# 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 |
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| • - There are “reasonable grounds for believing that (the accused) is not guilty of such offence”<br>- The accused person is not likely to commit any offence while on bail.<br>- 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 fo the bondage.

## 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 |
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| The Supreme Court, in 1978, in the held that for the deprivation of life and liberty of a person, two conditions are necessary:<br>• There should be a law.<br>• 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


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