

- When Conditions to be imposed
 - Imprisonment more than seven years
 - Chapter 16 of IPC (Offences affecting human body)
 - Chapter 17 of IPC (Offences against property)
 - Chapter 6 of IPC (Offences against State)
 - Abetment, Conspiracy and attempt of abovementioned offences

Power of High Court and the Court of Sessions

The Court may-

- Impose conditions
- Conditions may be set aside or modified

Before granting bail, in cases of offences triable exclusively by Sessions Court the Court must give notice to the Public Prosecutor. The powers of High Court in granting bail is very wide.

Anticipatory Bail (Section 438 Cr.P.C.)

Section 438 provides for discretion to release a person on bail issued even before the person is arrested.

The ingredients of the section are:

- Only High Court and Sessions Court
- Commission of non-bailable offence
- Apprehension of arrest
- Event of arrest – release on bail
- Conditions and directions
 - Available for interrogation by the police
 - No inducement, threat or promise to any person acquainted with the facts
 - Person shall not leave India
 - Fulfil conditions for bond, if any
 - Not commit similar offence
 - In the interest of justice
- Shall be released on bail
- Magistrate may issue bailable warrant in conformity with the direction of the Court

It may be mentioned that Section 438 applies to both bailable and non-bailable offences and it is not necessary that FIR or police complaint has been registered before granting Anticipatory Bail. This is an extraordinary power – exercised sparingly and in exceptional cases. However, the power not unguided or uncanalised – all limitations of Section 437 to apply.

In case incriminating material is found (under section 27 Evidence Act) – anticipatory bail must not be granted. Anticipatory Bail is also not granted in case of economic offence and dowry death cases. It may further be pointed out that Prosecution must be given notice – opportunity to oppose application and no order for granting anticipatory bail after person is arrested.

Section 18 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act provides for exclusion of provision for granting anticipatory bail. The Courts have consistently held that the said section is not violative of Article 21 of the Constitution.

Cancellation of Bail

- Obstructs the smooth progress of a fair trial
- Jumps bail
- Absconds
- Runs away to foreign country
- Conditions of the bail regarding time/ place of attendance
- Discretionary
- Cancellation necessarily involves review of decision already made (*Public Prosecutor v. George William alias Victor*)

Cases where Bail is cancelled

- Commits the same offence again
- Hampers investigation
- Tempers evidence
- Runs away to foreign country
- Acts of violence against police or prosecution witness

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