

INTERIM BAIL

It is basically for a short duration and before the hearing or final disposal of regular or anticipatory bail application. Interim bail is important as when application for regular or anticipatory bail goes to court, certain documents are required like charge sheet or case diary etc. So, that they can judiciously decide the application. But this process requires time and the accused has to remain in legal custody until the court gets the documents and can decide the bail application. But according to interim bail, an accused can apply for it to avoid jail till court gets the documents etc. Thus, interim bail is a temporary bail for a shorter time period during which the court can call the documents to make a final decision on the regular or anticipatory bail application. It is granted on some condition.

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- The Interim bail can be extended for more time if the period expires and court thinks fit to extend the time due to special circumstances.
- interim bail is a measure especially to safeguard the reputation of an accused. Also, the court has the inherent power to grant bail to a person whose bail application is still pending for disposal
- Granting of interim bail is the discretion of the Court but decisions should be sound and guided by law.

What is the difference between interim and regular bail?

A person requests regular bail after being arrested. He must seek bail because he has already been detained by the police and is in their custody. A court may issue interim bail, which is similar to temporary bail, while your application for anticipatory bail or regular bail is being processed.

CERTAIN CONDITIONS THAT COURT CAN IMPOSED WHILE

- Court can impose certain condition as to not to come in direct or indirect contact with the witnesses. Also, the person has to appear himself for interrogation by the police.
- Nor shall he make any direct or indirect inducement or threat to the person acquainted with the facts.
- Also, he cannot leave the country nor the jurisdiction of the court without the permission of the court.

CASES LAW ON INTERIM BAIL

Sukhwant Singh & Ors v. State of Punjab (2009) 7 SCC 559,

In this case Hon'ble Supreme Court held that the interim bail is a measure especially to safeguard the reputation of an accused. Also, the court has the inherent power to grant bail to a person whose bail application is still pending for disposal.

Nikesh Tarachand Shah v. Union of India (UOI) and Ors., AIR 2017 SC 5500

In this case, it was held that grant of bail is a general rule and refusal is an exception exercised carefully as he can defend himself better when he is free. Granting of interim bail is also a general rule and it is given till a final adjudication on the regular bail or anticipatory bail application is disposed off.

Munawar v. State of Madhya Pradesh 2021 SCC OnLine SC 60

the Supreme Court granted interim bail to Faruqui. He was arrested for the charges under section 295A of IPC . His petition of bail was rejected by the sessions court and the Madhya Pradesh High Court. The Supreme Court had pointed out that the alleging charges are vague and the procedure for arrest laid down in the ***Arnesh Kumar vs Government of Bihar CRIMINAL APPEAL NO. 1277 OF 2014, (@SPECIAL LEAVE PETITION (CRL.) No.9127 of 2013)*** was not followed. The case registered here does not have punishment more than seven years and on mere allegations, a person should not be arrested. And if reasons are not recorded then, police officer should be liable for action. So, the court directed that he should be released on interim bail.

Judiciary has attempted and discussed the importance of interim bail and many courts considered it a means to protect reputation of the person till the main application of bail is adjudicated. The scope of interim bail is discussed by the Hon'ble Supreme Court in many cases. In ***Lal Kamlendra Pratap Singh v. State of U.P. and Ors. (2009)4 SCC 437***, it was held that interim bail should be given to the person until the main bail application is adjudicated as when the person is arrested, reputation of person is severely affected by that arrest.

CBI ACB Kolkata v. Firhad Hakim W.P.A 10504 of 2021,

- **In this case Calcutta High Court, Full Bench granted interim Bail. The matter was still in pendency. The interim bail was granted to the TMC ministers in the Narada Scam case. The Bail was granted on certain conditions:**
- **The accused shall be released on interim bail on a bail bond of 2 lakhs along with two sureties. The accused have to make themselves appear before the C.B.I for interrogation for further investigation as and when required.**
- **The accused should not tamper with the evidence or witnesses and will not give any press interview as to the case pending.**

- There is another case ***Sukhdev Singh @ Sabu vs State Of Punjab CRM No. M-28407 of 2009*** where it was interim bail to the petitioner should be granted who is accused under NDPS. The ground on which the bail is prayed was to attend the marriage of the daughter. The factum of marriage of the daughter of the petitioner has been verified. Seeing the ground and the need to performed ceremonies by the father in the marriage, he was released on interim bail by furnishing personal bond.

Granting of interim bail is the discretion of the Court but decisions should be sound and guided by law. In the case ***Gudikanti Narasimhulu v. Public Prosecutor, High Court of A.P. (1978)1SCC 240***, court held that it should not be arbitrary or vague but must be governed by rule and by humour and fancies. It must be regular. Such determination is necessary at the stage of determining a request for grant of interim bail and it mainly depends on the facts and circumstances of the courts.

There are many instances where the accused after being arrested obtained the relief of interim bail for limited duration. But at the time of arrest, he evaded arrest and violated the conditions and did not appear before the court. So, many courts had stated that in such cases, bail should not be granted of any types, whether it is an interim bail and should be dealt with severity.

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In the *Phool Chand v. State of Rajasthan, 1983 SCC OnLine Raj 124:1983 RLW 294*, Hon'ble High Court of Rajasthan held that in such cases, such accused cannot obtain remedy under Section 438 CrPC nor under Section 439 CrPC nor interim bail. The Hon'ble Supreme Court in *Niranjan Singhv. Prabhakar Rajaram Kharota 1980 AIR 785, 1980 SCR (3) 15 and Gurbaksh Singh v. State of Punjab 1980 AIR 1632, 1980 SCR (3) 383*, held that bail should not be granted under section 439 Cr. P.C. until he surrenders himself before the Court nor section 438 Cr. P.C. nor interim bail.

Interim bail can be granted on the medical ground.

- In *Atik Ansari v. The State, Nct Delhi., 2006 IV AD(Cri.) (DHC) 303* it was alleged that 2.5 kilograms of heroin were seized from the applicant and he was seeking for interim bail on the ground that his wife is not well. The decision of the Supreme Court in case *Hori Lal v. State, 1997 Crl.L.J 821* was considered where the court granted interim bail under the special circumstances. So, the court granted the petitioner interim bail on personal bond of Rs. 20,000/- for two weeks. It was also observed that in cases of NDPS Act, section 32A does not curtail the power of Court to grant interim bail and this was held in the case of *Makhtool Singh v. State of Punjab CRM-M-12051-2015*

- In the case of **Poonam v. State** CrI M. 1744/2004, matter was related to the grant of interim bail under Sections 21 and 29 of the NDPS Act. The petitioner was granted interim bail for a period of two weeks on the medical ground. The petitioner's wife was going to be operated and nobody was there to look after his wife. If interim bail will not be granted, his wife will be deprived the right for being taken care of. In addition to that, petitioner had no antecedent criminal history. So, he was granted interim bail. One of the another case is **State Of Bihar vs. Rambalak Singh And Others** where Supreme Court held that conferment of jurisdiction means the power to do all such acts that are essential for its execution. On certain conditions, the High Court can set aside the order and can make an interim order. If the High Court has jurisdiction to give the main relief, then it can also give interim .

Marriage is one of the special grounds on which interim bail is granted.

In *Dula Metu Panda vs State Of Gujarat R/CR.MA/7896/2016*, the present application has been filed by the for grant of temporary bail. The application was filed on the ground of marriage. The present application was granted with the condition that on the date of actual release, he has to execute a personal bond of Rs.10,000/ on usual terms and conditions. Then, he should surrender to the jail authority on completion of time period without fail.

Another ground on which interim bail is given is the death of his near ones.

In Priya @ Priya Ranjan Nayak vs State Of Odisha BLAPL No.237 of 2021, the matter was related with the application for interim bail. It was submitted that the mother of the petitioner died at S.C.B. Medical College and Hospital, Cuttack and he is the only son to perform the ceremony of his mother. It is also submitted that the Inspector-in-charge of Mahanga Police Station had verified the averments of the application. Court while observing the documents and facts of the case, released the petitioner on interim bail on furnishing bail bond of Rs.50,000.

Another case **Gulabchand vs State 2 September, 2020**, in which interim bail application has been filed who was in judicial custody for the offence under NDPS Act. He filed application seeking two months on interim bail on the ground that petitioner's wife was dead and he need to perform her last rites at Haridwar. On behalf of him, it was contended that petitioner's wife died on 15.06.2020 and ready to furnish guarantee of the parents of the petitioner regarding the surrender back, once the time of interim bail lapsed. Court while regard to the facts and circumstances of the case, held that it is just and proper to grant fifteen days interim bail to the accused under Section 439 Cr.P.C. then, he will surrender back before the concerned Jail Superintendent and the Jail Superintendent is at liberty to impose other terms and conditions for surrender of the accused back.

Abu Bakar @ Ashwani Kumar vs The State Nct of Delhi, BAIL APPLN. 3195/2020

In this case the interim bail application has been filed under Section 439 Cr.P.C. who was accused under NDPS Act. He raised the ground that accused sister is getting married and in addition to that, besides the petitioner and his elder brother, no one is there even his parents had expired already. It was also contended that earlier also, he was released on interim bail on the ground of death of his mother and surrendered himself on time. Court on the facts and circumstances of the case granted the petitioner interim bail for 2 weeks on a personal bond of Rs.25,000/-. Court also imposed certain conditions on the petitioner not to get in touch with prosecution witnesses and should be available on his mobile number. The petitioner also has to report to the Police station Special Cell, Delhi on every Monday. After the expiry of the time period, he must surrender himself.

- the ***Supreme Court of India issued a decision in 2020***, outlining the guidelines for bail during the COVID-19 epidemic. A High Power Committee (HPC) was mandated by the Supreme Court to be created in each state and the union territories (UT). In order to maintain correct social distance and prevent overcrowding of the convicts, the committee established will discuss and have total authority over all things relating to the award of interim bail or parole for a set period of time. There are several instances when the COVID-19 pandemic was a factor in the decision to grant interim bail.
- In the case of ***In Re: Contagion of COVID-19 vs. Unknown (2020)***, the Delhi High Court extended interim bail for around 3,499 undertrial prisoners for an additional 45 days to relieve overcrowding in jails caused by the ongoing coronavirus outbreak. The High Court's ruling was based on the high power committee's recommendation.
- In ***Natasha Narwal v. State of Delhi NCT (2021)***, the petitioner who was detained in February 2020 in accordance with the Unlawful Activities and (Prevention) Act, 1967 was given a three-week interim bail on humanitarian grounds when her father passed away as a result of COVID-19.

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- In addition to that, it is also provided in special circumstances like, on the ground of medical condition or when there is marriage of his son or daughter and he need to be present there to perform marriage ceremonies. In disposing of regular bail, the time is consumed much more and between that period if the accused is kept in the judicial custody or in police custody, accused loses his reputation and he is innocent until proven guilty. For this reason, it is necessary to grant interim bail to the accused.

CONCLUSION

- The principle presumption of innocence is necessary in criminal cases and protects the life and personal liberty of a person. With this thought, interim bail is granted to the person to protect his reputation.
- It is a remedy that saved the innocent person from spending his time in jail before trial. It is granted before the regular or anticipatory bail is adjudicated. The interim bail is granted mainly on sureties and bonds that is huge disadvantage for the poor. An innocent person sometime in special circumstances does not receive interim bail due to not having monetary means. Other means should be devised by the court so that every accused has means to take interim bail from the court. It is necessary to be granted as to protect one's reputation.

Thanks,

From,

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