

## Right to speedy trial

Speedy Trial, Delhi Excise Policy case, Under trials, Bail, NCRB, PMLA Triple Test, Anticipatory bail, Interim bail, Maneka Gandhi case, Article 21, P. Ramachandra Rao v. State of Karnataka, Right to life, liberty, UPSC

### Right to speedy trial

#### Why in news?

Recently, the Supreme Court has held that the right to speedy trial is a fundamental right under Article 21 while granting bail to former Delhi Deputy Chief Minister in connection with the Delhi Excise Policy case.

#### Why are the number of under trials high in India?

- **Under trial**- A person detained and held in custody while their case is still pending or not yet fully tried by a court.
- **Presumption of innocence**- Under-trials are presumed innocent until proven guilty.
- **Right to defense**- They have the right to defend themselves in court.
- **Detention or bail**- Under-trials are typically held in detention or on bail while awaiting the trial outcome.
- **Undertrial Prisoners** - As per *National Crime Records Bureau (NCRB)*, in 2022 there were **4,34,302 undertrials** across jails in India, comprising **76% of the total jail population** of 5,73,220.
- A combination of judicial, administrative, socio ,economic factors contribute to prolonged periods of incarceration of accused persons.
- **Case Pendency** - Due to huge pendency, the cases take years for its final disposal, which would normally take few months' time.
- **Voluminous evidence** - In some cases large number of witnesses and voluminous documents lengthens the trial period.
- **High rejection in Lower Courts** - Trial and lower courts playing safe while granting bail by neglecting the principle that *bail is a rule and refusal is an exception*.
- **Overburdened judicial system**- A high volume of cases and Very less Judge to population ratio .
- **Provision for adjournment** - The main reason for the delay in the cases

is the adjournment granted by the court on unreasonable grounds.

- **Stringent bail conditions** -High bail bondage amount , surety provisions for bail .
- **Stringent Tests** - Stringent tests for bail under special statutes such as PMLA, NDPS and UAPA have

### Triple Test conditions for granting bail under PMLA

- - There are “reasonable grounds for believing that (the accused) is not guilty of such offence”
  - The accused person is not likely to commit any offence while on bail.
  - The accused is not a flight risk.

- **Incomplete investigation**- Delays in completing investigations or submitting evidence.
- **Administrative inefficiencies**- Inefficiencies in the administration of justice, including issues with case management, can contribute to delays.
- **Pre-trial detention policies**- Some jurisdictions have policies that favor pre-trial detention for certain offenses or individuals considered a flight risk, leading to longer periods of detention.
- **Socioeconomic factors**- Individuals from marginalized or economically disadvantaged backgrounds may have less access to legal resources and support, increasing the likelihood of prolonged pre-trial detention.
- **High crime rates**- In areas with high crime rates, the number of under-trials can be significant due to the volume of arrests and subsequent legal proceedings.

### What is a Bail and its provisions?

- **Bail**- A legal process by which a person accused of a crime is released from custody, usually by providing a financial guarantee, while awaiting trial.
- Granting bail is largely at the court's discretion, guided by the principles of justice and fairness.
- **Aim** - Balance the accused's right to liberty with the need to ensure a fair and uninterrupted judicial process.
- **Avoid detention**- Allows the accused to be free from detention during the pre-trial period.
- **Types of Bail**- Under the Code of Criminal Procedure, 1973, bail can be regular, anticipatory, or interim, depending on the stage and nature of the offense.
- **Regular bail**- It is granted to those already in custody after the arrest.

- **Bail Conditions** - Financial guarantees with bonds, regular appearances and non-tampering with evidence.
- **Anticipatory bail**- Granted before arrest, anticipating possible arrest.
- To avoid detention if arrest is imminent.
  - **Bail Conditions** - Like regular bail, may include cooperation with investigation.
- **Interim bail**- It is a temporary bail granted while awaiting decision on regular/anticipatory bail.
- Provides immediate relief before final bail decision.
  - **Bail conditions**- Regular check-ins with authorities or restrictions on travel.
- **Compliance**- Failure to comply with conditions can result in bail being revoked, the person being returned to custody and forfeiture of the bond.

### What are the importance of Speedy Trial?

- **Speedy trial**- It is the disposal of cases at the earliest possible so as to make the Judiciary more efficient and trustworthy.
- **Ensuring Justice** - Speedy trial ensures that justice is administered without unnecessary delays and protect individuals from prolonged detention.
- **Fair Justice** - The procedure prescribed by law for depriving a person of his liberty cannot be “reasonable fair or just” unless that procedure ensures a speedy trial.

### Maneka Gandhi case

The Supreme Court, in 1978, in the held that for the deprivation of life and liberty of a person, two conditions are necessary:

- There should be a law.
- The law should be ‘reasonable’, ‘fair’ and ‘just’.

- **Fundamental Right** - Supreme court held that the right to a speedy trial is implicit in Article 21 of right to life and personal liberty.

*Article 21 - no person shall be deprived of his life and personal liberty  
Except according to the procedure established by law.*

- It extends to all stages of the criminal process, including investigation, inquiry, trial, appeal, and revision.
- **Reducing Undertrial prisoners** - Speedy trials is essential to reduce

those in jail as under trial prisoner and improve the conditions of prisons.

- **Provisions for Speedy Trial** - Section 436A in the Code of Criminal Procedure (CrPC) provides for release of an under-trial prisoner on bail on undergoing detention for a period extending up to one half of the maximum period of imprisonment specified for an offence under any law.
- **Plea Bargaining** - The concept of plea bargaining has been introduced in the Code of Criminal Procedure, 1973 to enable pre-trial negotiation between the defendant and the prosecution.
- **Judicial guidelines**- In landmark cases like **P. Ramachandra Rao v. State of Karnataka**, the Supreme Court laid down guidelines to ensure the right to a speedy trial.
  - Courts should utilize their powers under **Sections 309, 311, and 258** of the Code of Criminal Procedure to expedite trials.
  - The High Court can intervene under **Article 226 and Section 482** of the CrPC to provide relief if delays are unjustified.

### **What lies ahead?**

- Reevaluating the grounds for denying bail like seriousness of allegations.
- Ensure that bail is not withheld as a punishment.
- Fixing time limits for investigation, trial and pronouncement of verdict.
- Use of technologies like Artificial intelligence in reducing the work load of the court and summarizing evidence documents.
- Create accountability in giving adjournment of cases.
- Increase the ratio of judges to population for the disposal of cases very fast.
- Promote arbitration wherever possible and in particular small and petty cases.

### **References**

1. [Economic Times | Speedy Trial a Right](#)
2. [Business Standard | Speedy Trial](#)
3. [iPleaders | Right to speedy trial](#)



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