

GOVERNMENT OF INDIA
MINISTRY OF LAW AND JUSTICE
DEPARTMENT OF JUSTICE

RAJYA SABHA
UNSTARRED QUESTION NO. 1391
ANSWERED ON – 30/07/2026

FORMULA FOR BAIL

1391 # Shri Ramji Lal Suman:

Will the Minister of *Law and Justice* be pleased to state:

- (a) whether it is a fact that there is no fixed formula for granting bail in cases registered under various sections;
- (b) whether the Ministry had asked the Law Commission to enact a law in respect of bail in the year 2015;
- (c) in view of the delay in granting bail to the undertrials lodged in jails, whether the Ministry would consider drafting a formula for granting bail to protect the fundamental right of freedom, as mentioned in Article 21, of the individual, on the basis of which the Courts may grant bail; and
- (d) the details of accused lodged in jails for more than three years, awaiting bail?

ANSWER

MINISTER OF STATE (INDEPENDENT CHARGE) OF THE MINISTRY OF LAW AND JUSTICE; AND MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS

(SHRI ARJUN RAM MEGHWAL)

(a) to (c): The Law Commission of India was requested in 2015 by the Government to examine the need for a Bail Act in India. The Law Commission of India in its Report No. 268 forwarded its suggestions with regard to bail reforms in India. After extensive consultations and deliberations with all stakeholders, the Bharatiya Nyaya Sanhita (BNS) Bill, 2023 to repeal the Indian Penal Code, 1860, the Bharatiya Nagarik Suraksha Sanhita (BNSS) Bill, 2023, to repeal the Code of Criminal Procedure, 1973 and Bharatiya Sakshya (BS) Bill, 2023, to repeal the Indian Evidence Act, 1872, were introduced in the Parliament, which were passed by both the Houses of Parliament, assented to by the Hon'ble President of India and notified in the Gazette of India on 25.12.2023. The BNS, 2023, the BNSS, 2023 and BSA, 2023 came into effect from 01st July, 2024.

Sections 478 to 496 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 provides for ‘Provisions as to Bail and Bonds’.

Section 479 (1) of the Bharatiya Nagarik Suraksha Sanhita (BNSS) provides that “Where a person has, during the period of investigation, inquiry or trial under this Sanhita of an offence under any law (not being an offence for which the punishment of death or life imprisonment has been specified as one of the punishments under that law) undergone detention for a period extending up to one-half of the maximum period of imprisonment specified for that offence under that law, he shall be released by the Court on bail.”

The Proviso under Section 479 (1) of the BNSS provides further relief to first time offenders/undertrial prisoners and provides that “where such person is a first-time offender (who has never been convicted of any offence in the past), he shall be released on bond by the Court, if he has undergone detention for the period extending up to one-third of the maximum period of imprisonment specified for such offence under that law.” Further, technology based alerts are generated through the ePrisons portal under Inter-Operable Criminal Justice System (ICJS) and are sent to concerned officials for taking appropriate action for timely release of undertrial prisoners.

(d): As per the latest data (as on 31.12.2024) provided by the National Crime Records Bureau (NCRB), there are 29,936 Undertrial Prisoners in jails for more than three years, in the Country.
