useful constitutional principles in this regard.

8. KEDAR NATH SINGH v. STATE OF BIHAR

In *Kedar Nath Singh v. State of Bihar*,²⁰ the Supreme Court considered the constitutional validity of Section 124A of the IPC, which dealt with sedition.

The Court upheld the provision by adopting a restrictive interpretation. The Court distinguished strong criticism of the Government from activities involving incitement to violence or a tendency to create public disorder.

The significance of *Kedar Nath Singh* extends beyond the former statutory provision because it demonstrates the constitutional principle that an offence affecting political speech should not be interpreted in a manner that unnecessarily destroys the freedom guaranteed by Article 19(1)(a).

The decision therefore provides an important interpretative background when considering Section 152 BNS.

9. BALWANT SINGH v. STATE OF PUNJAB

In *Balwant Singh v. State of Punjab*,²¹ the Supreme Court considered the legal consequences of slogans allegedly expressing separatist sentiments.

The Court emphasised the importance of examining the actual circumstances, surrounding context and tendency of the expression rather than treating isolated slogans as automatically sufficient to establish sedition.

The case is relevant to Section 152 because the provision also concerns expressions that may affect sovereignty and unity. The judicial approach demonstrates that context remains significant when determining whether speech crosses the threshold into criminal conduct.

10. VINOD DUA v. UNION OF INDIA

The Supreme Court's decision in *Vinod Dua v. Union of India*²² further reaffirmed the constitutional importance of protecting legitimate criticism of the Government.

The Court relied upon the principles established in *Kedar Nath Singh* and recognised that criticism of governmental measures does not automatically amount to sedition.²³

The principle is relevant to Section 152 because the BNS itself expressly protects comments seeking lawful alteration of governmental measures.

Thus, Section 152 should not be interpreted as a general prohibition on criticism of the Government.

11. THE DISTINCTION BETWEEN DISSENT AND ANTI-STATE ACTIVITY

Dissent is an essential feature of constitutional democracy. A citizen may disagree with governmental policy, demand constitutional reform, oppose legislation or advocate political change through peaceful and lawful means.

Such conduct must be distinguished from activities directed towards secession, armed rebellion or violent subversion.

The distinction becomes particularly important in the context of academic and political discourse. A researcher may discuss separatist movements historically, analyse revolutionary ideology, criticise governmental policies or examine constitutional arrangements without necessarily intending to encourage secession or armed rebellion.

The decisive question should therefore be whether the conduct falls within the statutory ingredients of Section 152.

12. SPECIAL REFERENCE TO THE KASAB CASE

The case of *Mohd. Ajmal Amir Kasab v. State of Maharashtra*²⁴ occupies an important place in Indian criminal jurisprudence concerning terrorism and national security.

The case arose from the 26 November 2008 Mumbai terrorist attacks. Kasab was prosecuted and convicted for several serious offences arising from the attacks.

The Supreme Court considered issues relating to terrorism, conspiracy, murder, waging war and the applicability of various provisions of the criminal law. The case illustrates the extreme nature of conduct that poses a direct and violent threat to the security of India.

However, it is legally important not to describe Kasab as a Section 152 BNS case. The BNS came into force on 1 July 2024, whereas the Mumbai attacks occurred in 2008. Therefore, the decision was necessarily governed by the law applicable at that time.

The Kasab judgment can nevertheless be used as a comparative illustration of the State's legitimate interest in preventing and punishing serious conduct directed against national security.

It also demonstrates the distinction between ordinary political expression and organised violent conduct threatening the State.

13. SECTION 152 AND THE FORMER LAW OF SEDITION

Section 124A of the IPC was traditionally known as the sedition provision. The BNS does not reproduce Section 124A in its previous form. Instead, Section 152 uses the language of sovereignty, unity and integrity and specifically refers to secession, armed rebellion, subversive activities and separatist activities.²⁵

²⁰ The Bharatiya Nyaya Sanhita, 2023, § 152; The Indian Penal Code, 1860, § 124A.

²¹ The Bharatiya Nyaya Sanhita, 2023, § 152.

²² The Constitution of India, art. 19(1)(a).

²³ *Id.*, art. 19(2).

²⁴ *Shreya Singhal v. Union of India*, (2015) 5 SCC 1.

²⁵ *Kedar Nath Singh v. State of Bihar*, AIR 1962 SC 955.

This represents an important conceptual shift.

The focus is no longer expressed primarily in terms of “disaffection” towards the Government. Instead, the statutory language concentrates on conduct considered capable of threatening the sovereignty, unity and integrity of India.

Nevertheless, some expressions in Section 152 are broad. Terms such as “subversive activities” and “separatist activities” may require judicial interpretation in individual cases.

The courts will consequently have an important role in determining the constitutional boundaries of the provision.

14. JUDICIAL INTERPRETATION AND CONSTITUTIONAL SAFEGUARDS

The history of sedition jurisprudence demonstrates the importance of judicial interpretation when criminal provisions affect fundamental freedoms.

In *Kedar Nath Singh*, the Supreme Court adopted a restrictive interpretation to preserve the constitutional validity of Section 124A.²⁶ In *Balwant Singh*, the Court examined the surrounding circumstances before determining criminal liability.²⁷ In *Vinod Dua*, the Court again emphasised the protection available to legitimate criticism of governmental action.²⁸

These principles suggest that Section 152 should be applied with particular attention to:

the intention of the accused;

the actual words or conduct;

the surrounding circumstances;

the connection between the conduct and the prohibited activity;

whether there was incitement or encouragement of the prohibited activity; and the constitutional protection of lawful criticism.

Such an approach would help prevent arbitrary criminalisation while preserving the State's ability to respond to genuine threats.

15. CONTEMPORARY SIGNIFICANCE OF SECTION 152

The contemporary security environment has changed considerably from the period in which the IPC was enacted. Communication technologies permit information to spread instantly across geographical boundaries.

Electronic platforms can be used for legitimate political participation as well as for recruitment, mobilisation, propaganda and financial support for unlawful activities.

Section 152's reference to electronic communication and financial means reflects this changing environment.²⁹

However, technological neutrality should not result in excessive criminalisation. The same electronic platform may be used to express legitimate political criticism or to promote unlawful

violence. The medium itself cannot determine criminality; the content, intention and statutory connection must be established

Creative Commons (CC) License

This article is an open-access article distributed under the terms and conditions of the Creative Commons Attribution–Non-Commercial–No Derivatives 4.0 International (CC BY-NC-ND 4.0) license. This license permits sharing and redistribution of the article in any medium or format for non-commercial purposes only, provided that appropriate credit is given to the original author(s) and source. No modifications, adaptations, or derivative works are permitted under this license.

About the Author



Dr. Rafiul Ahmed is an Assistant Professor and Research Coordinator at Arunodaya University, Arunachal Pradesh, India. He is actively involved in teaching, academic research, research coordination, and scholarly activities. His professional interests include higher education, research methodology, interdisciplinary studies, academic development, and promoting a research-oriented environment within higher education institutions.

²⁶ Ibid.

²⁷ *Balwant Singh v. State of Punjab*, (1995) 3 SCC 214; AIR 1995 SC 1785.

²⁸ *Shreya Singhal v. Union of India*, (2015) 5 SCC 1.

²⁹ *S. Rangarajan v. P. Jagjivan Ram*, (1989) 2 SCC 574.