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No. JTRI/2025- 2525

Dated: April 17, 2025

To,

All the District Judges,
All the Principal Judges, Family Court,
All the Presiding Officers, MACT/Commercial Court/LARRA,
Uttar Pradesh.

Sub.: Online Training Programme regarding mandates laid down by the Hon'ble Supreme Court in the case of Satender Kumar Antil vs. CBI on 20th April, 2025 (Sunday) from 10:00 AM.

Sir,

In compliance of the directions issued by the Hon'ble Court vide letter no. 192/Admin (Services)/2025, dated April 17, 2025, the Institute is organizing an Online Training Programme regarding mandates laid down by the Hon'ble Supreme Court in the case of Satender Kumar Antil vs. C.B.I. on 20th April, 2025 (Sunday) at 10:00 AM.

The link of Google Form for attendance of the Judicial Officers is attached herewith. The training material is also attached with this letter. for pre-circulation to all the Judicial Officers in advance, so that they can study the same and formulate queries/doubts, if any.

Zoom link for the said training programme is as under:

<https://us02web.zoom.us/j/81013230490?pwd=BOMUpI6YBjyDb3D31VW4Vqqlss7cpS.1>

Meeting ID: 810 1323 0490
Passcode: 213804

Therefore, your goodself is requested to attend and direct all the Judicial Officers working under your administrative control to participate in the above mentioned Training programme on 20th April, 2025 at 10:00 AM. from the VC room of the District Court.

It is further requested to pre-circulate the training material and to impress upon all the Judicial Officers to fill Google Form for attendance on 20th April, 2025(Sunday) after attending the above mentioned training programme.

Encl.: As above. *Regards*

Yours sincerely.

See. circulate amongst all the Judicial officers and copy be send to Principal Judge Family Court, PO. MACT. Karganji.

17/4/25
(Divesh Chandra Samant)

25.4.25
18.4.25



JUDICIAL TRAINING & RESEARCH INSTITUTE, U.P., LUCKNOW

READY REFERENCER

**Training Programme for Judicial Officers regarding the
mandates laid down by the Hon'ble Supreme Court in the
case of Satender Kumar Antil v. CBI**

**Under Supervision of:
Sri Divesh Chandra Samant,
Director, JTRI**

Prepared By:

**Sri Nishant Dev
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INTRODUCTION

Liberty is one of the most essential requirements of the modern man. It is said to be the delicate fruit of a mature civilization. It is the very quintessence of civilized existence and essential requirement of a modern man

- John E.E.D. in "Essays on Freedom and Power"

Hon'ble Apex Court through series of judgments in the case of Satender Kumar Antil v. CBI issued various directions regarding the law of bails.

The Apex Court clarified the role of courts in the matters of bail. The Court observed that the rate of conviction in criminal cases in India is abysmally low. It appears that this factor weighs on the mind of the Court while deciding the bail applications in a negative sense. Courts tend to think that the possibility of a conviction being nearer to rarity, bail applications will have to be decided strictly, contrary to legal principles. One cannot mix up consideration of a bail application, which is not punitive in nature with that of a possible adjudication by way of trial. On the contrary, an ultimate acquittal with continued custody would be a case of grave injustice.

Criminal courts in general with the trial court in particular are the guardian angels of liberty. Liberty, as embedded in the Code, has to be preserved, protected, and enforced by the Criminal Courts. Any conscious failure by the Criminal Courts would constitute an affront to liberty. It is the pious duty of the Criminal Court to zealously guard and keep a consistent vision in safeguarding the constitutional values and ethos. A criminal court must uphold the constitutional thrust with responsibility mandated on them by acting akin to a high priest.

This Ready Referencer has been prepared under the aegis of Hon'ble Supervisory Committee, JTRI and Hon'ble sub-Committee for ensuring the implementation of the Directions of the Apex Court, and supervision of Sri Divesh Chandra Samant, Director, JTRI by Smt Shikha Srivastava, Additional Director (Administration), JTRI and Sri Nishant Dev, Additional Director (Training), JTRI.

CHRONOLOGICAL DEVELOPMENT

SATENDER KUMAR ANTIL v. C.B.I. AND ANOTHER

S.NO.	CASE TITLE	DATE OF ORDER	KEY DIRECTIONS
1.	Satender Kumar Antil vs. C.B.I.& Anr. (2021) SCCONLINE ALL789- (Allahabad High Court, Cr. Misc. Anticipatory Bail Application no.7598 of 2021)	01/07/2021	
2.	Satender Kumar Antil vs. C.B.I.& Anr. (2021) 10 SCC 773	07/10/2021	Classification of Offences
3.	Satender Kumar Antil vs. C.B.I.& Anr. 2021 SCC Online SC 3302	16/12/2021	Correction regarding offence under section 45 of PMLA
4.	Satender Kumar Antil vs. C.B.I.& Anr. (2022) 10 SCC 51	11/7/2022	Detailed Directions regarding Bail (including arrest, remand, issue of process, default bail, bail in appeal, bonds and sureties)
5.	Satender Kumar Antil vs. C.B.I.& Anr MA 2035/2022 (Crl) No5191/2021 (II) (IA No166259/2022 – Clarification/Direction)	03/02/2023	Judgment of Satender Kumar Antil vs. C.B.I.& Anr. (2022) 10 SCC 51 & Siddharth case should be incorporated as part of the curriculum of SJAs/NJA

6.	Satender Kumar Antil vs. C.B.I.& Anr 2023LL(SC)233	21/03/2023	<ul style="list-style-type: none"> • Directions for Public Prosecutor • The principles of bail would apply on Anticipatory Bail
7.	Satender Kumar Antil vs. C.B.I.& Anr (2024) 9 SCC 198	13/02/2024	Guidelines and Standard Operating Procedure for Implementation of the Scheme for Support to poor person.
8.	Satender Kumar Antil vs. C.B.I.& Anr 2025 LiveLaw (SC) 112	21/01/2025	Police Shouldn't Serve S.41A CrPC/S.35 BNSS Notice Through WhatsApp Or Electronic Means

3. Satender Kumar Antil vs. C.B.I.& Anr. (2021) 10 SCC 773

(Date of Judgment: 07th October, 2021)

Hon'ble Apex Court classified the offences and prescribed the requisite condition. The Apex Court also directed for circulation of the directions to all the trial courts.

REQUISITE CONDITIONS-

- 1) Not arrested during investigation.
- 2) Cooperated throughout in the investigation including appearing before Investigating Officer whenever called

CATEGORIES/TYPES OF OFFENCES-

CATEGORY	OFFENCE COVERED UNDER CATEGORY	PROCEDURE TO BE FOLLOWED BY THE CONCERNED COURTS
A	<p>Offences punishable with imprisonment of 7 years or less not falling in category B & D.</p> <p>Note: Category A deals with both police cases and complaint cases.</p>	<p>After filing of chargesheet/complaint taking of cognizance-</p> <p>a) Ordinary summons at the 1st instance/including permitting appearance through Lawyer.</p> <p>b) If such an accused does not appear despite service of summons, then Bailable Warrant for physical appearance may be issued.</p> <p>c) NBW on failure to failure to appear despite issuance of Bailable Warrant.</p> <p>d) NBW may be cancelled or converted into a Bailable Warrant/Summons without insisting physical appearance of accused, if such an application is moved on behalf of the accused before execution of the NBW on an undertaking</p>

		of the accused to appear physically on the next date/s of hearing. e) Bail applications of such accused on appearance may be decided w/o the accused being taken in physical custody or by granting interim bail till the bail application is decided.
B	Offences punishable with death, imprisonment for life, or imprisonment for more than 7 years.	On appearance of the accused in Court pursuant to process issued bail application to be decided on merits.
C	Offences punishable under Special Acts containing stringent provisions for bail like NDPS (S.37), PMLA (S.45), UAPA (S.43D(5), Companies Act, 212(6), etc.	Same as Category B & D with the additional condition of compliance of the provisions of Bail under NDPS S. 37, 45 PMLA, 212(6) Companies Act 43d (5) of UAPA, POSCO etc.
D	Economic offences not covered by Special Acts.	On appearance of the accused in Court pursuant to process issued bail application to be decided on merits.

Caveat-

- where the accused have not cooperated in the investigation not appeared before the Investigating Officers,
- not answered summons when the Court feels that judicial custody of the accused is necessary for the completion of the trial,
- where further investigation including a possible recovery is needed,
- while issuing notice to consider bail, the trial Court is not precluded from granting interim bail taking into consideration the conduct of the accused during the investigation which has not warranted arrest.

4. Satender Kumar Antil vs. C.B.I. & Anr. 2021 SCC Online SC 3302

(Date of Judgment: 16th December, 2021)

Hon'ble Court issued the following guidelines/directions-

1. We make it clear that our intent was to ease the process of bail and not to restrict it. The order, in no way, imposes any additional fetters but is in furtherance of the line of judicial thinking to enlarge the scope of bail.
2. At this stage, suffice for us to say that while referring to category 'C', inadvertently, Section 45 of Prevention of Money laundering Act (PMLA) has been mentioned which has been struck down by this Court.
3. We are also putting a caution that merely by categorizing certain offences as economic offences which may be non-cognizable, it does not mean that a different meaning is to be given to our order.
4. We may also clarify that if during the course of investigation, there has been no cause to arrest the accused, merely because a charge sheet is filed, would not be an ipso facto cause to arrest the petitioner, an aspect in general clarified by us in Criminal Appeal No.838/2021 – Siddharth v. State of Uttar Pradesh & Anr. dated 16.08.2021.

5. Satender Kumar Antil vs. C.B.I. & Anr. (2022) 10 SCC 51 (Date of Judgment: 11th July, 2022)

The Apex Court issued comprehensive directions/guidelines regarding bail. The Court pointed to the incorrect interpretation of Section 170 of the Code of Criminal Procedure, 1973 (Code).

ISSUES INVOLVED AND DISCUSSED

PREVAILING SITUATION

Jails in India are flooded with undertrial prisoners. The statistics indicate that more than 2/3rd of the inmates of the prisons constitute undertrial prisoners. Of this category of prisoners, majority may not even be required to be arrested despite registration of a cognizable offense, being charged with offenses punishable for seven years or less. They are not only poor and illiterate but also would include women.. In a democracy, there can never be an impression that it is a police State as both are conceptually opposite to each other.

BAIL IS RULE, JAIL IS EXCEPTION

The grant of bail is a rule and its refusal is an exception, but while granting bail, the court has to be satisfied that in a given case, its grant is necessary in the interests of justice.

DEFINITION OF TRIAL

The word 'trial' is not explained and defined under the Code

DEFINITION OF BAIL

The term "bail" has not been defined in the Code, though is used very often. A bail is nothing but a surety inclusive of a personal bond from the Accused. It means the release of an Accused person either by the orders of the Court or by the police or by the Investigating Agency.

PRESUMPTION OF INNOCENCE

Presumption of innocence has been acknowledged throughout the world. Article 14(2) of the International Covenant on Civil and Political Rights, 1966 and

Article 11 of the Universal Declaration of Human Rights acknowledge the presumption of innocence, as a cardinal principle of law, until the individual is proven guilty.

An uncontrolled power is the natural enemy of freedom.

-Harold Laski in 'Liberty in the Modern State'

STATUTORY PROVISIONS OF CODE OF CRIMINAL PROCEDURE

Provisions discussed

Sections 41, 41A, 60, 87, 88, 167(2), 170, 204, 209, 309, 389, 436A, 437, 439, 440 CrPC

The Code of Criminal Procedure, despite being a procedural law, is enacted on the inviolable right enshrined Under Article 21 and 22 of the Constitution of India. The provisions governing clearly exhibited the aforesaid intendment of the Parliament.

ARREST & REMAND

Section 41, 41A and 60A of the Code

➤ Arnesh Kumar vs. State of Bihar (2014) 8 SCC 273

Hon'ble Apex Court in Satendra Kumar Antil case issued directions for strict compliance of guidelines issued in aforesaid case.

- Magistrate is duty bound to be first satisfied that the arrest is made following the directions of Arnesh case, then authorise detention. Practice of mechanically reproducing in the case diary all or most of the reasons contained in Section 41 Cr.P.C. for effecting arrest be discouraged and discontinued.
- Magistrate do not mechanically and casually authorise detention. Before a Magistrate authorises detention Under Section 167 Code of Criminal Procedure, he has to be first satisfied that the arrest made is legal and in accordance with law and all the constitutional rights of the person arrested are satisfied.

- If the arrest effected by the police officer does not satisfy the requirements of Section 41 of the Code, Magistrate is duty-bound not to authorise his further detention and release the Accused.
- When an Accused is produced before the Magistrate, the police officer effecting the arrest is required to furnish to the Magistrate, the facts, reasons and its conclusions for arrest and the Magistrate in turn is to be satisfied that the condition precedent for arrest Under Section 41 Code of Criminal Procedure has been satisfied and it is only thereafter that he will authorise the detention of an Accused.
- The Magistrate before authorising detention will record his own satisfaction, may be in brief but the said satisfaction must reflect from his order.
- Notice of appearance in terms of Section 41-A CrPC be served on the accused within two weeks from the date of institution of the case, which may be extended by the Superintendent of Police of the district for the reasons to be recorded in writing.
- Failure to comply with the directions aforesaid shall apart from rendering the police officers concerned liable for departmental action, they shall also be liable to be punished for contempt of court to be instituted before the High Court having territorial jurisdiction.
- Authorising detention without recording reasons as aforesaid by the Judicial Magistrate concerned shall be liable for departmental action by the appropriate High Court.

I.O. is duty bound to comply with the mandate of S.41 and 41A of Cr.P.C and Guidelines were issued by the Apex Court for Offences punishable with imprisonment upto seven years regarding compliance of Section 41 A Cr.P.C.- arrests should be an exception, in cases where the punishment is less than seven years of imprisonment. Police officers should maintain a balance between individual liberty and societal order while exercising power of arrest under sections 41, 41 A and 57 of Cr.P.C.

Section 170 of the Code

Section 170- Cases to be sent to Magistrate when evidence is sufficient.

Siddharth v. State of U.P., 2021 SCC Online SC 615

After investigation-charge sheet filing

In the case of **Siddharth v. State of U.P., 2021 SCC ONLINE SC 615**, the Apex Court held that

1. Accused need not bring before court alongwith the chargesheet
2. Accused not arrested during investigation and cooperated throughout in the investigation .
3. There is not even a need for filing a bail application, as the accused is merely forwarded to the court for the framing of charges and issuance of process for trial.
4. If the court is of the view that there is no need for any remand, then the court can fall back upon Section 88 of the Code and complete the formalities required to secure the presence of the accused for the commencement of the trial.
5. The Court clarified that - anything on the cases in which the accused persons are already in custody - the bail application has to be decided on its own merits.
6. For due compliance of Section 170 of the Code, there is no need for filing of a bail application.

Directions for Magistrate-

It should be impressed upon all the courts that they should accept the charge-sheet whenever it is produced by the police with any endorsement to be made on the charge-sheet by the staff or the Magistrate pertaining to any omission or requirement in the charge-sheet.

Direction for Police-

It has rightly been observed on consideration of Section 170 CrPC that it does not impose an obligation on the officer-in-charge to arrest each and every accused at the time of filing of the charge-sheet. It is viewed that if the investigating officer does not believe that the accused will abscond or disobey summons he/she is not required to be produced in custody. The word “custody” appearing in Section 170 CrPC does not contemplate either police or judicial custody but it merely connotes the presentation of the accused by the investigating officer before the court while filing the chargesheet.

ISSUE OF PROCESS

Section 87 and 88 of the Code

[Case Referred: **Inder Mohan Goswami v. State of Uttaranchal**, (2007) 12 SCC 1]

When non-bailable warrants should be issued -

- The Courts will have to adopt the procedure in issuing summons first, thereafter a bailable warrant, and then a non-bailable warrant may be issued, if so warranted
- Non-bailable warrant should be issued to bring a person to court when summons or bailable warrants would be unlikely to have the desired result.
- It is reasonable to believe that the person will not voluntarily appear in court; or
- The police authorities are unable to find the person to serve him with a summon; or
- It is considered that the person could harm someone if not placed into custody immediately.

Section 167(2)- DEFAULT BAIL

Section 167(2) CrPC was introduced in the year 1978 with an emphasis to the maximum period of time to complete the investigation.

Object –To ensure an expeditious investigation and a fair trial,

To set down a rationalised procedure that protects the interests of the indigent sections of society, an investigating agency has to expedite the process of investigation as a suspect is languishing under incarceration.

Case referred:

1. **M. Ravindran v. Directorate of Revenue Intelligence**, (2021) 2 SCC 485
2. **Rakesh Kumar Paul v. State of Assam**, (2017) 15 SCC 67
3. **S. Kasi v. State**, (2021) 12 SCC 1

Observation by Bench in Satender Antil case regarding Scope of Section 167(2) CrPC

As a consequence of the right flowing from the said provision, courts will have to give due effect to it, and thus any detention beyond this period would certainly be illegal, being an affront to the liberty of the person concerned. Therefore, it is not only the duty of the investigating agency but also the courts to

see to it that an accused gets the benefit of Section 167 (2).

BAIL IN APPEAL- Section 389 CrPC

Case Referred-

- 1. Atul Tripathi vs State of U.P. &Anr., 2014 (9) SCC 177**
- 2. Angana v. State of Rajasthan, (2009) 3 SCC 767**
- 3. Sunil Kumar v. Vipin Kumar (2014) 8 SCC 868**

Section 389 of the Code concerns itself with circumstances pending appeal leading to the release of the Appellant on bail. The power exercisable Under Section 389 is different from that of the one either Under Section 437 or Under Section 439 of the Code, pending trial. This is for the reason that "presumption of innocence" and "bail is the Rule and jail is the exception" may not be available to the Appellant who has suffered a conviction. A mere pendency of an appeal per se would not be a factor.

Thus, we hold that the delay in taking up the main appeal or revision coupled with the benefit conferred Under Section 436A of the Code among other factors ought to be considered for a favourable release on bail.

BAIL u/s 436 A-

Section 436 A Maximum period for which an undertrial prisoner can be detained.

Under this provision, when a person has undergone detention for a period extending to one-half of the maximum period of imprisonment specified for that offense, he shall be released by the court on his personal bond with or without sureties. The word shall 'clearly denotes the mandatory compliance of this provision.

[Case referred- Bhim Singh v. Union of India (2015) 13 SCC 605]

Having given our thoughtful consideration to the legislative policy engrafted in Section 436-A and large number of undertrial prisoners housed in the prisons, we are of the considered view that some order deserves to be passed by us so that the undertrial prisoners do not continue to be detained in prison beyond the maximum period provided Under Section 436-A.

Direction for jurisdictional Magistrate/Chief Judicial Magistrate/Sessions Judge -

They shall hold one sitting in a week in each jail/prison for two months commencing from 1-10-2014 for the purposes of effective implementation of Section 436-A of the Code of Criminal Procedure.

In its sittings in jail, the above judicial officers shall identify the undertrial prisoners who have completed half period of the maximum period or maximum period of imprisonment provided for the said offence under the law and after complying with the procedure prescribed Under Section 436-A pass an appropriate order in jail itself for release of such undertrial prisoners who fulfil the requirement of Section 436-A for their release immediately.

Such jurisdictional Magistrate/Chief Judicial Magistrate/Sessions Judge shall submit the report of each of such sittings to the Registrar General of the High Court and at the end of two months, the Registrar General of each High Court shall submit the report to the Secretary General of this Court without any delay.

To facilitate compliance with the above order, we direct the Jail Superintendent of each jail/prison to provide all necessary facilities for holding the court sitting by the above judicial officers.

Section 437 of Code

[Case Referred: Prahlad Singh Bhati v. NCT, Delhi, (2001) 4 SCC 280]

Section 437- When bail may be taken in case of non-bailable offence.

Section 437 of the Code is a provision dealing with bail in case of nonbailable offenses by a court other than the High Court or a Court of Sessions. Here again, bail is the rule but the exception would come when the court is satisfied that there are reasonable grounds that the accused has been guilty of the offense punishable either with death or imprisonment for life. Similarly, if the said person is previously convicted of an offense punishable with death or imprisonment for life or imprisonment for seven years or more or convicted previously on two or more occasions, the accused shall not be released on bail by the magistrate.

Section 439 of the Code

Section 439- Special powers of High Court or Court of Session regarding bail

Section 439 confers a power upon the High Court or a Court of Sessions regarding the bail. This power is to be exercised against the order of the judicial magistrate exercising power under Section 437 of the Code or in a case triable by the Court of Sessions exclusively.

Difference between section 437 and section 439 discussed

Section 440 of Code

[Case Referred: Hussainara Khatoon & Ors v Home Secretary, State of Bihar, 1980 (1) SCC 81]

Section 440- Amount of bond and reduction thereof-

Under Section 440 the amount of every bond executed under Chapter XXXIII is to be fixed with regard to the circumstances of the case and shall not be excessive. This is a salutary provision which has to be kept in mind. The conditions imposed shall not be mechanical and uniform in all cases.

It is a mandatory duty of the court to take into consideration the circumstances of the case and satisfy itself that it is not excessive. Imposing a condition which is impossible of compliance would be defeating the very object of the release.

Section 436, 437, 438 and 439 of the Code are to be read in consonance. Reasonableness of the bond and surety is something which the court has to keep in mind whenever the same is insisted upon, and therefore while exercising the power under Section 88 of the Code also the said factum has to be kept in mind.

DIRECTIONS/GUIDELINES FOR INVESTIGATING AGENCIES AND THE COURTS:

- a) The Government of India may consider the introduction of a separate enactment in the nature of a Bail Act so as to streamline the grant of bails.

- b) *The investigating agencies and their officers are duty-bound to comply with the mandate of Section 41 and 41A of the Code and the directions issued by this Court in Arnesh Kumar (supra). Any dereliction on their part has to be brought to the notice of the higher authorities by the court followed by appropriate action.*
- c) *The courts will have to satisfy themselves on the compliance of Section 41 and 41A of the Code. Any non-compliance would entitle the accused for grant of bail.*
- d) All the State Governments and the Union Territories are directed to facilitate standing orders for the procedure to be followed under Section 41 and 41A of the Code while taking note of the order of the High Court of Delhi dated 07.02.2018 in Writ Petition (C) No. 7608 of 2018 and the standing order issued by the Delhi Police i.e. Standing Order No. 109 of 2020, to comply with the mandate of Section 41A of the Code.
- e) *There need not be any insistence of a bail application while considering the application under Section 88, 170, 204 and 209 of the Code.*
- f) *There needs to be a strict compliance of the mandate laid down in the judgment of this court in **Siddharth Vs. State of UP, 2021 SCC online SC 615**).*
- g) The State and Central Governments will have to comply with the directions issued by this Court from time to time with respect to constitution of special courts. The High Court in consultation with the State Governments will have to undertake an exercise on the need for the special courts. The vacancies in the position of Presiding Officers of the special courts will have to be filled up expeditiously.
- h) The High Courts are directed to undertake the exercise of finding out the undertrial prisoners who are not able to comply with the bail conditions. After doing so, appropriate action will have to be taken in light of Section 440 of the Code, facilitating the release.
- i) *While insisting upon sureties the mandate of Section 440 of the Code has to be kept in mind.*

- j) *An exercise will have to be done in a similar manner to comply with the mandate of Section 436A of the Code both at the district judiciary level and the High Court as earlier directed by this Court in **Bhim Singh v. Union of India, (2015) 13 SCC 605**, followed by appropriate orders.*
- k) ***Bail applications ought to be disposed of within a period of two weeks except if the provisions mandate otherwise, with the exception being an intervening application.** Applications for anticipatory bail are expected to be disposed of within a period of six weeks with the exception of any intervening application.*
- l) All State Governments, Union Territories and High Courts are directed to file affidavits/ status reports within a period of four months.

6. Satender Kumar Antil vs. C.B.I.& Anr.

(Date of Judgment: 03rd February, 2023)

The Apex Court held that-

1. The Court provided the format for submission of data regarding the compliance of the directions to High courts.
2. The Judgment in the present case i.e. Satender Kumar Antil v. CBI (2022) 10 SCC 51 and the judgment in Siddharth's case should be incorporated as part of the curriculum of the State Judicial Academies and the National Judicial Academy.

7. Satender Kumar Antil vs. C.B.I.& Anr. 2023LL(SC)233
(Date of Judgment: 21st March, 2023)

The Apex Court held that-

1. It is the duty of public prosecutor also to plead correct legal position before the Court as officers of the Court.
2. We would like to clarify that what we have enunciated qua bail would equally apply to anticipatory bail cases. Anticipatory bail after all is one of the species of a bail.

8. Satender Kumar Antil vs. C.B.I.& Anr. (2024) 9 SCC 198

(Date of Judgment: 13th February, 2024)

The Apex Court issued the “Guidelines and Standard Operating Procedure for implementation of the Scheme for support to poor prisoners”. It provides that-

i) Funds to the States/UTs will be provided through the Central Nodal Agency (CNA). The National Crime Records Bureau has been designated as the CNA for this scheme.

ii) States/UTs will draw the requisite amount from the CNA on case-to-case basis and reimburse the same to the concerned competent authority (Court) for providing relief to the prisoner.

iii) An 'Empowered Committee' may be constituted in each District of the State/UT, comprising of i) District Collector (DC)/District Magistrate (DM), ii) Secretary, District Legal Services Authority, iii) Superintendent of Police, iv) Superintendent/ Dy. Supdt. of the concerned Prison and v) Judge incharge of the concerned Prison, as nominee of the District Judge.

Note: This Empowered Committee will assess the requirement of financial support in each case for securing bail or for payment of fine, etc. and based on the decision taken, the DC/DM will draw money from the CNA account and take necessary action.

Note: The Committee may appoint a Nodal Officer and take assistance of any civil society representative/social worker/ District Probation Officer to assist them in processing cases of needy prisoners.

iv) An Oversight Committee may be constituted at the State Government level, comprising of i) Principal Secretary (Home/Jail), ii) Secretary (Law Deptt), iii) Secretary, State Legal Services Authority, iv) DG/IG (Prisons) and v) Registrar General of the High Court.

Note: The composition of the State level 'Empowered Committee' and 'Oversight Committee' are suggestive in nature. Prisons/persons detained therein being 'State-List' subject, it is proposed that the Committees may be constituted and notified by the concerned State Governments/UT Administrations.

Standard Operating Procedure UNDERTRIAL PRISONERS

1. If the undertrial prisoner is not released from the jail within a period of 7 days of order of grant of bail, then the jail authority would inform Secretary, District Legal Services Authority (DLSA).

2. Secretary, DLSA would inquire and examine whether the undertrial prisoner is not in a position to furnish financial surety for securing bail in terms of the bail conditions.

For this, DLSA may take the assistance of Civil Society representatives, social workers/ NGOs, District Probation officers or revenue officer. This exercise would be completed in a time bound manner within a period of 10 days.

3. Secretary, DLSA will place all such cases before the District Level Empowered Committee every 2-3 weeks.

4. After examination of such cases, if the Empowered Committee recommends that the identified poor prisoner be extended the benefit of financial benefit under 'Support to poor prisoners Scheme', then the requisite amount upto Rs. 40,000/- per case for one prisoner, can be drawn and made available to the Hon'ble Court by way of Fixed Deposit or any other method, which the District Committee feels appropriate.

5. This benefit will not be available to persons who are accused of offences under Prevention of Corruption Act, Prevention of Money Laundering Act, NDPS or Unlawful Activities Prevention Act or any other Act or provisions, as may be specified later.

6. If the prisoner is acquitted/convicted, then appropriate orders may be passed by the trial Court so that the money comes back to the Government's account as this is only for the purposes of securing bail unless the accused is entitled to the benefit of bail U/s. 389 (3) Cr.P.C. in which event the amount can be utilised for

bail by Trial Court to enable the accused to approach the Appellate Court and also if the Appellate Court grants bail U/s. 389 (1) of Cr.P.C.

7. If the bail amount is higher than Rs. 40,000/-, Secretary, DLSA may exercise discretion to pay such amount and make a recommendation to the Empowered Committee. Secretary, DLSA may also engage with legal aid advocate with a plea to have the surety amount reduced. For any amount over and above Rs. 40,000/-, the proposal may be approved by the State level Oversight Committee.

CONVICTED PRISONERS:

1. If a convicted person is unable to get released from the jail on account of non- payment of fine amount, the Superintendent of the Jail would immediately inform Secretary, DLSA (Time bound manner: 7 days).

2. Secretary, DLSA would enquire into the financial condition of the prisoner with the help of District Social Worker, NGOs, District Probation Officer, Revenue Officer who would be mandated to cooperate with the Secretary, DLSA. (Time bound manner: 7 days)

3. The Empowered Committee will sanction the release of the fine amount upto Rs. 25,000/- to be deposited in the Court for securing the release of the prisoner. For any amount over and above Rs.25,000/-, the proposal may be approved by the State level Oversight Committee.”

**9. Satender Kumar Antil vs. C.B.I.& Anr. 2025 LiveLaw (SC) 112
(Date of Judgment: 21st January, 2025)**

The Hon'ble Court issued the following directions :

a) All the States/UTs must issue a Standing Order to their respective Police machinery to issue notices under Section 41-A of CrPC, 1973/Section 35 of BNSS, 2023 only through the mode of service as prescribed under the CrPC, 1973/BNSS, 2023. It is made amply clear that service of notice through WhatsApp or other electronic modes cannot be considered or recognised as an alternative or substitute to the mode of service recognised and prescribed under the CrPC, 1973/BNSS, 2023.

b) All the States/UTs while issuing Standing Orders to their respective Police machinery relating to Section 41-A of CrPC, 1973/Section 35 of BNSS, 2023 must be issued strictly in accordance with the guidelines issued by the Delhi High Court in *Rakesh Kumar v. Vijayanta Arya (DCP) & Ors.*, 2021 SCC Online Del 5629 and *Amandeep Singh Johar v. State (NCT Delhi)*, 2018 SCC Online Del 13448, both of which were upheld by this Court in *Satender Kumar Antil v. CBI & Anr.* (2022) 10 SCC 51.

c) All the States/UTs must issue an additional Standing Order to their respective Police machinery to issue notices under Section 160 of CrPC, 1973/Section 179 of BNSS, 2023 and Section 175 of CrPC, 1973/Section 195 of BNSS, 2023 to the accused persons or otherwise, only through the mode of service as prescribed under the CrPC, 1973/BNSS, 2023.

d) All the High Courts must hold meetings of their respective Committees for “Ensuring the Implementations of the Decisions of the Apex Court” on a monthly basis, in order to ensure compliance of both the past and future directions issued by this Court at all levels, and to also ensure that monthly compliance reports are being submitted by the concerned authorities.

10. DK Basu v. State of WB AIR 1997 SC 610

The Apex Court laid down the following guidelines and said that arrest and detention will be subject to the guidelines. The violation of these guidelines would attract not only the departmental action but also the contempt of court proceedings in a High Court having the jurisdiction over the matter. The guidelines are as follows:

- 1) The police officer who arrests and handles the interrogation of the arrestee must wear accurate, visible and clear identification and name tags with their designations. The details of all such police personnel who handle interrogation must be recorded in a register.
- 2) The police officer carrying out the arrest must prepare a memo of arrest at the time of arrest and it shall be attested by at least one witness who may be either a member of the family of the arrestee or a respectable person of the locality from where the arrest is made. It shall also be countersigned by the arrested person and shall contain the time and date of arrest.
- 3) A person who has been arrested and is being held in custody in a police station or interrogation centre or other lock-up shall be entitled to have one friend or relative or other person known to him or having an interest in his welfare be informed, as soon as possible, about his arrest and detention in a particular place, unless the attesting witness of the memo of arrest is himself such a friend or a relative of the arrestee.
- 4) The time, place of arrest and venue of custody of an arrestee must be notified by the police where the next friend or relative of the arrestee lives outside the district or town through the Legal Aid Organisation in the District and the police station of the area concerned telegraphically within a period of 8 to 12 hours after the arrest.
- 5) The person arrested must be made aware of his right to have someone informed of his arrest or detention as soon he is put under arrest or is detained.

- 6) An entry must be made in the case diary at the place of detention regarding the arrest which shall also disclose the name of his next friend who has been informed of the arrest and the names and details of the police officials in whose custody the arrestee is.
- 7) On request, the arrestee should be also examined at the time of his arrest and any major and minor injuries, if any present on his/her body, must be recorded at that time. The “Inspection Memo” must be signed both by the arrestee and the police officer and a copy must be given to the arrestee.
- 8) The arrestee should be subjected to a medical examination by a trained doctor every 48 hours during his detention in custody by a doctor on the panel of approved doctors appointed by the Director, Health Services of the concerned State or Union Territory. Director, Health Services should prepare such a panel for all Tehsils and Districts as well.
- 9) Copies of all the documents including the memo of arrest, referred to above, should be sent to the Magistrate for his record.
- 10) The arrestee may be allowed to meet his attorney during interrogation, although not throughout the interrogation.
- 11) A police control room should be provided at all district and state headquarters, where information regarding the arrest and the place of custody of the arrestee shall be communicated by the officer who was in charge of the arrest, within 12 hours of effecting the arrest and at the police control room it should be displayed on a visible notice board.

11. COMPARATIVE CHART: BNSS and CrPC

Section of CrPC	Subject	Section of BNSS	Subject
41	When police may arrest without warrant.	35(1)/(2)	When police may arrest without warrant.
41A	Notice of appearance before police officer	35 (3) to 35(6)	When police may arrest without warrant.
60	Power, on escape, to pursue and retake	61	Power, on escape, to pursue and retake
87	Issue of warrant in lieu of, or in addition to, summons.	90	Issue of warrant in lieu of, or in addition to, summons.
88	Power to take bond for appearance.	91	Power to take bond or bail bond for appearance.
167(2)	Procedure when investigation cannot be completed in twenty-four hours.	187(2)	Procedure when investigation cannot be completed in twenty-four hours.
170	Cases to be sent to Magistrate, when evidence is sufficient.	190	Cases to be sent to Magistrate, when evidence is sufficient.
204	Issue of process.	227	Issue of process.
209	Commitment of case to Court of Session when offence is triable exclusively by it.	232	Commitment of case to Court of Session when offence is triable exclusively by it.
309	Power to postpone or adjourn proceedings.	346	Power to postpone or adjourn proceedings.
389	Suspension of sentence pending appeal; Release of appellant on bail.	430	Suspension of sentence pending appeal; Release of appellant on bail.
436A	Maximum period for which under trial prisoners can be detained.	479	Maximum period for which under trial prisoners can be detained.
437	When bail may be taken in	480	When bail may be taken in

	case of non bailable offence.		case of non bailable offence.
439	Special powers of High Court or Courts of Session regarding bail.	483	Special powers of High Court or Courts of Session regarding bail.
440	Amount of bond and reduction thereof.	484	Amount of bond and reduction thereof.

12. CIRCULAR LETTERS FOR STRICT COMPLIANCE OF DIRECTIONS IN THE CASE OD SATENDER KUMAR ANTIL CASE ISSUED BY HON'BLE ALLAHABAD HIGH COURT

1. Letter No. 2883/Admin. G-II Dated 07/03/2025
2. Letter No. 12118/Admin G-II Dated: 07/09/2024
3. Letter No. 3176/Admin G-II Dated: 12/03/2024
4. CL No. 11/2023/Admin. 'G-II' Dated: Allahabad 27/04/2023



Through e-mail

From,

Rajeev Bharti, HJS
Registrar General
High Court of Judicature at,
Allahabad

To,

Shri Divesh Chandra Samant, HJS
Director
Judicial Training and Research Institute
Uttar Pradesh, Lucknow

No. 2863 /Admin G-II

Dated: 07 /03/ 2025

Sub: Regarding directions issued by Hon'ble sub-Committee for "Ensuring the Implementation of the Directions of the Apex Court"

Sir,

As your goodself are aware that aforesaid Hon'ble Committee, in the meeting held on **04.03.2025** discussed the matter regarding proper and adequate **training** to Judicial Officers regarding mandates laid down by Hon'ble Supreme Court in case of **Satender Kumar Antil Vs. CBI**. Accordingly, Hon'ble Committee has been pleased to resolve as follows in the matter:-

".....It was apprised by the Director that the training schedule (offline mode) has been finalized in advance. Presently no slot is available for physical training, till end of September 2025.

Therefore, the Committee requested the Director, JTRI to frame appropriate training module including latest orders passed by the Supreme Court and the administrative orders and circulars of the High Court issued in this regard (including this resolution), by way of virtual/ online training module, on war footing. Further, following points should be kept in mind while designing the training module: -

- *All the Judicial Officers whether they are serving in district courts or working on deputation, should be included in the training schedule.*
- *The Training module should be framed in such a way that it addresses the grey areas as may exist with any judicial officer.*
- *The training material should be crisp (including PPT) and the same be provided to all Judicial Officers in advance, so that they can study the same and remain aware of the training material as may help them formulate queries/ doubts, if any.*

The Committee also suggested that the Helpline Mechanism of the JTRI may be made more effective so as to address the queries/ doubts of the Judicial Officers regarding mandates laid down by Hon'ble Supreme Court in (1) Satender Kumar Antil Vs. CBI (2) Armesh Kumar Vs. State of Bihar, (3) Siddhartha Vs. State of U.P., (4) D.D. Basu Case and other similar cases.



It was suggested by the Director, JTRI that the appropriate training module may be prepared for 1-1.5 hours training session and the same may be placed before the Committee for suggestions, if any."

In this regard, while enclosing copies of administrative orders and circulars of the High Court issued in this regard, I am directed to request you to ensure compliance of the directions issued by Hon'ble Court.

Further, Hon'ble Court has also appreciated your goodself for your active participation in the meeting and sharing your expertise to make the meeting more productive.

Encl. As above

With Regards,

Yours faithfully,


27/3/25
Registrar General



From,
Rajeev Bharti, HJS,
 Registrar General,
 High Court of Judicature at
 Allahabad.

Through Speed Post/ E-mail

To,
All the District & Sessions Judges,
 District Courts of State of Uttar Pradesh.

C.L. No. 11 /2023/Admin.'G-II' Dated: Allahabad 27/04/ 2023
Sub: Directions issued by Hon'ble Supreme Court in Special Leave
Petition (Crl.) no. 5191 of 2021 titled Satender Kumar Antil
Vs. Central Bureau of Investigation & Another.

Madam/Sir,

Hon'ble the Supreme Court has taken a serious note upon the practice of Judicial Officers of their dealing with the matter of custody and of bail in lackadaisical manner even after clear directions issued in this regard time and again.

Vide order dated 07.10.2021 passed in above captioned Special Leave Petition (Crl), Hon'ble Supreme Court has approved guidelines regarding Category/ Types of offences and their Requisite Conditions. A copy of the said order was provided to all the District Courts vide Court's letter no. 14701 dated 14.12.2021 for strict compliance.

Vide order dated 11.07.2022 Hon'ble the Apex Court has reiterated the principle of '*presumptions of innocence*' and of '*Bail is the rule and jail is exception*'. A detailed guideline has also been issued by the Apex Court with regard to the matter of the Judicial Custody of accused and of bail. A copy of the said order was provided to all the District Courts vide Court's letter no. 11980 dated 17.09.2022 for strict compliance .

Vide order dated 21.03.2023, passed in Misc. Application No. 2034 of 2022 in Misc. Application No. 1849 of 2021 in Special Leave Petition (Crl.) no. 5191 of 2021 titled Satender Kumar Antil Vs. Central Bureau of Investigation & Another (**pdf copy enclosed**), Hon'ble the Supreme Court has issued several directions in this regard.

On the basis of directions issued by Hon'ble Supreme Court, this Hon'ble Court issues following directions to all the courts dealing with criminal matters:



1. Compliance of section 309 CrPC shall be made in letter and spirit.
2. Unnecessary adjournments shall strictly be curtailed.
3. Investigating agencies and their officers are duty-bound to comply with the mandate of section of 41 and 41-A of CrPC and with the directions issued by Hon'ble Apex Court in the matter of **Arnesh Kumar vs. State of Bihar** (2014) 8 SCC 273. Any dereliction of their part has to be brought to the notice of higher authorities by the courts followed by appropriate action.
4. The courts shall have to satisfy themselves on the compliance of section 41 and 41-A of the code. Any non-compliance would entitle the accused for grant of bail.
5. There need not be any insistence of a bail application while considering the applications u/s 88, 170, 204 and 209 of the Code.
6. The mandate laid down by Hon'ble Supreme Court in the matter of **Siddharth Vs State of U.P.** (2021) 1 SCC 676, shall strictly be complied with.
7. Appropriate action will have to be taken in light of section 440 of the Code to facilitate the release of undertrial prisoners who are not able to comply with the bail conditions.
8. An exercise will have to be done by the courts in similar manner to comply with the mandate of section 436-A of the code as directed by Hon'ble Supreme Court in the matter of **Bhim Singh vs Union of India** (2015) 13 SCC 605.
9. Bail applications ought to be disposed of within a period of two weeks except if the provisions mandate otherwise, with the exception being and intervening applications. Applications for anticipatory bail are excepted to be disposed of within a period of six weeks with the exception of any intervening application.
10. It is the bounden duty for the subordinate judiciary to follow the law of land and even after if the people are sent to judicial custody where they are not required to be sent and if aggrieved parties move further litigation on account of the same, the Magistrates may be withdrawn from judicial works and be sent to the judicial academies for upgradation of their skill for some time




You are, therefore, requested to ensure strict compliance of enclosed judgment of Hon'ble Supreme Court and of above-mentioned directions by all concerned in letter and spirit.

You are further requested to monitor the strict compliance of the same and to submit compliance report to the Administrative Judge of your district on monthly basis.

Encl. As above

Yours faithfully,


(Rajeev Bharti)

No. /2023/Admin.'G-II' Dated: Allahabad 2023

Copy forwarded for information and necessary action to:

1. The Senior Registrar, High Court of Judicature at Allahabad, Lucknow Bench, Lucknow.
2. P.S. to all the Hon'ble Judges at Allahabad and also at Lucknow Bench, Lucknow to place the same before their Lordships for kind perusal.
3. The Director, Judicial Training & Research Institute, Gomti Nagar, Lucknow.
4. All the Judicial officers posted in the Registry in Allahabad High Court and Lucknow Bench, Lucknow.
5. The Member Secretary, U.P. State Legal Services Authority, III floor, Jawahar Bhawan, Annexe Lucknow.
6. Section Officer, Admin. 'H' Section for compilation of guard file.


Registrar General



Through e-mail

From,

Rajeev Bharti, HJS
Registrar General
High Court of Judicature at,
Allahabad

To,

All the District and Sessions Judges/OSD
State of Uttar Pradesh

No. 3176 /Admin G-II Dated 12/03/2024

Sub: Compliance of order/ judgment dated 13.02.2024 of Hon'ble Supreme Court in Misc. Application no. 2034 of 2022 in Misc. Application No. 1849 of 2021 in Special Leave Petition (Crl.) No. 5191 of 2021 titled Satender Kumar Antil Vs. Central Bureau of Investigation

Madam/Sir,

Taking a serious note upon the practice of Judicial Officers of their dealing with the matter of custody and bail in lackadaisical manner, Hon'ble Supreme Court had issued various directions vide order/judgement dated 07.10.2021, 11.07.2022 and 21.03.2023 in the case of **Satender Kumar Antil Vs. Central Bureau of Investigation & Another**. On the basis of directions of Hon'ble Supreme Court, several directions were issued by this Hon'ble Court vide **Circular Letter no. 11/Admin G-II dated 27.04.2023 (pdf copy enclosed)**.

Hon'ble Supreme Court of India vide its judgement dated 13.02.2024 in the instant matter (pdf copy enclosed) has been pleased to pass various directions to be complied with.

Accordingly, this Hon'ble Court issues following directions to all the courts dealing with the criminal matters:-

1. Investigating agencies and their officers are duty bound to comply with the mandate of **section 41 and 41-A of CrPC** and directions issued by Hon'ble Supreme Court in the matter of **Arnesh Kumar vs. State of Bihar (2014) 8 SCC 273**. Any dereliction on their part should be brought to the notice of higher authorities by the courts concerned.
2. Bail applications should not be insisted upon in applications under sections 88, 170, 204 and 209 of CrPC.
3. The mandate laid down by Hon'ble Supreme Court in the matter of **Siddharth Vs State of U.P. (2021) 1 SCC 676**, shall be strictly complied with.




4. An exercise be undertaken to find out the under trial prisoners who are not able to comply with bail conditions. After doing so appropriate action be taken in light of **section 440 of CrPC**, facilitating the release of such under trial prisoners. It is noticed that despite identification of under trail prisoners, sufficient steps have not been taken to file applications on their behalf under **section 440 of CrPC**. Compliance of directions of Hon'ble Supreme Court should be strictly done in this regard.
5. While insisting upon sureties the mandate of Section 440 of CrPC should be kept in mind.
6. **Bail applications** ought to be disposed of within a period of two weeks except if the provisions mandate otherwise, with the exception being an intervening application. Applications for **anticipatory bail** are expected to be disposed of within a period of six weeks with the exception of any intervening application.
7. Judicial Officers passing orders in non-conformity with the directions issued by Hon'ble Supreme Court in the case of Satender Kumar Antil be identified and necessary action will be taken to send them to Judicial Academy for further upgradation of their skills.
8. Directions of the case of Satender Kumar Antil should be applied to petitions **under Section 438 of CrPC**.

You are, therefore, requested ,to ensure strict compliance of the above mentioned directions, by all the concerned, under your supervision and administrative control, in letter and spirit and provide a compliance report in the matter **by 16.03.2024 positively** through e-mail on e-mail id inspection@allahabadhighcourt.in.

With Regards,

Encl:- As above

Yours faithfully,


11/3/24
Registrar General



Through e-mail

From,

Registrar General
High Court of Judicature at,
Allahabad

To,

All the District and Sessions Judges/OSD
State of Uttar Pradesh

No. 12118 /Admin G-II

Dated: 07/09/2024

Sub: Compliance of order/ judgment dated 06.08.2024 of Hon'ble the Supreme Court in Misc. Application no. 2034 of 2022 in Misc. Application No. 1849 of 2021 in Special Leave Petition (Crl.) No. 5191 of 2021 titled Satender Kumar Antil Vs. Central Bureau of Investigation.

Madam/Sir,

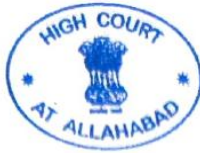
Kindly refer to this Court's **Circular Letter no. 11/Admin G-II dated 27.04.2023** and letter no. **3176/Admin G-II dated 12.03.2024** whereby, directions issued by Hon'ble the Supreme Court, in the matter of custody and bail, were communicated to your goodself with the request to ensure strict compliance.

Now, Hon'ble the Supreme Court of India, vide its judgement **dated 06.08.2024**, in the instant matter (**pdf copy enclosed**) has been pleased to pass certain directions which are to be complied with by this Court.

Thus, in view of directions issued by Hon'ble Supreme Court in paragraph- F of the judgment dated 06.08.2024, following directions are being issued:-

1. *The District Judges shall ensure compliance of Standard Operating Procedure for Under Trial Prisoners as laid down by Hon'ble the Supreme Court vide order dated 13.02.2024 (pdf copy enclosed), in those cases where no family member or friend is coming forward to stand as surety or furnish bonds on the behalf of the Under Trial Prisoners.*
2. *Every Magistrate and/or Sessions Judge shall inform the District Judge concerned about any form of non-compliance of mandate of Para 100.2 or Para 100.3 of Satender Kumar Antil Vs. CBI & Anr. (2022) 10 SCC 51 (pdf copy enclosed), within one week of recording such non-compliance; (paragraph 100.2 and 100.3 of the judgment of Satender Kumar Antil Vs. CBI (2022) 10 SCC 51 are regarding compliance of Sections 41 and 41-A of CrPC and directions issued by Hon'ble the Supreme Court in Arnesh Kumar vs. State of Bihar (2014) 8 SCC 273, by investigating agencies and their officers)*
3. *Every District Judge shall maintain a record of details of such non-compliances received from the concerned Magistrates;*
4. *Every District Judge upon receipt of details of non-compliance by the concerned Magistrate shall, on a monthly basis, forward the same to the Registrar General of the High Court and to the Head of Police in the concerned District;*

✓



5. **The Head of Police of the concerned District shall, upon receipt of details of such non-compliance of Para.100.2, take action against the erring officer as soon as possible and inform the concerned District Judge.**

You are, therefore, requested to circulate the directions issued by Hon'ble Court amongst all the Judicial Officers working under your kind control and ensure strict compliance of the same, by all the concerned, in letter and spirit.

You are also requested to inform whether any Judicial Officer has been identified who is passing order in non-conformity with the directions issued by Hon'ble the Supreme Court in case of Satender Kumar Antil (2022) 10 SCC 51. If yes, kindly provide the details of the same through e-mail on e-mail Id inspection@allahabadhighcourt.in within **three days** positively.

Encl:- As above

Yours faithfully,


Registrar General

No. 12119 /Admin G-II Dated: Allahabad 07/09/2024

Copy forwarded to the **Director General of Police, Uttar Pradesh** for information and necessary compliance.

With Regards,


Registrar General