

THE BAIL BILL, 2017

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**Bill No. XLI of 2017**

THE BAIL BILL, 2017

A

BILL

*to make provisions in relation to bail in connection with criminal proceedings in the country and to ensure protection of personal liberty of the citizens and matter connected therewith or incidental thereto.*

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Bail Act, 2017.

5 (2) It extends to the whole of India, except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette appoint.

Short title,  
extent and  
commence-  
ment.

Definitions.	<p><b>2.</b> (1) In this Act, unless the context otherwise requires, "bail" means—</p> <p>(i) bail grantable in or in connection with proceedings for an offence to a person who is accused or convicted of the offence, or</p> <p>(ii) bail grantable in connection with an offence to a person who is under arrest for the offence or who has reason to believe that he may be arrested on accusation of having committed any offence.</p> <p>(2) Words and expressions used and not defined in this Act but defined in the Code of Criminal Procedure, 1973 or the Indian Penal Code, 1860 or the Indian Evidence Act 1872 shall have the same meanings respectively assigned to them in those codes and the Act.</p>	5
Surrender before the court.	<p><b>3.</b> Where an enactment (whenever passed) which relates to bail refers to the person bailed, appearing before a Court, it shall be construed unless the context otherwise requires as referring to his surrendering himself to the custody of the Court under this Act.</p>	10
Reference to other laws.	<p><b>4.</b> Any reference in this Act to any other enactment is a reference thereto as amended, and includes a reference thereto as extended or applied, by or under any other enactment, including this Act.</p>	15
<p><b>CHAPTER II</b></p> <p><b>INCIDENTS OF BAIL</b></p>		
Duty to surrender to custody.	<p><b>5.</b> A person accused of committing bailable offences or non-bailable offences when granted bail shall be under a duty to surrender to custody, and that duty is enforceable in accordance with the provisions of this Act.</p>	20
Furnishing of surety by a person granted bail.	<p><b>6.</b> A person, when granted bail, may be required to furnish surety before release on bail, in cases—</p> <p>(a) where he is accused of committing bailable offences except if he is declared indigent by the Court.</p> <p><i>Explanation.</i>— If a person is unable to furnish bail bond within a week of the date of his arrest, it shall be sufficient ground for the officer or the Court to presume that he is an indigent person for the purposes of this section.</p> <p>(b) where accused of committing non-bailable offences.</p>	25
Compliance with conditions by a person granted bail.	<p><b>7.</b> A person who is accused of committing non-bailable offence may be required by court to comply, after release on bail, with following conditions—</p> <p>(i) that such person surrenders to the custody;</p> <p>(ii) that such person shall not commit an offence similar to the offence of which he is accused, or suspected of the commission;</p> <p>(iii) that such person shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so facts to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence;</p> <p>(iv) that such person makes himself available for the purpose of enabling inquiries or a report to be made and also to assist to deal with him for the offence;</p> <p>(v) such other conditions as it consider necessary in the interest of justice.</p> <p><i>Explanation.</i>—Application of these conditions shall be limited in cases where a person is accused or suspected of the commission of an offence punishable with imprisonment which may extend to seven years or more or of an offence under Chapter VI, Chapter XVI or Chapter XVII of the Indian Penal Code or abetment of, or conspiracy or attempt to commit, any such offence.</p>	30 35 40
		45 of 1860. 45

8. If it appears to an officer of Court at any stage of investigation, inquiry or trial, as the case may be, that there are not reasonable grounds for believing that the accused has committed a non-bailable offence, but that there are sufficient grounds for further enquiry into his guilt, subject to the discretion of such officer or Court, the accused shall be released on bail and the condition imposed by the Court shall be relaxed upon, such officer of Court recording the reasons for release on bail or relaxation of conditions in writing .

Releasing of an accused on bail by Court.

9. Where a person has, during the period of investigation, inquiry or trial under any law (not being an offence for which the punishment of death has been specified as one of the punishments under that law), undergone detention for a period extending upto one-half of the maximum period of imprisonment specified for that offence under that law, he shall be released by the Court on his personal bond with or without sureties:

Release of an accused by the Court on personal bond, etc.

Provided that the Court may, after hearing the Public Prosecutor and for the reasons to be recorded by it in writing, order the continued detention of such person for a period longer than one-half of the said period or release him on bail instead of personal bond with or without sureties:

Provided further that no such person shall in any case be detained during the period of investigation, inquiry or trial for more than the maximum period of imprisonment provided for the said offence under that law.

*Explanation.*—In computing the period of detention under this section for granting bail the period of detention passed due to delay in proceeding caused by the accused shall be excluded.

### CHAPTER III

#### BAIL FOR ACCUSED PERSONS AND OTHERS

10. When the person is arrested or detained for a bailable offence without warrant by an officer in charge of a police station, or appears or is brought before a Court, and is prepared at any time while in custody of such officer or at any stage of the proceeding before such Court to furnish bail bond, such person shall be released on bail:

Granting of bail in case of bailable offences.

Provided where a person has failed to comply with the conditions of the bail bond as regards the time and place of attendance, the Court may refuse to release him on bail, when on a subsequent occasion in the same case he appears before the Court or is brought in custody.

11. When the person is arrested or detained for a bailable offence without warrant by an officer in charge of a police-station or appears or is brought before a Court other than a High Court or Court of Session, he may be released on bail except—

Granting of bail in case non-bailable offences.

(i) If there appears reasonable grounds for believing that he has been guilty of an offence punishable with death or imprisonment for life;

(ii) If the offence committed by the accused is cognizable offence and he had been previously convicted of an offence punishable with death, imprisonment for life or imprisonment for seven years or more, or he had been previously convicted on two or more occasions of a cognizable offence punishable with imprisonment for three years or more but not less than seven years:

Provided that persons referred to in clauses (i) and (ii) of section 11 shall be released on bail by the Court if such person is under the age of sixteen years or is a woman or is sick or infirm:

Provided further that Court may also direct that a person referred to in clause (ii) of section 11 be released on bail if it is satisfied that it is just and proper to do so for any other special reason:

Provided also that the mere fact that an accused person may be required for being identified by witnesses during investigation shall not be sufficient ground for refusing to grant bail if he is otherwise entitled to be released on bail and gives an undertaking that he shall comply with such directions as may be given by the Court.

No bail in case of an offence punishable with death etc.	<p><b>12.</b> No person shall, if the offence alleged to have been committed by him is punishable with death, imprisonment for life, or imprisonment for seven years or more be released on bail by the Court under section 11 without giving an opportunity of hearing to the Public Prosecutor.</p>	
Reasons to be recorded before bail.	<p><b>13.</b> An officer or a Court releasing any person on bail under section 11, shall record in writing his or its reasons or special reasons for so doing.</p>	5
Committing a person to custody.	<p><b>14.</b> Any Court which has released a person on bail under section 11, if it considers necessary so to do, may direct that such person be arrested and commit him to custody.</p>	
Trial in case of non-bailable offences.	<p><b>15.</b> If in any case triable by a magistrate, the trial of a person accused of any non-bailable offence is not concluded within a period of sixty days from the first date fixed for taking evidence in the case, such person shall, if he is in custody during whole of the said period, be released on bail to the satisfaction of the magistrate, unless for reasons to be recorded in writing, the magistrate otherwise directs.</p>	10
Conclusion of trial.	<p><b>16.</b> If, at any time after the conclusion of the trial of a person accused of a non-bailable offence and before judgment is delivered, the Court is of opinion that there are reasonable grounds for believing that the accused is not guilty of any such offence, it shall release the accused, if he is in custody, on the execution by him of a bond without sureties for his appearance to hear judgment delivered.</p>	15
Execution of bail bonds with sureties.	<p><b>17.</b> Before conclusion of trial and before disposal of appeal, the Court trying the offence or the Appellate Court, as the case may be, shall require the accused to execute bail bonds with sureties, to appear before the higher Court as and when such Court issues notice in respect of any appeal or petition filed against the judgement of the respective Courts and such bail bonds shall be in force for six months.</p>	20
	<p><i>Exception</i>—This section shall not apply once a person has been acquitted by the trial Court.</p>	
	<p><i>Explanation.</i>—Once the person has been acquitted by the Court trying the offence he shall released henceforth without any bail or sureties even if any appeal to the higher Court is pending.</p>	25
Anticipatory bail for non-bailable offence.	<p><b>18.</b> (1) When any person has reason to believe that he may be arrested on an accusation of having committed a non-bailable offence, he may apply to the High Court or the Court of Session for a direction under this section that in the event of such arrest, he shall be released on bail, and that Court may, after taking into consideration, <i>inter-alia</i>, the following factors, namely—</p>	30
	<p>(i) the nature and gravity of the accusation;</p>	
	<p>(ii) the antecedents of the applicant including the fact as to whether he has previously undergone imprisonment on conviction by a Court in respect of any cognizable offence;</p>	35
	<p>(iii) the possibility of the applicant to flee from justice; and</p>	
	<p>(iv) where the accusation has been made with the object of injuring or humiliating the applicant by having him so arrested,</p>	
	<p>either reject the application forthwith or issue an interim order for the grant of bail.</p>	40
	<p>(2) Where the Court grants an interim order under sub-section (1) of section 18, it shall forthwith cause a notice being not less than seven days notice, together with a copy of such order to be served on the Public Prosecutor and the Superintendent of Police, with a view to give the Public Prosecutor a reasonable opportunity of being heard when the application shall be finally heard by the Court.</p>	45
	<p><i>Explanation.</i>—The final order made on an application for direction under sub-section (1) of section 18, shall not be construed as an interlocutory order for the purposes of this Act.</p>	

(3) When the High Court or the Court of Session makes a direction under sub-section (1) of section 18, it shall include following conditions:—

(i) that the person shall make himself available for interrogation by a police officer as and when required;

5 (ii) that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

(iii) that the person shall not leave India without the previous permission of the Court;

10 (iv) such other condition as may be imposed by Section 10, as if the bail were granted for bailable offences.

(4) if such person is thereafter arrested without warrant by an officer-in-charge of a police station on such accusation, and is prepared either at the time of arrest or at any time while in the custody of such officer to furnish bail, he shall be released on bail, and if a  
15 Magistrate taking cognizance of such offence decides that a warrant should be issued, in the first instance against that person, he shall issue a bailable warrant in conformity with the direction of the Court under sub-section (1) of section 18.

(5) If an application under this section has been made by any person either to the High Court or the Court of Session, no further application by the same person shall be  
20 entertained by either of them.

**19.** A High Court or Court of Session may direct—

Direction for  
release of a  
person on bail.

(a) that any person accused of an offence and in custody be released on bail, and if the offence is of the nature specified in section 10, may impose any condition which it considers necessary for the purposes mentioned in Section 10.

25 (b) that any condition imposed by a Magistrate when releasing any person on bail be set aside or modified:

30 Provided that the High Court or the Court of Session shall, before granting bail to a person who is accused of an offence which is triable exclusively by the Court of Session or which, though not so triable, is punishable with imprisonment for life, give notice of the application for bail to the Public Prosecutor unless it is, for reasons to be recorded in the writing, of the opinion that it is not practicable to give such notice.

35 **20.** (1) Whenever any person is arrested and detained in custody and it appears that the investigation cannot be completed within the period of twenty-four hours and there are grounds for believing that the accusation or information is well-founded, the officer in charge of the police station or the police officer making the investigation, if he is not below the rank of sub-inspector, shall forthwith transmit to the nearest Judicial Magistrate a copy of the entries in the diary hereinafter prescribed relating to the case, and shall at the same time forward the accused to such Magistrate.

Detention of a  
person in  
custody.

40 (2) The Magistrate to whom an accused person is forwarded under this section may, whether he has or has not jurisdiction to try the case from time to time, authorise the detention of the accused in such custody as such Magistrate thinks fit, for a term not exceeding fifteen days in the whole and if he has no jurisdiction to try the case or commit it for trial, and considers further detention unnecessary, he may order the accused to be forwarded to a Magistrate having such jurisdiction:

45 Priveded that—

(a) the Magistrate may authorise the detention of the accused person, otherwise than in the custody of the police, beyond the period of fifteen days; if he is satisfied that adequate grounds exist for doing so, but no Magistrate shall authorise the detention of the accused person in custody under this paragraph for a total period exceeding,—

50 (i) ninety days, where the investigation relates to an offence punishable with death, imprisonment for life or imprisonment for a term of not less than ten years;

(ii) sixty days, where the investigation relates to any other offence and;

(iii) on the expiry of the said period of ninety days, or sixty days, as the case may be, the accused person shall be released on bail if he is prepared to and does furnish bail, and every person released on bail under this sub-section shall be deemed to be so released under the provisions of Section 10 and 11 of this Act;

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(b) no Magistrate shall authorise detention in any custody under this section unless the accused is produced before him;

(c) no Magistrate of the second class, not specially empowered in this behalf by the High Court, shall authorise detention in the custody of the police.

*Explanation I.*—For the avoidance of doubts, it is hereby declared that, notwithstanding the expiry of the period specified in paragraph (a), the accused shall be detained in custody so long as he does not furnish bail;

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*Explanation II.*—If any question arises whether an accused person was produced before the Magistrate as required under paragraph (b), the production of the accused person may be proved by his signature on the order authorising detention.

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(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), the officer in charge of the police station or the police officer making the investigation, if he is not below the rank of a sub-inspector, may, where a Judicial Magistrate is not available, transmit to the nearest Executive Magistrate, on whom the powers of a Judicial Magistrate or Metropolitan Magistrate have been conferred, a copy of the entry in the diary hereinafter prescribed relating to the case, and shall, at the same time, forward the accused to such Executive Magistrate and thereupon such Executive Magistrate, may, for reasons to be recorded in writing, authorise the detention of the accused person in such custody as he may think fit for a term not exceeding seven days in the aggregate; and, on the expiry of the period of detention so authorised, the accused person shall be released on bail except where an order for further detention of the accused person has been made by a Magistrate competent to make such order; and where an order for such further detention is made, the period during which the accused person was detained in custody under the orders made by an Executive Magistrate under this sub-section, shall be taken into account in computing the period specified in paragraph (a) of the proviso to sub-section (2):

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Provided that before the expiry of the period aforesaid, the Executive Magistrate shall transmit to the nearest Judicial Magistrate the records of the case together with a copy of the entries in the diary relating to the case which was transmitted to him by the officer in charge of the police station or the police officer making the investigation, as the case may be.

(4) A Magistrate authorising detention in the custody of the police under this section shall record his reasons for so doing.

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(5) Any Magistrate other than the Chief Judicial Magistrate making such order shall forward a copy of his order, with his reasons for making it, to the Chief Judicial Magistrate.

CHAPTER IV

CANCELLATION OF BAIL AND FOREFEITURE OF BONDS

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Cancellation of Bail in cases of bailable offences.

**21.** (1) When a person has failed to comply with the conditions of the bail-bond as regards the time and place of attendance, the Court may refuse to release him on bail, when on a subsequent occasion in the same case he appears before the Court or is brought in custody and any such refusal shall be without prejudice to the powers of the Court to call upon any person bound by such bond to pay the penalty as prescribed under this Act:

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Provided the bail shall not be refused nor penalty shall be imposed on the accused if the accused is able to prove before the Court that he had reasonable cause not to comply with the conditions of bail:

Provided further that the bail shall not be refused to the person accused if he has taken leave of the Court not to comply with the conditions imposed by the Court.

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(2) A High Court or Court of Session may direct that any person who has been released on bail under section 10 be arrested and commit him to custody:

Provided that High Court or the Court of Session shall give adequate notice of hearing of the application of cancellation of bail to the accused.

22. (1) Whenever a person is found to be incapable of entering defence by reason of unsoundness of mind or mental retardation, the Magistrate or Court, as the case may be shall, whether the case is one in which bail may be taken or not, order release of such person on bail:

Release of a person of unsound mind on bail.

Provided that the accused is suffering from unsoundness of mind or mental retardation which does not mandate in-patient treatment and a friend or relative undertakes to obtain regular out-patient psychiatric treatment from the nearest medical facility and to prevent from doing injury to himself or to any other person.

(2) If the case is one in which, in the opinion of the Magistrate or Court, as the case may be, bail cannot be granted or if an appropriate undertaking is not given, he or it shall order the accused to be kept in such a place where regular psychiatric treatment can be provided, and shall report the action taken to the State Government:

Provided that no order for the detention of the accused in a mental health establishment shall be made otherwise than in accordance with such rules as the State Government may have made under the Mental Healthcare Act, 2017.

(3) Whenever a person is found to be incapable of entering defence by reason of unsoundness of mind or mental retardation, the Magistrate or Court, as the case may be, shall keeping in view the nature of the act committed and the extent of unsoundness of mind or mental retardation, further determine if the release of the accused can be ordered:

Provided that—

(a) if on the basis of medical opinion or opinion of a specialist, the Magistrate or Court, as the case may be decide to order discharge of the accused, such release may be ordered, if sufficient security is given that the accused shall be prevented from doing injury to himself or to any other person.

(b) If the Magistrate or Court, as the case may be, is of opinion that discharge of the accused cannot be ordered, the transfer of the accused to a residential facility for persons of unsound mind or mental retardation may be ordered wherein the accused may be provided care and appropriate education and training.

23. The Court other than the High Court or Court of Session may exercise its power to cancel the bail granted by it under section 11 and to recommit the accused to jail under any one or more of the following circumstances, namely:—

Cancellation of Bail in cases of non-bailable offences.

(i) while on bail the accused commits the same offence for which he is being tried or has been convicted;

(ii) if he hampers investigation of the case;

(iii) if he tampers with the evidence and threatening the witness;

(iv) if he runs away to a foreign country or goes underground or beyond the control of his sureties;

(v) if he commits acts of violence, in revenge, against the police and the prosecution witnesses:

Provided that Court shall assign reasons before cancellation of bail.

24. (1) Where a bond under this Act is for appearance, or for production of property, before a Court and it is proved to the satisfaction of that Court or of any Court to which the case has subsequently been transferred, that the bond has been forfeited, or where, in respect of any other bond under this Act, it is proved to the satisfaction of the Court by which the bond was taken, or of any Court to which the case has subsequently been

Forfeiture of bond.

transferred, or of the Court of any Magistrate of the first class, that the bond has been forfeited.

The Court shall record the grounds of such proof, and may call upon any person bound by such bond to pay the penalty thereof or to show cause why it should not be paid.

*Explanation.*— A condition in a bond for appearance, or for production of property, before a Court shall be construed as including a condition for appearance, or as the case may be, for production of property before any Court to which the case may subsequently be transferred. 5

(2) If sufficient cause is not shown and or the penalty is not paid, the Court may proceed to recover the same as if such penalty were a fine imposed by it under this Act: 10

Provided that where such penalty is not paid and cannot be recovered in the manner aforesaid, the person so bound as surety shall be liable, by order of the Court ordering the recovery of the penalty, to imprisonment in civil jail for a term which may extend to six months.

(3) The Court may, after recording its reasons for doing so, remit any portion of the penalty mentioned and enforce payment in part only; 15

(4) Where a surety to a bond dies before the bond is forfeited, his estate shall be discharged from all liability in respect of the bond;

(5) Where any person who has furnished security and is convicted of an offence the commission of which constitutes a breach of the conditions of his bond, or of a bond executed in lieu of his bond, a certified copy of the judgment of the Court by which he was convicted of such offence may be used as evidence in proceedings under this section against his surety or sureties, and, if such certified copy is so used, the Court shall presume that such offence was committed by him unless the contrary is proved. 20

Cancellation  
of bond and  
bail bond.

**25.** Without prejudice to the provisions of section 24, where a bond under this Act is for appearance of a person in a case and it is forfeited for breach of a condition— 25

(a) the bond executed by such person as well as the bond, if any, executed by one or more of his sureties in that case shall stand cancelled; and

(b) thereafter no such person shall be released only on his own bond provided that if the Police Officer or the Court, as the case may be, for appearance before whom the bond was executed, is satisfied that there was no sufficient cause for the failure of the person bound by the bond to comply with its condition: 30

Provided that subject to any other provision of this Act he may be released in that case upon the execution of a fresh personal bond for such sum of money and bond by one or more of such sureties as the Police Officer or the Court, as the case may be, thinks sufficient. 35

Insolving of  
Death of a  
Surety.

**26.** When any surety to a bond under this Act becomes insolvent or dies, or when any bond is forfeited under the provisions of section 24, the Court by whose order such bond was taken, or a Magistrate of the first class may order the person from whom such security was demanded to furnish fresh security in accordance with the directions of the original order, and if such security is not furnished, such Court of Magistrate may proceed as if there had been a default in complying with such original order. 40

Execution of a  
bond by  
minor.

**27.** When the person require by any court, or officer to execute a bond is a minor, such court or officer may accept, in lieu thereof, a bond executed by a surety or sureties only.

Orders to be  
appealable.

**28.** All order passed under section 24 shall be appealable,— 45

(i) in the case of an order made by a Magistrate, to the Session Judge;

(ii) in the case of an order made by a Court of Session, to the Court to which an appeal lies from an order made by such Court.

**29.** The High Court or Court of Session may direct any magistrate to levy the amount due on a bond for appearance or attendance at such High Court or Court of Session.

Direction to Magistrate to levy amount.

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## CHAPTER V

### MISCELLANEOUS

**30.** (1) Before any person is released on bail or released on his own bond, a bond for such sum of money as the police officer or Court, as the case may be thinks sufficient shall be executed by such person, and, when he is released on bail, by one or more sufficient sureties conditioned that such person shall attend at the time and place mentioned in the bond, and shall continue so to attend until otherwise directed by the police officer or Court, as the case may be.

Bonds and sureties.

(2) Where any condition is imposed for the release of any person on bail, the bond shall also contain that condition.

(3) If the case so requires, the bond shall also bind the person released on bail to appear when called upon at the high Court, Court of Session or other Court to answer the charge.

(4) For the purpose of determining whether the surety is fit or sufficient, the Court may accept affidavits as proof of the facts contained therein relating to the financial condition, character, previous conviction if any and his proximity, whether in point of kinship, place of residence or otherwise to the person for whom he is to be surety, 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.

(5) Every person standing surety to an accused persons 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 relevant particulars.

(6) The amount of every bond executed under this Act shall be fixed with due regard to the circumstances of the case and shall not be excessive.

(7) The High Court or Court of Session may direct that the bail required by a police officer or Magistrate be reduced.

(8) If, through mistake, fraud, or otherwise, insufficient sureties have been accepted, or if they afterwards become insufficient, the Court may issue a warrant of arrest directing that the person released on bail be brought before it and may order him to find sufficient sureties, and, on his failing so to do, may commit him to jail.

(9) All or any sureties for the attendance and appearance of a person released on bail may at any time apply to a Magistrate to discharge the bond, either wholly or so far as relates to the applicants.

(10) On such application being made, the magistrate shall issue his warrant of arrest directing that the person so released be brought before him.

(11) On the appearance of such person pursuant to the warrant, or on his voluntary surrender, the Magistrate shall direct the bond to be discharged either wholly or so far as relates to the applicants, and shall call upon such person to find other sufficient sureties, and, if he fails to do so, may commit him to jail.

**31.** (1) As soon as the bond has been executed, the person for whose appearance it has been executed shall be released; and, when he is in jail, the Court admitting him to bail shall issue an order of release to the officer in charge of the jail, and such officer on receipt of the order, shall release him.

Release of a person on bail.

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(2) Nothing in this section, section 10 or section 11 shall be deemed to require the release of any person liable to be detained for some matter other than that in respect of which the bond was executed.

Repeal and savings.

**32.** (1) Chapter XXXIII of the Code of Criminal Procedure, 1973 is hereby repealed (hereinafter referred to as repealed provisions). 2 of 1974. 5

(2) Notwithstanding such repeal,—

(a) anything done or any action taken or purported to have been done or taken, including any direction given or any proceeding taken or any penalty, punishment, forfeiture or fine imposed under the repealed provisions shall, insofar as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act; and 10

(b) any principal or rule of law or established jurisdiction, form or course of pleading, practice or procedure or existing usage, custom, privilege, restriction or exemption shall not be affected, notwithstanding that the same respectively may have been in any manner affirmed or recognized or derived by, in or from, the repealed provisions. 15

(3) The mention of particular matters in sub-section (2) shall not be held to prejudice the general application of section 6 of the General Clauses Act 1897 with regard to the effect of repeal. 10 of 1897.

Power to make rules.

**33.** The Central Government may, by notifications in the official Gazette, make rules for carrying out the purposes of this Act. 20

#### STATEMENT OF OBJECTS AND REASONS

India is a welfare State. It is necessary to make provision in relation to bail in connection with criminal proceedings in India to ensure that freedom and personal liberty of any citizen is not affected except in accordance with procedures established by law.

Bail relates to citizens' right to life and liberty, it is expedient to enact a separate legislation to address all issues related to bail and therefore a separate legislation is required.

It is necessary for the person's life and liberty be protected and respected by the state by all means and through all stages of a judicial process involving the due process of law.

It is imperative that the law operates in a manner that the best interest and well-being of the citizens of the country are protected.

The recommendations made by Law Commissions on bail related provisions are required to be incorporated within the statutory framework.

Hence this Bill.

SUKHENDU SEKHAR RAY

## FINANCIAL MEMORANDUM

The Bill provides certain procedures to be followed within a legal framework so as to deal with all matters connected with or incidental to bail which may or may not be granted to an accused person and as such no further expenditure from the Consolidated Fund of India shall be incurred afresh other than the manner in which the expenses are hitherto being incurred.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 33 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

RAJYA SABHA

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**BILL**

to make provisions in relation to bail in connection with criminal proceedings in the country and to ensure protection of personal liberty of the citizens and matter connected therewith or incidental thereto.

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*(Shri Sukhendu Sekhar Ray, M.P.)*