Imposition of Bail Condition

Why in news?

The recent ruling by the Supreme Court overturned the order of the Odisha High Court stating that imposing a condition for a politician to refrain from participating in political activities in exchange for bail would infringe upon fundamental rights.

How bail is regulated under Indian legal system?

The word bail has been coined from the French word 'bailer', which means to deliver or give.

- **Legal provision**- Bail is a temporary release of an accused person awaiting trial, secured by a guarantee.
- **Khilari vs State of UP, 2009-** Supreme Court observed that while exercising its discretion to release a person on bail, the court must ensure it acts "judiciously".
- **Documentation-** Appellate courts are required to record reasons for granting bail.
- **Article 21-** A person is assumed to be innocent unless proved guilty. Hence, an accused shall not be deprived of personal liberty unless prescribed by a fair and just procedure.

Article 21 guarantees the right to life and personal liberty to every individual

Types of bail	About
Regular bail	It is basically the release of an accused from custody to ensure his presence at the trial.
Interim bail	It is granted as a temporary means for a short period of time, either during the time of pendency of an application or when the application of anticipatory or regular bail is pending before the court.
Anticipatory bail	It is a type of bail which is given to someone who is in anticipation of getting arrested for a non-bailable offence by the police.

- **Section 437(3), CrPC-** It lists potential conditions for bail in serious offenses punishable with imprisonment of seven years or more, it is done to prevent re-offense and protect the judicial process.

Bailable offence	Non-bailable offence

• *Section 436 of CrPC* deals with provisions for bail in bailable offences. • This provision is *mandatory* in nature, and the police or the court has no discretion over it.	• *Section 437 of CrPC* deals with provisions for bails regarding non-bailable offences. • It is based *purely on the discretion* of the court (other than the High Court and Sessions court).

What did the Odisha High Court rule in Siba Shankar Das @ Pintu vs State of Odisha?

- **Bail on condition-** The High Court has stipulated that Das should not engage in any political activity as a condition of his bail.
- **Infringes right-** The petitioner Das contested this condition in the High Court as it infringed upon his rights as a political person, especially considering the upcoming general elections.
- The state government opposed the plea, citing Das's involvement in new criminal cases and an attack against him, which they argued could lead to administrative difficulties if the bail condition were lifted.
- The High Court, acknowledging the potential threat to Das's life and the administrative challenges, upheld the bail condition.
- Das appealed to the Supreme Court against the High Court's decision.
- **Supreme Court ruling**- It stated that preventing a person from participating in political activities as a bail condition violates their fundamental rights under the Constitution.
- As a result, the Supreme Court quashed and set aside the condition, emphasizing that bail conditions should not violate constitutional rights.

What are the other instances where the Supreme Court has struck down the bail conditions?

- **Right to political engagement**- The Supreme Court lifted the bail condition in Andhra Pradesh High Court that restricted N. Chandrababu Naidu's participation in public rallies and meetings.
- **Against severe bail conditions**- The court ruled against overly burdensome bail conditions, quashing a Rajasthan High Court order that required the accused to deposit a substantial sum as fine and surety.
- **Unreasonable condition**- The court set aside an Allahabad High Court condition that demanded the sealing of a university while granting bail to a political leader.
- **Gender sensitivity**- The court overturned a ruling by the Madhya Pradesh High Court, which had asked a man accused of sexual assault to get a rakhi tied on his wrist by the victim as a pre-condition for getting bail.
- **Advocacy for women's rights**- The court emphasized that bail conditions should not reflect stereotypical or patriarchal notions about women and should strictly adhere to the requirements of the Code of Criminal Procedure (CrPC).

What lies ahead?

- The Supreme Court's ruling reinforce the principle that bail conditions should be fair, reasonable, and in line with the requirements of the CrPC.

- The recent ruling aligns with the court's stance on protecting fundamental rights and ensuring that bail conditions are reasonable and not overly restrictive.

References

1. The Hindu- Supreme Court ruling on bail conditions
2. India Today- Leaders out on bail can take part in political campaigns

