

3. Upon receipt of the application, the court shall issue notice to the parties concerned with the case and assist them in working out a mutually satisfactory settlement.
4. After a settlement is worked out, the court shall prepare a report signed by all the participating parties and dispose of the case.
5. In the event no settlement is possible, the case will proceed in accordance with law.

### Benefits of Plea-Bargaining

1. The accused is entitled to several benefits if a plea bargain is successful.
  - If the offence carries a minimum punishment, the accused may be sentenced to half that punishment or less.
  - If there is no minimum punishment provided, then the accused may be sentenced to one-fourth of the maximum punishment or less.
  - The accused may not be punished at all but may be put on probation or may only be admonished.
  - If the accused has undergone imprisonment, he will be entitled to the benefit of the period of detention.
2. The victim of an offence is entitled to such compensation as the victim agrees.
3. When the pleas bargain is accepted by the Court, it will finally close the case and no appeal is provided for in such an event.

- A remedy under Article 136, Article 226 and Article 227 of the Constitution is still available to all the parties to the agreement.

4. The admission of guilt by an accused cannot be used against him in any case or for any purpose.

### Rights which an accused forgoes

The right to :

1. Trial.
2. Keep silent and not to incriminate himself.
3. Confront his accusers/ complainant.
4. Bring witnesses in support of his case.
5. Be convicted by proof beyond all reasonable doubt.



कानूनी साक्षरता, हटायें दुर्बलता

**From Ignorance to Legal Empowerment**

S.G.P.G.-Com.4/16/SLSA/ 5000 Nos./22.10.2013.

## PLEA BARGAINING

### Basic Concepts



## राष्ट्रीय विधिक सेवा प्राधिकरण

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## What is Plea Bargaining

A Plea bargain is an agreement reached in a criminal case to finally settle it.

In a case instituted on a police report, the parties to the agreement are the accused, the investigating officer, the prosecutor and the victim. All of them must agree to settle the criminal case in which the accused pleads guilty to the offence for which a trial is pending.

In any other case, the parties to the agreement are the accused and the victim. They must agree to settle the criminal case in which the accused pleads guilty to the offence for which a trial is pending.

The agreement to settle a case must be under the guidance and supervision of the court.

## Who can file an application for plea bargaining

- Any accused person above the age of 18 years and against whom a trial is pending, can file an application for plea bargaining.
- But, there are some exceptions to this general rule.
- The offence against the accused should carry a maximum sentence of less than 7 years.
- The offence should not have been committed by the accused against a woman or a child below the age of 14 years.

- The accused should not have earlier been convicted for the same offence.
- The offence should not affect the socio-economic condition of the country.

## What offences affect the socio-economic condition of the country

No plea bargaining is permitted in respect of the following:

- Dowry Prohibition Act, 1961.
- The Commission of Sati Prevention Act, 1987.
- The Indecent Representation of Women (Prohibition) Act, 1986.
- The Immoral Traffic (Prevention) Act, 1956.
- Protection of Women from Domestic Violence Act, 2005.
- The Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Act, 1992.
- Provisions of Fruit Products Order, 1955 (issued under the Essential Commodities Act, 1955).
- Provisions of Meat Food Products Order, 1973 (issued under the Essential Commodities Act, 1955).
- Offences with respect to animals that find place in Schedule I and Part II of the Schedule II as well as offences related to altering of boundaries of protected areas under Wildlife (Protection) Act, 1972.

- The SC and ST (Prevention of Atrocities) Act, 1989.
- Offences mentioned in the Protection of Civil Rights Act, 1955.
- Offences listed in Section 23 to 28 of the Juvenile Justice (Care and Protection of Children) Act, 2000.
- The Army Act, 1950.
- The Air Force Act, 1950.
- The Navy Act, 1957.
- Offences specified in Sections 59 to 81 and 83 of the Delhi Metro Railway (Operation and Maintenance) Act, 2002.
- The Explosives Act, 1884.
- Offences specified in Sections 11 to 18 of the Cable Television Networks (Regulation) act, 1955.
- Cinematograph Act, 1952.

## How does the process of plea-bargaining take place

1. The accused person must file an application in the court in which his criminal case is pending for trial.
2. The application should contain :
  - A brief description of the case;
  - The offence to which the case relates;
  - An affidavit of the accused that the application has been voluntarily filed by him and that he has not been previously convicted of the same offence.