

STANDARD OPERATING PROCEDURE/PROTOCOL FOR DEFAULT BAIL UNDER SECTION 167(2) Cr.P.C

1	Procedural requisites	(1) Moving of an Application before the Presiding Officer ¹ (2) Putting time and date over the application (3) Calling from Ahlmad the Challan status with regard to time of receipt of challan recorded by Presiding Officer ² (4) Deciding the Application forthwith ³
2	Legal requisites	(1) Application can be written or oral ⁴ (2) Period of investigation (60/90 days) must have lapsed (3) Report u/s 173 Cr.P.C. not submitted till that time (4) Indefeasible right has accrued (5) Accused ready and prepared to furnish Bail
3	What else is to be examined	The only requirement is ⁵ (1) accused is in jail for more than 60 or 90 days (2) investigation is not completed (3) no charge sheet is filed by 60th or 90th day (4) the accused applies for default bail (5) accused is prepared to furnish bail No additional requirement of taking of cognizance is required ⁶
4	Court is under an obligation to inform the accused of his right	The court is to inform the accused of his right of being released on bail and enable him to make an application in that behalf ⁷
5	Initiation of right and its continuance	(1) Right availed once an application has been moved notwithstanding- pendency of bail application - Subsequent filling of charge sheet - Subsequent moving of an application for seeking extension of time (2) If accused does not apply and charge sheet is filed, right to default bail gets extinguished (3) Failure of the accused to furnish bail or to comply with the terms and conditions of the bail will not make his continued detention invalid ⁸

¹ *Hitendra Vishnu Thakur & Ors. v. State of Maharashtra & Ors, (1994) 4 SCC 602*

² *Nirmal Singh @ Nimma versus State of Punjab CRR No. 4246 of 2017. DOD 03/08/2018*

³ *Union of India v. Nirala Yadav (2014) 9 SCC 457*

⁴ *Rakesh Kumar Paul v. State of Assam, (2017) 15 SCC 67*

⁵ *Saravanan Versus State represented by the Inspector of Police, (2020) 9 SCC 101*

⁶ *Serious Fraud Investigation Office Versus Rahul Modi and Others, 2022 SCC OnLine SC 153*

⁷ *Bikramjit Singh vs State of Punjab, (2020) 10 SCC 616*

⁸ *M. Ravindran v. Intelligence Officer, Directorate of Revenue Intelligence, (2021) 2 SCC 485*

5A	When Section 167(2)(a)(i) Cr.P.C applies	(1) Section 167(2)(a)(i) of the Code is applicable only in cases where the accused is charged with (i) offences punishable with death and any lower sentence; (ii) offences punishable with life imprisonment and any lower sentence and (iii) offences punishable with minimum sentence of 10 years; (2) In all cases where the minimum sentence is less than 10 years but the maximum sentence is not death or life imprisonment then Section 167(2)(a)(ii) will apply and the accused will be entitled to grant of ‘default bail’ after 60 days in case charge-sheet is not filed ⁹ .
5B	Expression “not less than ten years” means 10 years or more	Expression “not less than ten years” obviously means 10 years or more and would cover only those offences for which punishment could be imprisonment for a clear period of 10 years or more ¹⁰ .
6	Day of remand is to be included or excluded?	Date of remand is to be excluded ¹¹
		Date of remand must be included ¹²
		(1) A judicial conundrum has arisen which is required to be resolved for guidance of the Court (2) Reference of the issue to a larger Bench (3) Unless the issue is appropriately determined, the courts across the country may take decision on the issue depending upon which judgment is brought to the Court's notice or on the Courts own understanding of the law, covering default bail under Section 167 (2)(a) II of CrPC ¹³ .
7	Extension of period of investigation	(1) The provisions of the Code do not empower anyone to extend the period within which the investigation must be completed nor does it admit of any such eventuality. (2) There are enactments such as the Terrorist and Disruptive Activities (Prevention) Act, 1985 and Maharashtra Control of Organised Crime Act, 1999 which clearly contemplate extension of period and to that extent those enactments have modified the provisions of the Code including Section 167. (3) In the absence of any such similar provision empowering the Court to extend the period, no Court could either directly or indirectly extend such period ¹⁴ .
8	What is to be decided first- Extension of period of investigation or Bail?	(1) When prayer is made for extension of time, it is the duty of the Court to consider the report/application for extension of period for filing of the chargesheet in the first instance. (2) only if it was to be rejected could the prayer for grant of statutory bail be taken forward ¹⁵ .

⁹ *Rakesh Kumar Paul v. State of Assam*, (2017) 15 SCC 67

¹⁰ *Rajeev Chaudhary v. State (NCT) of Delhi*, (2001) 5 SCC 34

¹¹ *State of M.P. v. Rustam*, 1995 Supp (3) SCC 221 : 1995 SCC (Cri) 830; *Ravi Prakash Singh v. State of Bihar*, (2015) 8 SCC 340 ; *M. Ravindran v. Directorate of Revenue Intelligence*, (2021) 2 SCC 485

¹² *Chaganti Satyanarayana v. State of A.P.*, (1986) 3 SCC 141 ; *CBI v. Anupam J. Kulkarni*, (1992) 3 SCC 141; *State v. Mohd. Ashraft Bhat*, (1996) 1 SCC 432; *State of Maharashtra v. Bharati Chandmal Varma*, (2002) 2 SCC 121; *Pragyna Singh Thakur v. State of Maharashtra*, (2011) 10 SCC 445

¹³ *Enforcement Directorate, Government of India Versus Kapil Wadhawan and Another*, 2021 SCC OnLine SC 3136

¹⁴ *Achpal @ Ramswaroop & Another Versus State of Rajasthan*, (2019) 14 SCC 599

¹⁵ *Rambeer Shokeen vs State of NCT of Delhi*, (2018) 4 SCC 405

9	Filing of complete Report	Filing of police report containing the particulars as mentioned under Section 173 (2) amounted to completion of filing of the report ¹⁶
10	Is prior sanction required?	No. Sanction is an enabling provision to prosecute, which is totally separate from the concept of investigation concluded by the filing of the charge-sheet. Default Bail is dependent on non conclusion of investigation within prescribed time. ¹⁷
11	Whether any condition of depositing money can be imposed?	No other condition of deposit of any amount involved can be imposed ¹⁸
12	Can application can be kept pending for awaiting the filing of the charge sheet?	Statutory right should not be defeated by keeping the applications pending till the charge-sheet is filed ¹⁹
13	Cancellation of bail u/s 167(2) CrPC	Section 167 Cr.P.C does not empower cancellation of bail, the power to cancel the bail can only be traced to section 437(5) or 439 (2) of the Code ²⁰ .
14	Time for disposal of application under Section 167(2) Cr.P.C	Application under Section 167(2) Cr.P.C to be decided on the same day ²¹

¹⁶ *Narendra Kumar Amin vs Cbi & Anr*, (2015) 3 SCC 417

¹⁷ *Suresh Kumar Bhikamchand Jain v. State of Maharashtra*, (2013) 3 SCC 77

¹⁸ *Saravanan Versus State represented by the Inspector of Police*, (2020) 9 SCC 101

¹⁹ *Union of India v. Nirala Yadav*, (2014) 9 SCC 457; *Uday Mohanlal Acharya v. State of Maharashtra*, (2001) 5 SCC 453; *Mohamed Iqbal Madar Sheikh & Ors. v. State of Maharashtra*, (1996) 1 SCC 722

²⁰ *Aslam Babalal Desai v. State of Maharashtra* (1992) 4 SCC 272

²¹ *Union of India v. Nirala Yadav*, (2014) 9 SCC 457

STANDARD OPERATING PROCEDURE/PROTOCOL FOR BAIL UNDER SECTION 389 CR.P.C.

Principles:	i. In case of post conviction bail, by suspension of operation of the sentence, there is a finding of guilt and the question of presumption of innocence does not arise. ii. The principle of “bail being the rule and jail an exception”, is not attracted, once there is a conviction upon trial. iii. The court at the time of considering an application for suspension for sentence and grant of bail, is to consider the prima facie merits of the appeal, coupled with other factors. iv. There should be strong compelling reasons for grant of bail, notwithstanding an order of conviction, by suspension of sentence, and this strong and compelling reason must be recorded in the order granting bail, as mandated in section 389(1) Cr.P.C.¹
Scope: Includes stay of conviction order	i. Appellate court has the power not only to suspend execution of sentence u/s 389 (1) Cr.P.C. but also to stay order of conviction appealed against. ii. Stay of order of conviction results in rendering the order temporarily non-operative². iii. Exceptional power of Appellate Court to suspend conviction in appropriate cases must be exercised only when attention of court is drawn to consequences which may ensue if conviction is not stayed³ iv. The authority vested in the Appellate Court to stay a conviction ensures that a conviction on untenable or frivolous grounds does not operate to cause serious prejudice⁴. v. Applicant must bring to notice of court all adverse circumstances of disqualifications likely to be suffered by him in case conviction is not suspended. vi. If damage likely to be caused to applicant cannot be undone for non –suspension of conviction then only such power may be exercised. vii. Pleadings of applicant must be scrutinised judiciously and pros and cons have to be analysed and then conviction may be suspended, if required, after reasons are recorded in writing. viii. If court deems it necessary it may even impose conditions while suspending conviction to protect interest of other parties.⁵
Cancellation of bail by Appellate Court	In cases where a convict person is released on bail, it shall be open to the Public Prosecutor to file an application for cancellation of the bail ⁶ .
Effect of non-compliance of conditional order of suspension of sentence	When suspension of sentence by the court is granted on a condition, non-compliance with that condition has adverse effect on continuance of suspension of sentence. Court which has suspended the sentence on a condition after noticing non-compliance with that condition can very well hold that suspension of sentence stands vacated due to non – compliance ⁷ .

¹ *Preet Pal Singh vs. State of Uttar Pradesh and Anr.*, (2020) 8 SCC 645

² *Lalsai Khunte vs. Nirmal Sinha and Ors.*, (2007) 9 SCC 330

³ *Life Insurance Corporation vs. Mukesh Poonam Chand Shah*, (2020) 12 SCC 144

⁴ *Lok Prahari through its General Secretary, S.N. Shukla vs. Election Commission of India and Ors.*, (2018) 18 SCC 114

⁵ *State of Maharashtra through CBI Anti Corruption Branch Mumbai vs. Balakrishana Dattatrya Kumbhar*, (2012) 12 SCC 384

⁶ *Second Proviso to Section 389 (1) Cr.P.C.*

⁷ *Surinder Singh Deswal alias Colonel S.S. Deswal and Ors. vs. Virender Gandhi and Anr.*, (2020) 2 SCC 514

STANDARD OPERATING PROCEDURE/PROTOCOL FOR ANTICIPATORY BAIL

1	Filing Requisites /Checklist	- Whether it is 1st bail application of the applicant ? - If not, which Court decided it and when ? - Whether any bail application pending before Hon'ble High Court ? - Whether any bail application of any co accused in the same FIR has been decided or is pending ? - Whether accused ever declared as PO in present FIR ?
2	Primary considerations in grant of anticipatory bail	- The nature and gravity of the accusation and the exact role of the accused; - The antecedents of the applicant including the fact as to whether the accused has previously undergone imprisonment on conviction by a Court in respect of any cognizable offence; - The possibility of the applicant to flee from justice; - The possibility of the accused's likelihood to repeat similar or the other offences; - Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her; - Impact of grant of anticipatory bail particularly in case of large magnitude affecting a very large number of people; - The cases in which accused is implicated with the help of Sections 34 and 149 IPC, the Court should consider with even greater care and caution; - While considering the prayer for grant of anticipatory bail, a balance has to be struck between two factors, namely, no prejudice should be caused to the free, fair and full investigation and there should be prevention of harassment, humiliation and unjustified detention of the accused; - The Court to consider reasonable apprehension of tampering of the witness or apprehension of threat to the complainant - Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail¹.
3	Scope of anticipatory bail	Mere 'fear' is not 'belief' to grant anticipatory bail. Belief must be based on the fact that he may be arrested in non bailable offence. A blanket order should not be generally passed². This power should be sparingly used in exceptional cases depending upon nature of offence, manner in which committed and the loss/injuries caused to the victim³. A Criminal Court exercising jurisdiction to grant bail/anticipatory bail is not expected to act as a recovery agent to realise the dues of the complainant and that too without any trial⁴.
4	Reasons mandatory	While granting bail the Court shall mandatorily record the reasons therefor. An order bereft of any cogent reason would be unsustainable.⁵
5	Does anticipatory bail come to an end on filing of charge sheet?	No, mere subsequent event of filing of a chargesheet cannot compel the accused to surrender and seek regular bail. The life or duration of an anticipatory bail order does not end normally at the time and stage when the accused is summoned by the Court or when charges are framed, but can continue till the end of the trial. However, the Court is open to limit the tenure of anticipatory bail if any special or peculiar feature necessitates the Court to do so⁶.
6	Second or subsequent application for anticipatory bail	Second or subsequent bail application is maintainable only if there is a change in the fact, situation or in the law⁷. The specious (superficial) reason of change in circumstances cannot be invoked for successive anticipatory bail applications, once it is rejected by a speaking order and that too by the same Judge.⁸
7	FIR not pre-requisite	It is not essential that an application for anticipatory bail should be moved only after an FIR is filed; it can be moved earlier, so long as the facts are clear and there is reasonable basis for apprehending arrest⁹.

¹ *Sushila Aggarwal and Ors. vs. St. (NCT of Delhi) and Anr. (2020) 5 SCC 1, reiterated in Dr. Rajesh Pratap Giri vs. St. of U.P. and Anr, Crl. Appeal No. 272-273 of 2021 arising out of SLP (Crl.) Nos. 693-694 of 2020*

² *Prem Shanker Prasad vs. St. of Bihar and Anr. 2021 AIR (SC) 5125*

³ *Gurbaksh Singh Sibbia etc. vs. St. of Pb. AIR 1980 SC 1632 ; Prahlad Singh Bhati vs. NCT Delhi AIR 2001 SC 1444; Sumedh Singh Saini vs. St. of Pb. CRM-M 26304 of 2020 D.O. 08.09.2020*

⁴ *Dilip Singh vs. St. of M.P. and Anr. (2021) 2 SCC 779*

⁵ *State of Maharashtra Vs. Sitaram Popat Vita, AIR 2004 SC 4258; (2004) 7SCC 521;2004 CrLJ 4189; Chaman Lal Vs. State of U.P. 2004 CrLJ 4243*

⁶ *Sushila Aggarwal and Ors. vs. St. (NCT of Delhi) and Anr. (2020) 5 SCC 1, reiterated in Dr. Rajesh Pratap Giri vs. St. of U.P. and Anr, Crl. Appeal No. 272-273 of 2021 arising out of SLP (Crl.) Nos. 693-694 of 2020*

⁷ *Ganesh Raj vs. St. of Rajasthan and Ors. 2005 SCC Online RAJ 319*

⁸ *G.R. Ananda Babu vs. St. of T.N. and Anr. 2021 SCC Online SC 176*

8	Restrictive conditions, while granting anticipatory bail	Such conditions should not be imposed invariably but the conditions apart from s.438(2) and 437(3) may be imposed if the case warrants so depending upon materials produced by the State or the Investigating Agency ¹⁰ .
9	Interim anticipatory bail can be granted to the accused	The Trial Court is not precluded from granting interim bail taking into consideration the conduct to the accused during the investigation which has not warranted arrest ¹¹ . It may be advisable for the Court, approached with an application u/s 438 Cr.P.C, depending on the seriousness of the threat of arrest to issue notice to the Public Prosecutor and obtain facts, even by granting limited interim anticipatory bail ¹² .
10	Anticipatory bail, when regular bail has been cancelled	The accused who was earlier granted regular bail which was cancelled, cannot be granted anticipatory bail as he is deemed to be in constructive custody of law ¹³ . However, if the accused is unable to appear before the Trial Court on account of genuine reasons, the accused can surrender before the Trial Court and Trial Court would take a lenient view and decided the regular bail expeditiously ¹⁴ .
11	Anticipatory bail to proclaimed offender/absconder	A person declared as an absconder / proclaimed offender in terms of section 82 Cr.P.C. is not entitled to anticipatory bail ¹⁵ . The Court shall not come to the rescue of the accused, who is not cooperating with the investigating agency and absconding and against whom proclamation u/s 82 Cr.P.C. has been issued. ¹⁶
12	Does grant of anticipatory bail restrict the rights or duties of the I.O to investigate?	No, an order of interim bail / anticipatory bail does not in any manner limit or restrict the rights or duties of IO to investigate into the charges against a person granted pre-arrest bail ¹⁷ .
13	Accused need not surrender and seek regular bail in the event of recovery of an article or discovery of a fact u/s 27 of Evidence Act	The observations in Sibbia's case regarding "limited custody" or "deemed custody" to facilitate the requirements of the investigating authority, would be sufficient for the purpose of fulfilling the provisions of section 27, in the event of recovery of any article or discovery of a fact which is relatable to a statement made during such event. In such event, there is no question or necessity of asking the accused to separately surrender and seek regular bail ¹⁸ .
14	Anticipatory bail to the accused under SC and ST Act	It is maintainable and can be granted to the accused if the complainant does not make out a prima facie case for applicability of the provisions of the said Act ¹⁹ .
15	Only Special Court to entertain the bail application under the POCSO Act	Where the police had already added the offence under the POCSO Act, only the Special Court under the POCSO Act could have entertained the bail application under the said Act ²⁰ .
16	Violation of terms of anticipatory bail	It is open to the police or to the investigating agency to move to the Court concerned which grants anticipatory bail for direction u/s 438 (2) Cr.P.C. to arrest the accused, in the event of violation of any term ²¹ .
17	Person on anticipatory bail can be re-arrested on addition of cognizable or non cognizable offences	The Court in exercise of powers u/s 437 (5) and 439 (2) Cr.P.C. can direct the accused, who has already been granted bail, to be taken into custody and to commit him to custody on commission of graver offences and there is no need to cancel earlier bail ²² .

⁹ *Sushila Aggarwal and Ors. vs. St. (NCT of Delhi) and Anr. (2020) 5 SCC 1*

¹⁰ *Supra 9*

¹¹ *Satender Kumar Antil vs. CBI (2021) 10 SCC 773*

¹² *Supra 9*

¹³ *Manish Jain vs. Haryana St. Pollution Board 2020 SCC Online SC 1101*

¹⁴ *Pawan Kumar vs. St. of Haryana and Anr. CRM-M-39172-2021 (O&M) D.O. 21.09.2021*

¹⁵ *Lavesh vs. St. (NCT of Delhi) 2012 (8) SCC 730. Reiterated in Adri Dharan Das v. St. of W.B. (2005) 4 SCC 303, Prem Shanker Prasad vs. St. of Bihar and Anr. 2021 AIR (SC) 5125 and St. of M.P. vs. Pradeep Sharma 2014 (1) RCR (CrL) 269 relied in Akhtar vs. St. of Hry. and Ors. CRM-M-21334-2020 (O&M) D.O. 09.08.2021*

¹⁶ *Sanatan Pandey vs. St. of U.P. SLP (CrL.) 7358 of 2021*

¹⁷ *Gurbaksh Singh Sibbia etc. vs. St. of Pb. AIR 1980 SC 1632 reiterated in Sushila Aggarwal and Ors. vs. St. (NCT of Delhi) and Anr. (2020) 5 SCC 1*

¹⁸ *Supra 9*

¹⁹ *Prathvi Raj Chauhan vs. U.O.I. and Ors. Writ Petition (C) No.1015 with 1016 of 2018 D.O. 10.02.2020*

²⁰ *Ramu Ram vs. St. of Rajasthan and Ors. RLW 2014 (2) RAJ 987*

²¹ *St. of U.P. vs. Deoman Upadhyaya AIR 1960 SC 1125*

²² *Pardeep Ram vs. State of Jharkhand and Anr. (2019) SCC Online SC 825*

STANDARD OPERATING PROCEDURE/PROTOCOL FOR REGULAR BAIL

Period of disposal of application for regular and anticipatory bail	All bail applications to be disposed of normally within one week¹.
Primary considerations in grant of regular bail	- Seriousness of the offence; likelihood of the accused fleeing from justice; impact of release of the accused on the prosecution witnesses; likelihood of the accused tampering with evidence.² - Nature of accusation ;nature of evidence in support thereof ;severity of punishment which conviction will entail; character, behaviour, means and standing of accused; circumstances peculiar to the accused; reasonable possibility of securing presence of accused at trial ;reasonable apprehension of witnesses being tampered with ; larger interest of the public or state etc.³ - Period of custody has to be weighed simultaneously with the totality of circumstances and criminal antecedents of accused⁴
Bail order: Requisites	- Reference to facts of the case is must⁵ - While it is necessary to consider prima facie case, an exhaustive explanation of merits of case should be avoided⁶. - A court deciding a bail application should avoid elaborate discussion on merits of a case as detailed discussion of facts at a pre-trial stage is bound to prejudice fair trial⁷. - Court should refrain from evaluating or undertaking a detailed assessment of evidence as the same is not a relevant consideration at the threshold stage⁸
Victims right to be heard	Bail application shall be decided on merits after giving adequate opportunity of hearing to the victims as well. If the victims are unable to engage the services of a private counsel, it shall be obligatory upon the Court to provide them a legal aid counsel with adequate experience in criminal law, at the States expense ⁹ .
Interim bail during pendency of regular bail application	A court hearing regular bail application has inherent power to grant interim bail pending final disposal of the application¹⁰.
Bail of co-accused on the ground of parity	Co-accused is entitled to bail on the footing of parity¹¹.
Regular bail when interim anticipatory granted by the High Court	No, regular bail cannot be granted.¹²
Conditions not to be imposed while granting anticipatory/regular bail	- Onerous conditions for grant of bail should not be imposed¹³. - Compensation cannot be determined at the stage of grant of bail. However, it does not mean that no monetary condition can be imposed for grant of bail.¹⁴

¹ *Hussain and Ors. vs. Union of India (UOI) and Ors. AIR 2017 SC 1362*

² *Kamla Devi vs. St. of Rajasthan and Anr. 2022 SCC Online 307*

³ *Prahalad Singh Bhatti vs. NCT of Delhi (2001) 4 SCC 280*

⁴ *Ash Mohd. Vs. Shiv Raj Singh @ Lalla Bahu (2012) 9 SCC 446*

⁵ *Subhash Chand V. State of Haryana & others, CRM-M-29385-2021 (P&H) Interim order dt. 28.07.2021.*

⁶ *Anil Kumar Yadav vs. State (NCT of Delhi) and Anr., (2018) 12 SCC 129*

⁷ *Niranjan Singh vs. Prabhakar Raja Ram Kharote (1980) 2 SCC 559*

⁸ *Jagjeet Singh vs. Ashish Mishra@ Monu & ano. CrI. Appeal No.632 of 202 DOD 18.4.2022*

⁹ *Supra 8*

¹⁰ *Sukhwant Singh and Ors. vs. St. of Punjab (2009) 7 SCC 559; Mukesh Kishanpuria vs. St. of West Bengal (2010) 15 SCC 154*

¹¹ *Girraj vs. Kishanpal and others (2021) 6 SCC 205*

¹² *Rukmani Mahato vs. St. of Jharkhand, (2017) 15 SCC 574*

¹³ *Mithun Chatterjee vs. St. of Odisha, MANU/SCOR/45128/2021*

¹⁴ *Dharmesh @ Dharmendra @ Dharmo Jagdishbhai @ Jagabhai Bhagubhai Ratadia & Anr. vs. St. of Gujarat, Live Law 2021 SC 292*

Successive bail applications – Forum	- The fundamental concept is, if a Judge is available, the matter should be heard by him unless he has demitted office, or is transferred or superannuated¹⁵. - All successive bail applications should be entrusted/assigned to the same Judge, who earlier dealt with it¹⁶.
Conditions to grant regular bail u/s 498-A IPC	Magistrate while authorizing detention of accused shall peruse the checklist duly filled by police officer and would authorize detention only after recording his satisfaction. Failure to comply entails police officers and Judicial Magistrates for departmental action ¹⁷ .
Regular bail when accused is not arrested and cooperates throughout investigation	- Bail application, in offences punishable with imprisonment of 7 years or less, be decided w/o accused being taken in custody or by granting interim bail till application is decided; - Bail application in offences punishable with death, imprisonment for life or more than 7 years, and economic offences not covered by Special Acts, be decided on merits on appearance of accused in court; - Bail application in offences punishable under Special Acts containing stringent provisions for bail, be decided on merits on appearance of accused in court, complying with all the provisions of bail under the Act; - Interim Bail may be granted taking into consideration conduct of the accused during investigation, which has not warranted arrest; - Bail application in economic offences, not covered by Special Acts, the court should take into account seriousness of the charge and severity of punishment.¹⁸
Dispensing with personal appearance of accused till filing of chargesheet	Whenever an accused is released on bail, he need not be required to appear before the court until the chargesheet is filed and process is issued by the court. Law does not require the accused to appear before the magistrate's court every 14 days even though he is on bail. Such practice causes considerable inconvenience to the accused ¹⁹ .
Documents to be endorsed while accepting bonds	Trial Courts to make appropriate endorsement on the original documents, which are accepted along with the bail bonds and sureties before returning the same to the person furnishing the surety. However, wherever it cannot be endorsed on the original document, in that situation intimation shall be forwarded to the registering authority to make endorsement in their record ²⁰ .
Execution of bonds for appearance before the Magistrate and Sessions Court	It would avoid hardship to an accused if the Magistrate while releasing the accused on bail, requires execution of a bond with or without surety, as the case may be, binding the accused not only to appear as and when required before him but also to appear when called upon in the Court of Sessions ²¹ .

¹⁵ *Jagmohan Bahl vs. St. (NCT of Delhi)* (2014) 16 SCC 501

¹⁶ *Harjit Singh vs. St. of Punjab* AIR 2002 SC 281

¹⁷ *Arnesh Kumar vs. St. of Bihar* (2014) 8 SCC 273

¹⁸ *Satender Kumar Antil vs. CBI and Anr.* (2021) 10 SCC 773

¹⁹ *Free Legal Aid Committee, Jamshedpur vs. State of Bihar*, (1982) 3 SCC 378

²⁰ *Hari Chand vs. U.T., Chandigarh & Ors.* CWP No.4898 of 2018 (P&H) D.O.D 25.03.2019

²¹ *Supra* 19

CHECKLIST FOR READER

Checklist in Bail Applications	- Whether such or similar application for bail has or has not been made before any other Court? In case the same was made, then its status be also mentioned. - Whether the Public Prosecutor has supplied necessary information to the concerned Court regarding pendency or decision of any earlier bail application of the accused in the same offence after taking information from the concerned? - Whether Ahlmad has given verification report?²² ADDITIONAL POINTS - Whether the petitioner was accused in any other case(s) pending against him anywhere in India? In case it is so, up to date status of the proceeding in those cases - If the petitioner is on bail in any case(s) pending against him or sentence awarded to him in any other case(s) has been made, specific mention is required to be made - Mention No./title of any other pending case against the petitioner in the court where such a petition is moved. - Whether he has been declared as a proclaimed offender in any other case?²³ DOCUMENTS TO BE ANNEXED - Affidavit of the accused/any other person familiar with facts or interested in the matter, regarding pendency of bail application filed by the accused in any court and the decision of the earlier bail application²⁴. - For the purpose of determining whether the sureties are fit or sufficient, the Court may accept affidavits in proof of the facts contained therein relating to the sufficiency or fitness of the sureties, or, if it considers necessary, may either hold an inquiry itself or cause an inquiry to be made by a Magistrate subordinate to the Court, as to such sufficiency or fitness.²⁵ DECLARATION BY SURETIES - Every person standing surety to an accused person for his release on bail, shall make a declaration before the Court as to the number of persons to whom he has stood surety including the accused, giving therein all the relevant particulars.²⁶
Digital record of sureties	In applications for bail of any kind, the Reader has to maintain computer data and the trial Courts shall also ensure maintaining of the computer data of all the particulars of the sureties as well as details of the properties, which have been furnished along with the bail bonds and sureties while seeking bail by the accused. ²⁷
Duties of Ahlmad in bail applications of all kinds	- To verify from the official website of the Punjab and Haryana High Court, as to whether any bail application qua the same applicant in FIR/complaint is pending/decided before the High Court or not and the status of the same, if any. - After verifying the aforesaid, a report be placed on the case file for the perusal of the concerned Court²⁸.
Duties of Public Prosecutor in bail applications of all kinds	- To apprise the Court concerned, after collecting the necessary information from the investigating officers with respect to the filing of any application/petition before any Court, seeking concession of bail under the provisions of Code of Criminal Procedure and the result thereof. - In case of any lapse/default on the part of the investigating agency/prosecution in the said regard, it would be construed to be a fraud played upon the Court, which could invite departmental as well as penal action against the erring parties/officials, as the case may be²⁹. - To bring to the notice of the court that such an application was rejected earlier by a different judge and he was available.³⁰

²² *Kulwant Singh @ Sajan vs. St. of Punjab CRM-M-52620-2019 (O&M) (P&H) D.O. 11.03.2022*

²³ *Darbara Singh vs. St. of Punjab CRM-M-12816 of 2010 (O&M) (P&H) D.O. 26.07.2011*

²⁴ *Instructions of Hon'ble High Court vide letter no.5142.Gaz.II.17 dated 6.2.2012*

²⁵ *Section 441(4) Cr.P.C*

²⁶ *Section 441-A Cr.P.C.*

²⁷ *Supra 20*

²⁸ *Kulwant Singh @ Sajan vs. St. of Punjab CRM-M-52620-2019 (O&M) D.O. 11.03.2022*

²⁹ *Vijay Kumar @ Vijay vs. St. of Punjab CRM-M-21526-2021 (through video conferencing) D.O. 22.07.2021*

³⁰ *Jagmohan Bahl vs. St. (NCT Of Delhi) (2014) 16 SCC 501*