



TOPIC

INTERIM BAIL

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INTERIM BAIL

Interim Bail may be given to the accused during the pendency of his Regular or Anticipatory Bail application. It is also called short term bail or temporary bail.



In Amaravati Vs. State of U.P. 2005 Cr.L.J 755 Full Bench of Hon'ble Allahabad High Court held:-

“ The Court, if it deems fit in the facts and circumstances of the case, may grant interim bail pending final disposal of the bail application.”



In the case of Lal Kamendra Pratap Singh Vs. State of UP, 2009(2) Crime 4 (SC)

Hon'ble Supreme Court agreed with the view taken by the Full Bench of the Allahabad High Court in **Amaravati Vs. State of U.P. 2005 CrL.L.J 755** and held that in appropriate cases interim bail should be granted pending disposal of the final bail application.



Interim Bail by Magistrates :

As regards the law of grant of Interim bail by Magistrates u/s 437 CrPC, referring to the cases of Lal Kamendra Pratap Singh Vs. State of U.P. & Smt. Amravati Vs. State of U.P. the **Division Bench of the Allahabad High Court in Sheoraj Singh alias Chuttan Vs. State of UP, 2009 (65) ACC 781 (All—DB)** has vide Hon'ble High Court **G.L.No 15335/2010/Admin. 'G-II' Dated 20.9.2010** circulated the following guidelines to the judicial officers of the State of U.P. for observance in letter and spirit by holding that the order granting Interim bail pending hearing of a regular bail application may be passed in appropriate cases, **but it ought not to be passed where:-**



(i) The case involves a grave offence like murder, dacoity, robbery, rape etc., and it is necessary to arrest the accused and bring his movements under restraint to infuse confidence among the terror stricken victims and the society at large and for protecting witnesses.

(ii) The case involves an offence under the U.P. Gangsters Act and similar statutory provisions.

(iii) The accused is likely to abscond and evade the processes of law.

(iv) The accused is given to violent behaviour and is likely to commit further offences unless his movements are brought under restraint.



(v) The accused is habitual offender and unless kept in custody he is likely to commit similar offences again.

(vi) The offence is in the nature of a scam, or there is an apprehension that there may be interference with the investigation or for any other reason the Magistrate/Competent Court feels that it is not a fit case for releasing the appellant on interim bail pending the hearing of the regular bail.

(vii) An order of interim bail can also not be passed by the Magistrate who is not empowered to grant regular bail in offences punishable with death or imprisonment for life or under the other circumstances enumerated in section 437CrPC



(viii) If the Public Prosecutor/ Investigating Officer can satisfy the Magistrate/Court concerned that there is a bonafide need for custodial interrogation of the accused regarding various facets of motive, preparation, commission and aftermath of the crime and the connection of other persons,if any, in the crime, or for obtaining information leading to discovery of material facts, it may constitute a valid ground for not granting interim bail, and the Court in such circumstances may pass orders for custodial interrogation, or any other appropriate order.



(ix) It is expected that in all cases where the magistrate is not restrained from granting bail under section 437 CrPC, where an accused moves an application for consideration of his prayer for bail through his Counsel, even without orders of the High Court, the Magistrate may fix a convenient date for the appearance of the accused, and direct the Public Prosecutor to seek instructions from the Investigating Officer in the meanwhile. Between the date of moving of the surrender application and the date fixed for appearance of the accused by the Magistrate, the accused may not be arrested without permission of the Court concerned.



In case the Magistrate is not in a position to finally dispose of the bail on the date fixed, he may consider releasing the appellant on **interim bail** till the date of final hearing of the bail application in the light of the observations hereinabove.



Interim Bail u/s 389 CrPC by Appellate Court : In case of pending consideration of final relief of bail, the appellate court under section 389 CrPC may grant interim bail.

In SUO MOTU WRIT PETITION (CIVIL) No.1 OF 2020 IN RE : CONTAGION OF COVID 19 VIRUS IN PRISONS, Supreme Court by order dated 23.03.2020 directed the States/Union Territories to constitute High Powered Committees which could decide which prisoners may be released on **interim bail** or parole during the pandemic (COVID 19). The purpose was to prevent the overcrowding of prisons so that in case of an outbreak of coronavirus in the prisons, the spread of the disease is manageable.



In **Satender Kumar Antil vs Central Bureau Of Investigation on 7 October, 2021** the Supreme Court has categorised the offences for the purpose of bail as under :-

Categories/Types of Offences

- A)** Offences punishable with imprisonment of 7 years or less not falling in category B & D.
- B)** Offences punishable with death, imprisonment for life, or imprisonment for more than 7 years.
- C)** Offences punishable under Special Acts containing stringent provisions for bail like NDPS (S.37), PMLA (S.45), UAPA (S.43D(5), Companies Act, 212(6), etc.
- D)** Economic offences not covered by Special Acts.



REQUISITE CONDITIONS

- 1) Not arrested during investigation.
- 2) Cooperated throughout in the investigation including appearing before Investigating Officer whenever called. No need to forward such an accused along with the chargesheet (Siddharth Vs. State of UP, 2021 SCC online SC 615)



CATEGORY A

After filing of chargesheet/complaint taking of cognizance

- a) Ordinary summons at the 1st instance/including permitting appearance through Lawyer.
- b) If such an accused does not appear despite service of summons, then Bailable Warrant for physical appearance may be issued.
- c) NBW on failure to failure to appear despite issuance of Bailable Warrant.



d) NBW may be cancelled or converted into a Bailable Warrant/Summons without insisting physical appearance of accused, if such an application is moved on behalf of the accused before execution of the NBW on an undertaking of the accused to appear physically on the next date/s of hearing.

e) Bail applications of such accused on appearance may be decided w/o the accused being taken in physical custody or **by granting interim bail till the bail application is decided.**



Thank you.. Regards 😊

