

# A CRITICAL STUDY OF BAIL JURISPRUDENCE AND HUMAN RIGHTS OF UNDERTRIAL PRISONERS IN INDIA

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## Abstract

Under Criminal justice system the idea of bail is based upon the the principle of Presumption of Innocence which lies at the heart of bail jurisprudence, contrary in the context of Indian prison data. As of the latest National Crime Records Bureau (NCRB) <sup>1</sup>data, around 75% of India's prison held are undertrials who have not been punished of any offence however stuck in the judicial custody pending the trial which is very antithetical to the idea of free and speedy trial which has been accorded as fundamental right by Supreme court for everyone. The main problem is that the 'imprisonment' is due to not being able to have affordability, accessibility and availability of their legal right which depreciates basic conditions of life guaranteed in most of the prisons of India, including food, hygiene and shelter.

**Keywords:** *Bail, Presumption of Innocence, bail jurisprudence, human rights, judicial custody)*

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## 1. Introduction

As per Prison Statistics India–2023 The total number of prisons at national level has increased from 1,330 in 2022 to 1,332 and during the year 2023, a total of 17,24,522 inmates were admitted in various jails of the country and there were 10,392 undertrial prisoners (accounting for 2.7% of total undertrial prisoners) who were confined for more than 5 years. The very idea and concept of granting of bail to individuals at under trial stage is a right given to the accused as well as convicted prisoner under Criminal procedure code plays a primary role in the process of justice system starting from the remand stage till the conclusion of trial.

### 1.1 Objectives

The research aims to notice the issue of overcrowding, its causes and impacts on human rights and dignity, the role of prison administration, and evaluate enforcement challenges as well as judicial pronouncements affecting undertrial prisoners. Moreover, this article critically examines undertrial prisoners' rights in light of Article 21's personal liberty and the presumption of innocence as they make up a sizable portion of the prison population most of the times getting held in the judicial custody longer than required.

## 2. Methodology

This research work is doctrinal and analytical in nature which has included the collecting of secondary data from many important books, journals, government reports that have been published, articles, and information has been gathered from various websites for the study. The present study clarifies the current situation by providing some facts and outlining the issues. The current study assesses the performance of Bhartiya Nagrik Suraksha Sanhita, 2023 in a critical manner.

## 3. Review of Literature

1 Bail or Jail? Assessing the Rise of Carceral Justice in India's BNSS Framework

International Journal of Legal Studies (2025)

This article talks and analyzes the ideological shift in Indian criminal procedure, noting the CrPC (1973) reflects a "liberty-first" philosophy while the BNSS (2023) moves toward "The Doctrine of prolonged justice." the findings indicate the new law favors administrative control, extending police custody and prioritizing deterrence over presuming innocence in legal processes.

2 Legislative Analysis of Section 479 (BNSS) Indian Journal of Law and Legal Research Volume VII Issue VI |

So Basically, Section 479 helps "forgotten" prisoners get out of jail if they've been waiting for trial for almost as long as their actual sentence would have been. It's a fairer and kind way to handle the law, but there's a catch: if a person has multiple cases against them, they might not qualify. This "loophole" means judges need to look very closely at each situation to make sure the law is still doing its job.

3 Locked justice: Evaluating judicial interventions on prison overcrowding, bail reforms, and the rights of undertrial prisoners under India's criminal justice framework post-BNS, 2023 International Journal of Criminal, Common and Statutory Law 2025<sup>ii</sup> –Economic Barriers to Liberty: The current bail system is based more on financial security going against the poor litigants and prisoners, the outdated Legislation: The Prisons Act of 1894 is a of colonial era and fails to meet contemporary correctional needs, A non-uniformity of national standards leads to uneven effect and use of bail and prison management across different states.

## 4. Discussions

### Judicial Involvement

The Indian judiciary has frequently stepped in to fill legislative gaps, using "judicial activism" to transform the constitutional promise of liberty into practical protections for those awaiting trial<sup>iii</sup>.

The Evolution of Bail and Undertrial Prisoners' Rights

- Hussainara Khatoon v. State of Bihar (1979): This initial case provided solid ground for the "Right to a Speedy Trial." The Court ruled that under Article 21, a trial that goes on for eternity is violation of the right to life and liberty.
- Satender Kumar Antil v. CBI (2022): Recently termed as "Bail Manual," this ruling provided comprehensive guidelines for judges. It aimed to streamline the bail process and discouraged the practice of "unnecessary arrests" that clog the judicial system.

### Suggestions

- Creating and enabling required infrastructure expanding the judicial workforce.
- A separate legislation for Bail matters and streamline all the relevant provisions as well as judicial pronouncements.
- A more inclusive bail framework can be made to eradicate the financial and economic hurdles that leads underprivileged persons stuck in jail.
- Section 479 of the Bhartiya Nagrik Suraksha Sanhita enabling a prisoner shall be released on bail on personal bond if the concerned prisoner has completed detention of half the maximum period of imprisonment given for that offence<sup>iv</sup>

### 5. Conclusion

Concluding we can hope that the Indian Constitution is a organic document which says that freedom is core of the fundamental right. Although judges many times quote the "bail, not jail" rule, the actual experience for the poor prisoner who is facing dark walls of the prison for uncertain period of time.

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