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All You need to know about Interim Bail

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ABSTRACT

It is unclear what is meant by the word "bail" in the legal system. The Medieval French verb baillier, meaning "to give" or "to deliver," is the etymological ancestor of the modern English term bail. To hand over an arrested suspect to his or her bailing agents. In other words, it's a procedure wherein a person who is under arrest or detention by proper authorities gets released from custody in exchange for his promise to appear in court on the day and time previously established. In section 2(a) of the code, bail is classified as bailable or non-bailable; the rest of the bail rules are found in sections 436–450.

Keywords*: Bail, custody, arrest, interim, bailable offences.*

I. INTRODUCTION

Article 21 of the Constitution is connected to the concept of bail. In the case of ***Gudikanti Narasimhulu Vs Public Prosecutor, High Court of Andhra Pradesh*****,** the Supreme Court held that:

"***When bail is denied, an individual's right to personal liberty is violated, a principle so fundamental to our constitutional system that its negation is a huge trust to be exercised not flippantly but judicially, with genuine regard for the cost to the individual and the society.***"

Justice V.R. Krishna Iyer in the above-mentioned case stated that "***In a socially sensitive court system, a well-developed jurisprudence of bail is essential since it deals with issues of liberty, justice, public safety, and the public money"***.

The word "bail" is not defined under the Code of Criminal Procedure, 1973 (hence referred to as CrP.C). However, bailable and non-bailable crimes have been established in **Section 2(a) of CrPC**. Bailable offenses are offenses mentioned in the first schedule and non bailable offenses are offenses not bailable. Judicial precedents provide clarity to the meaning of bail which has been analyzed in this article.

Sections 436 to 450 The bail and bonding requirements of the Criminal Procedure Code Additionally, bails are classified as either "regular," "anticipatory," or "interim" depending on the nature of the offence.

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II. MEANING OF BAIL AND TYPES OF BAILS

In the legal system, bail refers to the process of securing a defendant's release from jail pending trial or appeal in exchange for posting collateral guaranteed to return them at their scheduled court appearance. The bail, or more properly the bail bond, is the monetary amount of security required by the court before which the defendant will appear. Cash, property deeds, or bonds from wealthy individuals or companies may all be used as security. If the individual out on bond doesn't turn himself in by the due date, the bail money will be lost. In the instance of criminal arrest, the court has more leeway to decide whether or not to release the suspect on bond.

The Supreme Court's 2011 opinion in Sanjay Chandra vs. CBI echoed this idea, saying, *"The grant or refusal to grant bail remains within the discretion of the Court. The approval or refusal is largely determined by the specifics of each individual case. On the other hand, public opinion should not be utilized as a basis for denying an accused person's right to bail. Bail in a criminal case serves several purposes, the most important of which are to release the accused from jail while the case proceeds, to save the state the cost of keeping him in custody for a preliminary hearing, and to retain the accused valuably under the Court's guardianship at all times (whether before or after conviction) so that he will always comply with his status as a ward of the Court and be present when necessary."*

There are three standard forms of bail:

- **Regular Bail:** Bail issued by a court following an arrest for a criminal violation is called "regular bail." Anyone who commits a crime that can be "cognized" by the system and for which bail cannot be set will be arrested. After the conclusion of any time in police detention, the suspect must be taken into custody and sent to prison. According to sections 437 and 439 of the Criminal Procedure Code, such an accused is eligible for bail. Therefore, it is possible to define "normal bail" as the release of a defendant from jail pending his trial.
- **Anticipatory Bail:** If a suspect is granted bond prior to his arrest, it is because authorities expect him to be apprehended for criminal activity within the next several days. Because of the prevalence of politically motivated cases in which influential individuals falsely accuse their opponents of criminal activity in order to damage their reputations or to keep them in jail long enough to get their task done, bail like this is increasingly a common need.

The filing of a First Information Report (FIR) against a person is not necessary in order to apply

for anticipatory bail. An individual may request anticipatory bail prior to filing a First Information Report if he believes there are probable cause to arrest him.

A person may still request anticipatory bail after filing a FIR, but only if they are not yet in police custody. An individual detained by law enforcement must, after careful consideration, request either ordinary bail or interim bail.

- **Interim Bail**: You may be eligible for Interim Release, a kind of interim bail, while the Court considers your application for Anticipatory Release or Regular Bail. Certain conditions must be met before you may get it. Before the end of the interim bail period, the court will revoke the bail and either take the accused into custody or issue an arrest warrant if he has not paid the court the required amount to confirm and/or continue the bail.
    - **Features of interim bail**

The features of an Interim Bail are as follows:

- They only get it for a limited time.
- Anticipatory bail may be granted while a conventional bail or anticipatory bail application is pending in court.
- After the bail term has over, the suspect may be taken into custody without a court order.
- When Interim Bail is no longer needed, it is not possible to follow any formal procedure.

III. RIGHT TO INTERIM BAIL DURING THE PANDEMIC

Overcrowding in prisons is a major concern during the current epidemic of Covid 19, therefore there was a lot of talk about how to ensure the inmates' safety and make the necessary modifications to the right to bail. After much deliberation, on March 23, 2020, the Supreme Court of India issued a ruling outlining the guidelines for bail during the Covid -19 epidemic. The Supreme Court mandated the creation of HPCs in each State and Union Territory (UT). In order to maintain appropriate social distance and to prevent overcrowding of the inmates, the newly constituted committee will debate and have total authority over topics relating to the award of temporary bail or parole for a defined time. The members of the committee were as follows:

- State Legal Services Committee’s Chairman,

- The Principal Secretary of the Prison/Home,
- Prison's Director-General

The High Power Committee has the exclusive discretion to determine whether inmates are eligible for parole or temporary bail based on the nature of the crime committed, the length of the jail term, the severity of the penalty awaiting trial, or any other acceptable circumstances.

IV. ANTICIPATORY BAIL

There has been a surge in requests for anticipatory bail in the year after the emergency. Many of the petitioners were powerful figures who had held high positions during the emergency and were now afraid of being arrested for corruption, misusing their positions, etc. in the post-emergency period. Rich and powerful people who were engaged in the anticipatory bail processes tried to gain as much as possible via the legal system. In this procedure, the courts had to give their interpretations of the law careful consideration and secrecy. This has helped propel the development and refinement of the legislation around anticipatory bail.

Article 21 of the Indian Constitution guarantees everyone the right to life and freedom, which are often regarded as among the most fundamental and important of all basic rights. Specifically, Section 438 of the Criminal Procedure Code of 1973 allows for anticipatory bail to be granted.

The Law Commission of India argued for the inclusion of a provision in the Code of Criminal Procedure allowing the High Court and the Court of Meetings to grant "expectant bail" in their 41st Report, which was released on September 24, 1969. Under this clause, you may apply for bail if you've been accused of committing a crime for which it's usually impossible to post bond. This clause was included for the obvious reason that no one should be restrained until a guarantee of accountability has been made.

The case of Gurbaksh Singh Sibbia v. Province of Punjab, which was selected by the Hon'ble High Court, explained that "the difference between a standard request of bail and a request for expectant bail is that where the previous is conceded after capture and hence implies discharge from the guardianship of the police, the last option is allowed fully expecting capture and is, therefore, viable at the exact moment of capture." If a higher court grants break anticipated bail while a case is pending, no normal bail may be granted.

V. WHAT IS THE DIFFERENCE BETWEEN ANTICIPATORY BAIL AND INTERIM BAIL?

Section 438 authorizes the High Court and Sessions Court to issue orders for the release of a suspect on bail before to his or her arrest (anticipatory bail).” Anticipatory bail is necessary

because influential individuals may sometimes attempt to falsely incriminate their competitors in cases to embarrass them or for other purposes by keeping them in prison for a short period of time.

Barring fraud, it seems fair to have an accused individual surrender to custody, wait a few days in jail, and then then consider granting bail if there are good reasons to think he won't flee or otherwise abuse his freedom while out on it.

Section 438 only foresees an order releasing the accused on bail in the event of his arrest; the phrase "anticipatory bail" is a misnomer.

It goes without saying that a person must be in custody for bail to be discussed. In this case, the anticipatory bail order won't take effect until the defendant is actually arrested.

In deciding whether or not to grant anticipatory bail, the High Court or Sessions Court must consider the criteria outlined in the Act.

- The intensity and specifics of the accusation.
- The applicant's history, including whether or not he has been incarcerated for a crime that can be proven in court.
- The petitioner may try to evade justice.

VI. JUDICIAL PRECEDENTS FOR INTERIM BAIL

1. **Sukhwant Singh & Ors v. State of Punjab**

An accused person's good name may be preserved by the use of interim bail, as stated. In Sukhwant Singh v. State, the Supreme Court ruled that the courts' authority to give bail includes the authority to provide interim relief. Because an accused person might be detained before a decision on his bail is made, the notion of interim bail is crucial. If the court determines that giving the accused person interim bail would prevent further wrongful arrest or detention, then the accused person will be released from custody.

2. **Lal Kamlendra Pratap Singh v. State of U.P. and Ors**

It addressed the parameters of interim bail and the court's need to give it: "Since arrest and incarceration might inflict irreparable injury to a person's reputation, interim bail should be granted awaiting decision of the ultimate bail application."

3. **Vijay Agrawal v. Directorate of Enforcement, 2022 SCC OnLine Del 4494, decided on 13-12-2022**

The petitioner here requested bail on the grounds that he was suffering from a serious medical

ailment. The petitioner, who is 59 years old, claims to be suffering from a number of back and spinal issues and to be under the care of a doctor at all times. Furthermore, it was said that his infirmities had deteriorated as a result of his time spent in prison due to his lack of access to appropriate therapy.

VII. ARGUMENTS ON BEHALF OF PETITIONER

The petitioner's lawyer claimed that his client had been in court custody since March 2022, and that, among other things, he had been diagnosed with Prolapsed Intervertebral Disk (PIVD), Lumbar Cabal Stenosis (LCS) L-3, L-4, L-5, and L5-S1, all of which caused him severe back discomfort. It was further claimed that the petitioner's herniated discs and degenerative condition caused nerve compression, which in turn caused the severe pain and stiffness the person was experiencing in their limbs. The petitioner was under continual medical observation throughout his whole hospitalization at Bombay Hospital in September 2021, long before he was detained.

The petitioner's lawyer argued that the petitioner's diminished strength and sensory skills were the direct result of a failure to address the underlying condition. Also, the petitioner claimed that a neurosurgical review had been promised since July 2022 but had not yet taken place. Therefore, it was argued, it would be in the petitioner's best interest for him to be released on interim bail for a long enough period of time to undergo neurological medical testing.

VIII. ARGUMENTS ON BEHALF OF THE RESPONDENT

Counsel for the respondent submitted that the petitioner was not suffering from any serious ailments which required any immediate hospitalization or any further intervention. Further, it was stated that the petitioner’s condition was found stable as per the latest medical report. Therefore, It was argued that, due to the seriousness of the obligatory twin circumstances under Section 45 of the Counteraction of Tax evasion Act, 2002 (PMLA), the accused should not be released on break bail unless the Court was satisfied that there were reasonable justification for accepting that he was not at real fault for an offense of illegal tax avoidance and that he was not liable to commit any offense while on bail.

(A) Held:

The Court noted that the report stated that the general condition of the petitioner was stable, and all the medicines were being provided to him, but it was also true that the allegations against the petitioner were serious in nature and therefore, the allegations against the petitioner would be examined considering the twin conditions as provided under Section 45 of PMLA.

The Court opined that even though the offense was serious, the health of the human being was paramount. The Court stated that *"The State was responsible for a detainee's healthcare, and the Judicial Branch closely monitored their condition. Anyone should be able to afford high-quality medical care that really helps them. In addition to the right to life, Article 21 of the Constitution guarantees the right to a dignified existence. Constitutional protections include the right to health and wellness."*

IX. GRANT OF INTERIM BAIL ON GROUNDS RELATED TO COVID- 19

As a result of the widespread panic caused by the CoVD-19 pandemic, temporary bail has been granted in a large number of instances. The following are examples of some of these –

1. **Meenu Singh v State of NCT of Delhi-** After being found positive for Coronavirus while in a position of power and having an eye removed as a result of her infection, the High Court of Delhi granted the attorney bail despite the fact that she was still at large.
2. **Natasha Narwal v. State of Delhi NCT** – After the applicant's father passed away in February 2020, she was granted temporary delivery for a lengthy period of time on beneficial grounds under the UAPA Act. The 19th Coronavirus
3. **"Bhupinder Singh v. Unitech Limited** – The former MD of Unitech was granted 30-day break bail after both of his parents, at aged 81 and 78, tested positive for Covid and required hospitalization."

X. CONCLUSION

To sum up, the right to one's own life and freedom is something that should not be squandered. The Indian judicial and legal systems have highlighted again and again, especially in bail grant and denial instances, the significance of such inherent rights of people. However, the courts should be aware that dishonest litigants or other people who exploit the system should be subject to severe punishment. The law protects and helps the honest, but it can't be utilized to further or carry out a scam. As its name suggests, interim bail offers provisional protection while the legal procedure is pending, but it cannot be utilized as a means of evading justice altogether. The legislation requires severe punishment for anyone who break it.

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