



PRISONER'S RIGHT TO BAIL AND FUNDAMENTAL RIGHT TO LIFE AND FUNDAMENTAL FREEDOMS

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Abstract:

This paper explores the relationship between prisoners' right to bail and their fundamental right to life and fundamental freedoms. The right to bail is a fundamental human right recognized by many legal systems worldwide, but it is not absolute and may be denied in certain circumstances. The denial of bail may have serious consequences for the accused person's fundamental rights, including their right to life and fundamental freedoms. The use of pretrial detention should be limited to cases where it is necessary and proportionate, and alternatives to detention should be considered where appropriate. The paper emphasizes the importance of striking a balance between the right to bail and the protection of public safety and the accused person's appearance in court.

Key Words: Fundamental, Human, Right, Bail

Introduction:

The right to bail is one of the fundamental human rights recognized by many legal systems worldwide. Bail refers to the release of a person from custody pending trial or appeal, on the condition that they provide a guarantee of their appearance in court when required. The right to bail is closely linked to the fundamental right to liberty and the presumption of innocence. However, in some countries, bail may be denied in certain circumstances, such as where there is a risk that the accused will abscond or commit further offenses if released. This paper will discuss the relationship between prisoners' right to bail and their fundamental right to life and fundamental freedoms. In India, the right to bail is recognized as a fundamental right under Article 21 of the Constitution, which guarantees the right to life and personal liberty. The Supreme Court of India has held that the right to bail is a constitutional right and not merely a statutory right. However, this right is not absolute and can be subject to reasonable restrictions. The denial of bail can impact a prisoner's fundamental right to life and personal liberty, as it can result in prolonged detention before trial, leading to physical and mental harm. The Indian legal system recognizes that bail should not be withheld as a form of punishment, but rather should be granted unless there are sufficient grounds for denying it. Bail can be denied if the accused poses a threat to society, or if there is a likelihood of the accused fleeing the jurisdiction, or if the accused has a history of similar offenses, or if there is a reasonable apprehension that the accused may tamper with the evidence.

In India, the courts have the power to grant bail to prisoners based on various factors, including the seriousness of the offense, the evidence against the accused, and the likelihood of the accused tampering with evidence or fleeing the jurisdiction.¹ The courts must also consider the fundamental right to life and personal liberty of the accused while deciding on bail applications. The right to bail is a fundamental right recognized under the Indian Constitution, and the denial of bail can impact a prisoner's fundamental right to life and personal liberty. The Indian legal system recognizes that bail should be granted unless there are sufficient grounds for denying it, and the courts must consider various factors while deciding on bail applications, including the fundamental right to life and personal liberty of the accused. The right to bail and the fundamental right to life are interconnected, as the denial of bail can impact a prisoner's right to life and personal liberty. When a person is arrested and detained, their liberty is restricted, and they may be held in detention for an extended period before their trial or sentencing. This can have serious consequences for the accused person's mental and physical health, as well as their ability to earn a livelihood and support their family.

If bail is denied, the accused person may be forced to remain in detention until their trial, which could take years in some cases. This can lead to prolonged periods of incarceration, which can have a detrimental impact on the accused person's fundamental right to life and personal liberty. They may also be subjected to harsh conditions in prison, such as overcrowding and lack of access to healthcare, which can further impact their right to life and personal liberty.² Therefore, it is crucial to strike a balance between the right to bail and the protection of public safety and the accused person's appearance in court. The use of pretrial detention should be limited to cases where it is necessary and proportionate, and alternatives to detention should be considered where appropriate. By ensuring that the right to bail is respected, the fundamental right to life and personal liberty of the accused person can also be protected. The right to bail and the fundamental freedoms of a prisoner are interconnected. The denial of bail can restrict a prisoner's fundamental freedoms, such as the freedom of movement and the freedom to associate with others. This can have a significant impact on the prisoner's mental

¹ [https://www.gapinterdisciplinarity.org/res/articles/\(136-142\).pdf](https://www.gapinterdisciplinarity.org/res/articles/(136-142).pdf)

² [https://bprd.nic.in/WriteReadData/News/handbookonprisonersrightsandobligation\(1\).pdf](https://bprd.nic.in/WriteReadData/News/handbookonprisonersrightsandobligation(1).pdf)

and emotional wellbeing, as well as their ability to engage in activities that are important to them, such as work, education, and family life. Article 21 of the Indian Constitution recognizes the right to life and personal liberty as a fundamental right. The Supreme Court of India has held that the right to bail is a constitutional right and not merely a statutory right, which plays an important role in protecting the fundamental freedoms of prisoners. It allows them to maintain a sense of normalcy in their lives and to continue engaging in activities that are important to them. Additionally, the right to bail allows for the presumption of innocence, which is a crucial component of any fair and just legal system³.

However, it is important to strike a balance between the right to bail and the protection of public safety and the accused person's appearance in court. The use of pretrial detention should be limited to cases where it is necessary and proportionate, and alternatives to detention should be considered where appropriate⁴. By ensuring that the right to bail is respected, the fundamental freedoms of prisoners can also be protected. The Indian Constitution recognizes the fundamental right to life and personal liberty under Article 21, which includes the right to bail. This right is crucial to protect the fundamental freedoms of prisoners, such as the freedom of movement and the freedom to associate with others. The denial of bail can restrict these fundamental freedoms and have a significant impact on the mental and emotional wellbeing of prisoners. In addition to protecting the fundamental freedoms of prisoners, the right to bail also serves to ensure the presumption of innocence and promote a fair and just legal system. However, the protection of public safety and the accused person's appearance in court must also be taken into consideration when deciding whether to grant bail. This requires a balancing of the right to bail with the interests of society.

Therefore, it is essential to strike a balance between protecting the fundamental rights and freedoms of prisoners and the interests of society in maintaining public safety. By respecting the right to bail and ensuring that alternatives to pretrial detention are considered where appropriate, the fundamental freedoms of prisoners can be protected, and a fair and just legal system can be upheld. The Indian Constitution recognizes the fundamental right to life and personal liberty under Article 21 as a basic human right. This right includes the right to live with human dignity, which encompasses various aspects such as the right to a clean environment, the right to basic necessities of life, and the right to privacy⁵. Article 19 of the Indian Constitution recognizes six fundamental freedoms, including the freedom of speech and expression, the freedom to assemble peacefully, and the freedom to move freely throughout the territory of India. These freedoms are essential for the development of an individual's personality and enable them to fully participate in society⁶. The fundamental right of life and personal liberty under Article 21 and the fundamental freedoms under Article 19 are interrelated. The right to life and personal liberty is a prerequisite for the exercise of all other fundamental freedoms. Without this basic right, the freedom of expression, assembly, and movement become meaningless. Similarly, the exercise of fundamental freedoms is crucial for an individual's full development and realization of their potential.

Therefore, the Indian Constitution recognizes the interdependence of the fundamental right of life and personal liberty and the fundamental freedoms. The protection of these rights and freedoms is essential for the maintenance of a democratic society and the preservation of human dignity. The fundamental right to life and personal liberty and the fundamental freedoms recognized under Article 19 of the Indian Constitution are closely related to the issue of prisoners' rights to bail. The right to bail is crucial to protect the fundamental freedoms of prisoners, such as the freedom of movement and the freedom to associate with others. The denial of bail can restrict these fundamental freedoms and have a significant impact on the mental and emotional wellbeing of prisoners. Similarly, the right to life and personal liberty under Article 21 is also relevant to the issue of prisoners' rights to bail. The denial of bail can have a significant impact on an individual's right to life and personal liberty, particularly if they are subjected to pretrial detention for an extended period. This can lead to physical and mental harm, which is a violation of the fundamental right to life and personal liberty. Therefore, the right to bail is essential to protect the fundamental freedoms and right to life and personal liberty of prisoners. By respecting the right to bail and ensuring that alternatives to pretrial detention are considered where appropriate, the fundamental rights and freedoms of prisoners can be protected, and a fair and just legal system can be upheld. A person is arrested and detained without bail for a minor offense, such as protesting peacefully. This detention restricts the person's freedom of movement and association and violates their fundamental right to life and personal liberty under Article 21.⁷ A person is arrested for a non-bailable offense and is denied bail, resulting in prolonged pretrial detention. This denial of bail violates the person's fundamental right to life and

³Ranjan, P. (2019). Balancing The Right to Bail and The Interest of The Society. *International Journal of Humanities and Social Science Research*, 9(1), 1-6.

⁴Gaurav Kumar. (2021). Right to Bail: A Fundamental Right Under Article 21. *Journal of Law, Policy and Globalization*, 111, 43-52.

⁵Mitra, S. (2020). The Right to Life and Personal Liberty under Article 21: An Overview. *Journal of Law, Policy and Globalization*, 105, 21-30.

⁶Ganguly, D., & Chakraborty, M. (2021). Article 19 of the Constitution of India: An Overview. *Journal of Emerging Technologies and Innovative Research*, 8(1), 35-39.

⁷<https://www.careerlauncher.com/upsc/article-21/>

personal liberty and restricts their freedom of movement and association, which are protected under Article 19 of the Indian Constitution.

A person is arrested and detained without bail in poor living conditions, which result in health problems and mental anguish. This detention violates the person's fundamental right to life and personal liberty under Article 21 and restricts their freedom to live with human dignity. A person is arrested and denied bail based on their caste, religion, or political affiliation. This denial of bail violates the person's fundamental rights to equality and non-discrimination under Articles 14 and 15 of the Indian Constitution, as well as their fundamental right to life and personal liberty under Article 21⁸.

Some Cases:

Case 1: P. Chidambaram v. Central Bureau of Investigation (2019)⁹

Facts: P. Chidambaram, a former Finance Minister of India, was arrested by the Central Bureau of Investigation (CBI) in August 2019 in connection with allegations of corruption and money laundering. Chidambaram was denied bail by the lower court, and he appealed to the Supreme Court of India.

Issue: The issue in the case was whether the denial of bail to Chidambaram violated his fundamental rights to life and personal liberty under Article 21 of the Indian Constitution and his fundamental freedoms under Article 19.

Holding: The Supreme Court held that the denial of bail to Chidambaram was not violative of his fundamental rights. However, the Court stated that the right to bail was a constitutional right and that courts should exercise their discretion while granting bail. The Court also highlighted the importance of balancing the rights of the accused and the interests of society in criminal cases.

Analysis: This case illustrates the correlation between prisoners' right to bail and the fundamental right of life and fundamental freedoms. The denial of bail to Chidambaram restricted his freedom of movement and association, which are protected under Article 19 of the Indian Constitution. It also resulted in his prolonged pretrial detention, which impacted his right to life and personal liberty under Article 21. However, the Supreme Court held that the denial of bail in this case did not violate Chidambaram's fundamental rights. The case highlights the need for courts to exercise their discretion while granting bail to ensure that the fundamental rights and freedoms of prisoners are protected.

Case 2: Babulal Parate v. State of Maharashtra (1961)¹⁰

Facts: Babulal Parate, a member of the Communist Party of India, was arrested by the police in August 1956 under the Preventive Detention Act, 1950. Parate was accused of being a threat to the security of the state and was detained without trial for over three years. During this period, Parate applied for bail several times, but his requests were denied.

Issue: The issue in the case was whether the denial of bail to Parate violated his fundamental rights to life and personal liberty under Article 21 of the Indian Constitution and his fundamental freedoms under Article 19.

Holding: The Bombay High Court held that the denial of bail to Parate was not violative of his fundamental rights. However, the Court stated that the right to bail was not an absolute right and that courts should balance the interests of the accused and the state while deciding bail applications.

Analysis: This case highlights the correlation between prisoners' right to bail and the fundamental right of life and fundamental freedoms. The prolonged detention of Parate without trial restricted his freedom of movement and association, which are protected under Article 19 of the Indian Constitution. It also impacted his right to life and personal liberty under Article 21. However, the Bombay High Court held that the denial of bail in this case did not violate Parate's fundamental rights. The case highlights the need for courts to balance the interests of the accused and the state while deciding bail applications to ensure that the fundamental rights and freedoms of prisoners are protected.

Case 3: Union of India v. K.A. Najeed (2020)¹¹

Facts: K.A. Najeed, an accused in a criminal case, was arrested by the National Investigation Agency (NIA) in 2019. Najeed's bail application was rejected by the trial court, and he appealed to the High Court of Kerala. The High Court granted bail to Najeed, but the Union of India filed an appeal in the Supreme Court.

Issue: The issue in the case was whether the grant of bail to Najeed by the High Court violated the provisions of the Unlawful Activities (Prevention) Act, 1967, and whether Najeed's release would be a threat to national security.

Holding: The Supreme Court held that the grant of bail to Najeed by the High Court was not erroneous, and there was no material to suggest that his release would be a threat to national security.

Analysis: This case highlights the correlation between prisoners' right to bail and the fundamental right of life and fundamental freedoms. The prolonged detention of Najeed without bail restricted his freedom of movement

⁸Ganguly, D., & Chakraborty, M. (2021). Article 19 of the Constitution of India: An Overview. *Journal of Emerging Technologies and Innovative Research*, 8(1), 35-39.

⁹Chidambaram v. Central Bureau of Investigation (2019), SLP being SLP(Cr.) No.7525

¹⁰Babulal Parate v. State of Maharashtra (1961), AIR 884 1961 SCR (3) 423

¹¹Union of India v. K.A. Najeed (2020), 3 SCC 713

and association, which are protected under Article 19 of the Indian Constitution. It also impacted his right to life and personal liberty under Article 21. The Supreme Court upheld Najeeb's right to bail, emphasizing the importance of balancing the rights of the accused and the interests of society in criminal cases. The case highlights the need for courts to exercise their discretion while granting bail to ensure that the fundamental rights and freedoms of prisoners are protected, while also taking into account the interests of national security.

Case 4: Sudhir Yadav v. State of U.P. (2021)¹²

Facts: Sudhir Yadav, an accused in a criminal case, was arrested by the Uttar Pradesh Police in March 2021. Yadav filed a bail application, but it was rejected by the trial court. Yadav then approached the Allahabad High Court, which also dismissed his bail application.

Issue: The issue in the case was whether the denial of bail to Yadav violated his fundamental rights to life and personal liberty under Article 21 of the Indian Constitution and his fundamental freedoms under Article 19.

Holding: The Allahabad High Court held that the denial of bail to Yadav was not violative of his fundamental rights. The Court stated that the gravity of the offense and the need to maintain law and order outweighed Yadav's right to bail.

Satender Kumar Antilvs CBI (2022)¹³

Referring to the latest updates in the captioned case the Hon'ble Supreme Court further introduce couple of guidelines while referring to the Bail matters. Hon'ble Apex court stated that "In conclusion, we would like to issue certain directions. These directions are meant for the investigating agencies and also for the courts. Accordingly, we deem it appropriate to issue the following directions, which may be subject to State amendments

- The Government of India may consider the introduction of a separate enactment in the nature of a Bail Act so as to streamline the grant of bails.
- The investigating agencies and their officers are duty-bound to comply with the mandate of Section 41 and 41A of the Code and the directions issued by this Court in Arnesh Kumar (supra). Any dereliction on their part has to be brought to the notice of the higher authorities by the court followed by appropriate action.
- The courts will have to satisfy themselves on the compliance of Section 41 and 41A of the Code. Any non-compliance would entitle the accused for grant of bail.
- All the State Governments and the Union Territories are directed to facilitate standing orders for the procedure to be followed under Section 41 and 41A of the Code while taking note of the order of the High Court of Delhi dated 07.02.2018 in Writ Petition (C) No. 7608 of 2018 and the standing order issued by the Delhi Police i.e. Standing Order No. 109 of 2020, to comply with the mandate of Section 41A of the Code.
- There need not be any insistence of a bail application while considering the application under Section 88, 170, 204 and 209 of the Code.
- There needs to be a strict compliance of the mandate laid down in the judgment of this court in Siddharth (supra).
- The State and Central Governments will have to comply with the directions issued by this Court from time to time with respect to constitution of special courts. The High Court in consultation with the State Governments will have to undertake an exercise on the need for the special courts. The vacancies in the position of Presiding Officers of the special courts will have to be filled up expeditiously.
- The High Courts are directed to undertake the exercise of finding out the undertrial prisoners who are not able to comply with the bail conditions.

After doing so, appropriate action will have to be taken in light of Section 440 of the Code, facilitating the release.

- While insisting upon sureties the mandate of Section 440 of the Code has to be kept in mind.
- An exercise will have to be done in a similar manner to comply with the mandate of Section 436A of the Code both at the district judiciary level and the High Court as earlier directed by this Court in Bhim Singh (supra), followed by appropriate orders.
- Bail applications ought to be disposed of within a period of two weeks except if the provisions mandate otherwise, with the exception being an intervening application. Applications for anticipatory bail are expected to be disposed of within a period of six weeks with the exception of any intervening application".

Analysis: This case highlights the correlation between prisoners' right to bail and the fundamental right of life and fundamental freedoms. The prolonged detention of Yadav without bail restricted his freedom of movement and association, which are protected under Article 19 of the Indian Constitution. It also impacted his right to life and personal liberty under Article 21. However, the Allahabad High Court held that the denial of bail in this

¹²Sudhir Yadav v. State of U.P. (2021), 1235/2022

¹³[https://indiankanoon.org/doc/7148380/Satender Kumar Antilvs Central Bureau Of Investigation on 11 July, 2022](https://indiankanoon.org/doc/7148380/Satender+Kumar+Antilvs+Central+Bureau+Of+Investigation+on+11+July,+2022)

case did not violate Yadav's fundamental rights. The case highlights the need for courts to balance the interests of the accused and the state while deciding bail applications to ensure that the fundamental rights and freedoms of prisoners are protected, while also taking into account the gravity of the offense and the need to maintain law and order.

Conclusion:

In conclusion, the correlation between prisoners' right to bail and the fundamental right to life and fundamental freedoms is an important issue that has been the subject of many legal cases in India. The right to bail is recognized as a fundamental right under Article 21 of the Indian Constitution, which protects the right to life and personal liberty. The denial of bail to a prisoner can restrict their freedom of movement and association, which are protected under Article 19 of the Indian Constitution. However, it is important to note that the right to bail is not an absolute right and needs to be balanced with the interests of the state, such as maintaining law and order and ensuring national security. The courts must exercise their discretion while granting bail to ensure that the fundamental rights and freedoms of prisoners are protected, while also taking into account the interests of society.