

BAIL LAW REFORM

SYLLABUS: GS PAPER-II (JUDICIARY, JUDGEMENTS & CASES, TRANSPARENCY & ACCOUNTABILITY)

CONTEXT: Recently, the Supreme Court underlined that **“there is a pressing need”** for reform in the law related to bail and called on the government to consider framing a special legislation on the lines of the law in the United Kingdom.

ABOUT THE RULING

- A two-judge Bench issued certain clarifications to an older judgment delivered in July 2021 on bail reform (**Satender Kumar Antil vs CBI**).
- The ruling is **reiteration of several crucial principles of criminal procedure**.
- Referring to the state of jails in the country, where **over two-thirds lodged are undertrials**, the Supreme Court underlined that arrest is a draconian measure that needs to be used sparingly.
- Theoretically, the court also linked the idea of indiscriminate arrests to **magistrates ignoring the rule of “bail, not jail” to a colonial mindset**.
- The Code of Criminal Procedure (CrPC) was first drafted in 1882 and continues to be in use with amendments from time to time.

LAWS ON BAIL IN INDIA

- **The Code of Criminal Procedure (CrPC) does not define the word bail** but only categories offences under the Indian Penal Code as ‘bailable’ and ‘non-bailable.’
- The CrPC empowers **magistrates to grant bail for bailable offences as a matter of right**. This would involve release on furnishing a bail bond, without or without security.
- For non-bailable offences which enable the police officer to arrest without a warrant, a magistrate would determine if the accused is fit to be released on bail.
- **Section 436 of the Code of Criminal Procedure, 1973**, lays out that **a person accused of a bailable offence under I.P.C. can be granted bail**. On the other hand, **Section 437 of the Code of Criminal Procedure, 1973 lays down that the accused does not have the right to bail for non-bailable offences**. It is the discretion of the court to grant bail in case of non-bailable offences.

BAIL LAWS IN UK

- **The Bail Act of the United Kingdom, 1976**, prescribes the procedure for granting bail.
- A key feature is that one of the **aims of the legislation is “reducing the size of the inmate population.”**
- The law also has provisions for ensuring legal aid for defendants.
- The Act recognizes a **“general right” to be granted bail**.
- Its **Section 4(1)** raises the presumption of bail by stating that the law applies to a person who shall be granted bail except as provided in **Schedule 1** to the Act.
- For rejecting bail, the **prosecution must show that grounds exist** for believing the defendant on bail would not surrender to custody, would commit an offence while on bail, or would interfere with witnesses or otherwise obstruct the course of justice; unless the defendant must be detained for his own welfare or protection; or in other circumstances.

RULING OF SUPREME COURT ON BAIL REFORMS

Separate Law for Bail:

- The court underlined that the CrPC, despite amendments since Independence, retains its original structure as drafted by a colonial power over its subjects.
- The court made this point to signal that despite its rulings, structurally, the Code does not account for arrest as a fundamental liberty issue.
- It also highlighted that magistrates do not necessarily exercise their discretionary powers uniformly.
- Uniformity and certainty in the decisions of the court are the foundations of judicial dispensation.
- Persons accused of the same offense shall never be treated differently by the same court, different courts.
- Such an action would be a grave affront to Articles 14 and 15 of the Constitution of India.
- The court advocates for framing of a separate law that deals with the grant of bail.

Indiscriminate Arrests:

- The court noted that the culture of too many arrests, especially for non-cognizable offences, is unwarranted.
- It emphasized that even for cognizable offences, arrest is not mandatory and must be “necessitated.”
- Such necessity is drawn to prevent the committing of any further offense, for a proper investigation, and to prevent him/her from either disappearing or tampering with the evidence.
- He/she can also be arrested to prevent such person from making any inducement, threat, or promise to any person according to the facts, to dissuade him from disclosing said facts either to the court or to the police officer.
- One more ground on which an arrest may be necessary is when his/her presence is required after arrest for production before the Court and the same cannot be assured.”
- It held that lower courts must satisfy that these conditions are met and “Any non-compliance would entitle the accused for grant of bail.”

Bail Application:

- There need not be any insistence of a bail application while considering the application under Section 88, 170, 204 and 209 of the Code.
- These sections relate to various stages of a trial where a magistrate can decide on the release of an accused.
- These range from power of the magistrate to take bond for appearance (Section 88) to power to issue summons (Section 204).
- The Supreme Court held that in these circumstances, magistrates must routinely consider granting bail, without insisting on a separate bail application.

Direction to States:

- The SC also directed all State governments and Union Territories to facilitate standing orders to comply with the orders and avoid indiscriminate arrests.
- The CBI has already communicated earlier orders of the Court to special judges under its authority.

- This would certainly take care of not only the unwarranted arrests, but also the clogging of bail applications before various Courts as they may not even be required for the offences up to seven years.

INDIAN RUPEE SETTLEMENT FACILITY

SYLLABUS: GS PAPER-II (GOVERNMENT POLICIES & INTERVENTIONS), GS PAPER-III (INCLUSIVE GROWTH, ROLE OF STATE & NON-STATE ACTORS)

CONTEXT: Recently, the Reserve Bank of India (RBI) has put in place a mechanism to facilitate International Trade in Rupees (INR), with immediate effect.

However, **banks acting as authorized dealers for such transactions would have to take prior approval from the regulator to facilitate this.**

As per the broad framework for cross-border trade transactions in INR under **Foreign Exchange Management Act, 1999 (FEMA)**, all exports and imports under this arrangement may be **denominated and invoiced in rupee (INR)** and the exchange rate between the currencies of the two trading partner countries may be market determined.

ABOUT RUPEE PAYMENT MECHANISM

- Authorized Dealer Banks in India had been permitted to open **Rupee Vostro Accounts (an account that a correspondent bank holds on behalf of another bank).**
- **Indian importers undertaking imports via this mechanism will make payment in INR which will be credited into the Special Vostro account of the correspondent bank of the partner country,** against the invoices for the supply of goods or services from the overseas seller.
- **Indian exporters using the mechanism will be paid the export proceeds** in INR from the balances in the designated Special Vostro account of the correspondent bank of the partner country.
- Indian exporters may receive advance payment against exports from overseas importers in Indian rupees through the above Rupee Payment Mechanism.
- Before allowing any such receipt of advance payment against exports, **Indian banks need to ensure that available funds in these accounts** are first used towards payment obligations arising out of already executed export orders/export payments in the pipeline.
- Balance in Special Vostro Accounts can be used for: payments for projects and investments, export/ import advance flow management, and investment in Government Treasury Bills, Government securities, etc.

EXISTING MECHANISM

- If a company exports or imports, transactions are always in a foreign currency (excluding with countries like Nepal and Bhutan).
- So, in case of imports, the Indian company must pay in a foreign currency (dollars and could also include currencies like pounds, Euro, yen etc.).
- The Indian company gets paid in foreign currency in case of exports and the company converts that foreign currency to rupee since it needs rupee for its needs, in most of the cases.

BENEFITS OF THIS MECHANISM

- **Promote Growth:** It will promote growth of global trade and will support the increasing interest of the global trading community in INR.

- **Trade with Sanctioned Countries:** Ever since sanctions were imposed on Russia, trade has been virtually at standstill with the country due to payment problems. As a result of the trade facilitation mechanism introduced by the RBI, we see the payment issues with Russia easing.
- **Forex Fluctuation:** The move would also reduce the risk of forex fluctuation, especially looking at the Euro-Rupee parity.
- **Arrest Fall of Rupee:** Amid ongoing rupee weakness, this mechanism aims at reducing demand for foreign exchange, by promoting rupee settlement of trade flows.

PRELIMS FACT

GREY WATER MANAGEMENT

- 100% saturation of Grey Water Management has been achieved in **Pappankuzhi Village of Tamil Nadu**.
- Grey water is defined as **wastewater that is produced from household processes** (e.g., washing dishes, laundry, and bathing).
- **Significance:**
 - 1) Can prevent potential harm to the environment.
 - 2) Can reduce the demand for freshwater.
 - 3) Reliable water resource as not dependent on rainfall.
 - 4) It has high nitrogen and phosphorous content which when used for irrigation can make a good nutrient or fertilizer source.

AANAYOOTTU

- The Aanayoottu (feeding of elephants) is a festival held in the precincts of the **Vadakkunnathan temple in City of Thrissur, in Kerala**.
- The festival falls on the first day of the month of **Karkkidakam**(timed against the Malayalam calendar), which coincides with the month of July.
- It involves several unadorned elephants being positioned amid a multitude of people for being worshipped and fed.
- Many people throng the temple to feed the elephants.
- The special feed of the elephants includes sugar-cane leaves, coconut, jaggery and the sweet mix of Ganapathi pooja prasadam.
- **It is believed that offering poojas and delicious feed to the elephants is a way to satisfy Lord Ganesh**—the god of wealth and of the fulfillment of wishes.
- The **Vadakkunnathan temple, which is one of the oldest Shiva temples in southern India**, has hosted the Aanayottoo event for the past few years.
- The elephants are hailed as sacred animals (a fact which explains the presence of elephants in the South Indian temples).
- Elephants are an integral part of Kerala culture, and elephants are integral to all festivals, including the Aanayoottu.
- Many of the famous south Indian temples have several their own elephants; feeding these elephants is considered as auspicious.

BONALU

- Bonalu festival is a traditional Hindu festival that is celebrated in **Telangana, India**. This **festival centers on Goddess Mahakali**.
- **People of twin states Hyderabad and Secunderabad participate in this festival during July/August**.

- Devotees perform special Poojas or ceremonies for Goddess Yellamma. **Yellamma is one of the many regional forms of Goddess Mahakali.** Devotees consider Bonalu a thanksgiving to Goddess Kali because she fulfills their wishes.
- The word 'Bonam' originates from 'Bhojanam,' a Sanskrit word that means feast in Telugu. First, women cook rice with jaggery in new earthen pots. Women then decorate the pots with turmeric, Vermillion, and neem leaves. Then, the women lit a lamp on the top of the pot. Women then carry these pots on their heads and offer them to Goddess Yellamma. Along with that, women carry bangles and sari.

RACE IAS