



KAMARAJ IAS ACADEMY
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Bail cannot be denied on ground of serious charges: SC

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Context:

The Supreme Court has clarified that seriousness of charges alone cannot be a factor to deny bail to undertrials nor can courts impose “freakish” bail conditions.

What is ‘Bail’?

The term ‘bail’ is originated from an old French verb ‘bailer’ which means ‘to give’ or ‘to deliver’.

Bail refers to the provisional release of the accused in a criminal case in which the court is yet to announce the judgment.

The term ‘bail’ means the security that is deposited in order to secure the release of the accused.

Types of Bail in India

The Code of Criminal Procedure (CrPC) does not define the word bail.

oThe CrPC was first drafted in 1882 and continues to be in use with amendments from time to time.

Depending upon the stage of the criminal matter, there are commonly three types of bail in India:

Regular Bail

A regular bail is generally granted to a person who has been arrested or is in police custody.

A bail application can be filed for the regular bail under section 437 and 439 of CrPC.

Interim Bail

This type of bail is granted for a short period of time and it is granted before the hearing for the grant of regular bail or anticipatory bail.

Anticipatory Bail

Anticipatory bail is granted under section 438 of CrPC either by session court or High Court.

An application for the grant of anticipatory bail can be filed by the person who discerns that he may be arrested by the police for a non-bailable offence.

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Conditions for bail in bailable offence are :

There are sufficient reasons to believe that the accused has not committed the offence.

There is sufficient reason to conduct further enquiry in the matter.

The person is not accused of any offence punishable with death, life imprisonment or imprisonment up to 10 years.

Conditions for grant of bail in non-bailable offences :

If the accused is a woman or a child, bail can be granted in a non-bailable offence.

If there is lack of evidence then bail in non-Bailable offences can be granted.

If there is delay in lodging FIR by the complainant, bail may be granted.

If the accused is gravely sick.

Cancellation of Bail

Court has the power to cancel the bail even at a later stage.

The Court can cancel the bail granted by it and give directions to the police officer to arrest the person and keep in police custody.

Bharatiya Nyaya Sanhita 2023 replaced Indian Penal Code, 1860

Bharatiya Nagarik Suraksha Sanhita 2023 replaced Criminal Procedure Code, 1973

Bharatiya Sakshya Adhiniyam 2023 replaced Indian Evidence Act, 1872