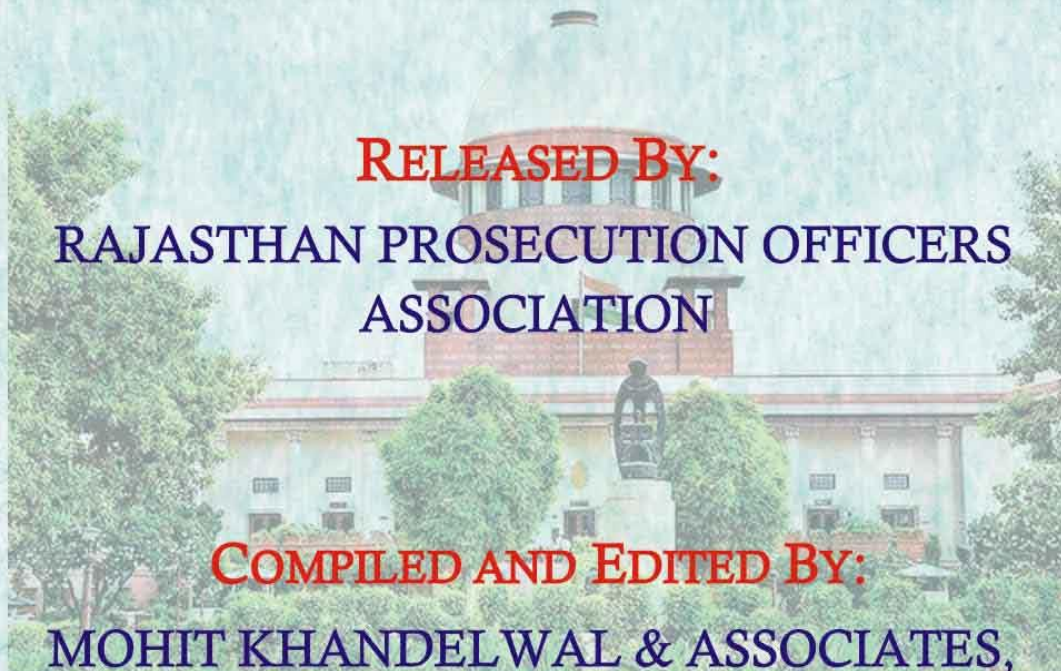


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# Criminal Law Judgments, 2020

(A Comprehensive Compilation of over  
100 Judgments on Criminal Law pronounced  
in the year 2020)



**RELEASED BY:**

**RAJASTHAN PROSECUTION OFFICERS  
ASSOCIATION**

**COMPILED AND EDITED BY:**

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**Lawctopus**  
FOR STUDENTS OF LAW

## ***Object and Vision***

The Hon'ble Apex in the case of *Rekha Murarka v. The State of West Bengal, 2020 (2) SCC 474* rightly observed that the "public prosecutor is the officer of the Court and his primary duty is to assist the Court in arriving at the truth by putting forth all the relevant material on behalf of the prosecution". Thus, it is integral that the Ld. Public Prosecutors are aware about the recent judicial pronouncements so as to keep themselves updated in this dynamic field of law. In due discharge of its duties, the Association has taken this initiative to release this compilation to benefit our member prosecutors and to assist them in refreshing their memories about the legal developments, before entering into the upcoming year. In future also, we would keep taking such initiatives to render support to our Ld. Members.

**Regards,**

**Pankaj Sharma,  
General Secretary**

**Jaswant Singh Chauhan,  
President**

**Rajasthan Prosecution Officers Association**

In this compilation, we have tried covering all the important judicial pronouncements of the Hon'ble Apex Court and the Hon'ble High Courts relating to the criminal laws. In order to assist the readers, in each judgment we have tried stating the relevant issue in brief and thereafter the finding of the Hon'ble Courts have been mentioned. Further, the readers can directly read the original text of the judgment by clicking on the name of the Judgment, which would re-direct them to the entire judgment. We firmly believe that after reading these 70 pages one would be able to appraise oneself with all the legal updates of the year 2020 in the field of criminal law. I thank the Association for giving us this opportunity to create this compilation and also thank the Lawctopus for joining with us. In the end, I also thank Akshay Shekhawat, Harsh Khandelwal, Shubham Khandelwal, Aditya Jain, Deependra Singh, Ishaan Sharma and Yashovarman for working tirelessly on this compilation.

**Regards,**

**Mohit Khandelwal**

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**Principal Secretary**  
Department of Home, Home Guard, Jail  
RSIB, Transport & Chief Vigilance Commissioner  
Government of Rajasthan

## **Forward**

We are committed to achieve Sustainable Development Goal 16 - "Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels". Over the years, the government has taken several steps to make the criminal justice system accessible to all.

The Department of Prosecution is amongst the key pillars of the criminal justice system of the State and their effective and efficient working is important for delivery of justice. The Public Prosecutors represent the State in Court proceedings and ensure that justice is done. The Public Prosecutors are required to put their best efforts in furnishing the correct factual and legal scenario in the Courts and to assist the courts in delivery of justice. The Government has been making continued efforts to provide adequate infrastructure and training to Public Prosecutors, so that they can keep themselves updated.

This initiative of the Rajasthan Prosecution Officers Association in bringing out this compilation of Judgments delivered by the Hon'ble Courts in the year 2020 is a commendable step. It is one of the several steps taken by the Association for the welfare and benefit of its member Prosecutors. I congratulate the Rajasthan Prosecution Officers Association and hope that they would continue their good efforts.

With Best Wishes,

*(Signature)*

*(Signature)*

**(Abhay Kumar)**

Principal Secretary, Department of  
Home,  
Government of Rajasthan

## Forward

अभियोजन अधिकारी आपराधिक न्याय व्यवस्था के महत्वपूर्ण अंग है तथा लोगों को न्याय दिलाने में महत्वपूर्ण योगदान प्रदान करते हैं। प्रगतिशील समाज में न्याय व्यवस्था एवं न्यायिक व्याख्या का प्रगतिशील होना अतिआवश्यक है। देश के माननीय उच्चतम न्यायालय व उच्च न्यायालयों के द्वारा भी अपने न्यायिक विवेचनाओं को सदैव प्रगतिशील रखा है और समाज व व्यवस्थाओं के समय के साथ बदले स्वरूप के अनुरूप न्यायिक विवेचना प्रदान की है।

अभियोजन अधिकारी संघ के द्वारा माननीय उच्चतम न्यायालय व उच्च न्यायालयों के ऐसे ही महत्वपूर्ण प्रगतिशील एवं बदले हुए परिप्रेक्ष्य में दिये गये महत्वपूर्ण न्यायिक निर्णयों को एक पुस्तक के रूप में संग्रहित कर सराहनीय कार्य किया है। उनके उक्त कार्य से न सिर्फ उनके सदस्यों को उचित मार्गदर्शन मिलेगा अपितु पीडित व्यक्तियों को भी न्याय दिलाने में गति मिलेगी।

अभियोजन अधिकारी संघ का उक्त कार्य अत्यन्त सराहनीय है साथ ही विश्वास करता हूँ कि वे भविष्य में भी ऐसे ही अच्छे कार्य कर न्याय व्यवस्था को मजबूती प्रदान करेंगे।

शुभकामनाओं सहित ।



(राजन्द्र कुमार सैनी)  
विशिष्ट शासन सचिव, गृह (विधि)

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## Supreme Court Judgements

### BAIL AND PERSONAL LIBERTY

Name	<a href="#">Sushila Agarwal v. State (NCT of Delhi) and Anr, 2020 5 SCC 1.</a>
Court	Supreme Court of India
Issue	<p>The Hon'ble Constitutional Bench of the Supreme Court decided the reference made to the larger bench on the following two issues:-</p> <ul style="list-style-type: none"> <li>• Whether the protection granted to a person under Section 438 Cr.P.C. should be limited to a fixed period so as to enable the person to surrender before the Trial Court and seek regular bail?</li> <li>• Whether the life of an anticipatory bail should end at the time and stage when the accused is summoned by the court?</li> </ul>
Held	<ul style="list-style-type: none"> <li>• Life or duration of an anticipatory bail order does not end normally at the time and stage when the accused is summoned by the court, or when charges are framed, but can continue till the end of the trial. However, if there are any special or peculiar features necessitating the court to limit the tenure of anticipatory bail, it is open for it to do so.</li> <li>• It is not essential that an application for anticipatory bail should be moved only after an FIR is filed; it can be moved earlier, so long as the facts are clear and there is reasonable basis for apprehending arrest. The application seeking anticipatory bail should contain bare essential facts relating to the offence, and why the applicant reasonably apprehends arrest.</li> <li>• It may be advisable for the court, which is approached with an application under Section 438, depending on the seriousness of the threat (of arrest) to issue notice to the public prosecutor and obtain facts, even while granting limited interim anticipatory bail.</li> <li>• Courts ought to be generally guided by considerations such as the nature and gravity of the offences, the role attributed to the applicant, and the facts of the case, while considering whether</li> </ul>

	<p>to grant anticipatory bail, or refuse it. The Court would be free to decide the nature and extent of restrictions to be imposed in accordance with section 437(3) and 438(2) of the Cr.P.C.</p> <ul style="list-style-type: none"> <li>• Order of anticipatory bail should not be “blanket” in the sense that it should not enable the accused to commit further offences and claim relief of indefinite protection from arrest. It should be confined to the offence or incident, for which apprehension of arrest is sought, in relation to a specific incident. It cannot operate in respect of a future incident that involves commission of an offence.</li> <li>• An order of anticipatory bail does not in any manner limit or restrict the rights or duties of the police or investigating agency, to investigate into the charges against the person who seeks and is granted pre arrest bail.</li> <li>• The investigation officer would be free to take limited custody or deemed custody of the accused for the purpose of section 27 of Evidence Act. However, there would no need for separate surrender and need for bail.</li> <li>• It is open to the police or the investigating agency to move the court concerned, which grants anticipatory bail, for a direction under Section 439(2) to arrest the accused, in the event of violation of any term, such as absconding, non-cooperating during investigation, evasion, intimidation or inducement to witnesses with a view to influence outcome of the investigation or trial, etc.</li> <li>• The correctness of an order granting bail, can be considered by the appellate or superior court at the behest of the state or investigating agency, and set aside on the ground that the court granting it did not consider material facts or crucial circumstances.</li> </ul>
Relevant Para No.	Final Conclusion.

Name	<a href="#">Prathvi Raj Chauhan v. Union of India, AIR 2020 SC 1036</a>
Court	Supreme Court of India
Issue	Whether section 18 and 18A of the ST/SC Act, 1989 would completely bar the maintainability of the anticipatory bail u/s 438 of Cr.P.C.?
Held	The provisions of section 438 Cr.P.C. shall not apply to cases

(3)

	under the ST/SC Act, 1989. However, if the Compliant does not make out a prima facie case under ST/SC Act, then anticipatory bail would be maintainable. In exceptional circumstances, in order to prevent the mis-use of the Act, the Court may exercise its powers u/s 482 Cr.P.C. to quash the proceedings in light of the settled parameters.
Relevant Para No.	Paragraph No.10 and 11.

<b>Name</b>	<a href="#"><u>State rep. by the Inspector of Police v. M. Murugrsan and Anr., AIR 2020 SC 514</u></a>
<b>Court</b>	Supreme Court of India
<b>Issue</b>	Whether the High Court can issue directions to the state for reforming the criminal justice system, while deciding the bail application u/s 439 Cr.P.C.?
<b>Held</b>	The jurisdiction of the court under section 439 Cr.P.C. is limited to grant or not to grant bail pending trial. The Court cannot retain the file after the grant of bail to the accused. Directions to state to constitute the committee for reforming the criminal justice system was held to be beyond the perview of powers u/s 439 Cr.P.C.
Relevant Para No.	Paragraph No.5 and 11.

<b>Name</b>	<a href="#"><u>S. Kasi v. State through the Inspector of Police, AIR 2020 SC 2921</u></a>
<b>Court</b>	Supreme Court of India
<b>Issue</b>	Whether the accused person would be entitled to default bail due to non-submission of chargesheet during the lockdown period?
<b>Held</b>	During the lockdown, the Investigation Officer was not precluded from submitting the charge-sheet before the Magistrate within the prescribed period. Lockdown restriction by Government shall not operate as any restriction on the rights of an accused as protected by section 167(2) of Cr.P.C. regarding his indefeasible right to get a default bail on non-submission of charge-sheet within the prescribed time.
Relevant Para No.	Paragraph No.26.

(4)

Name	<a href="#">Manish Jain v. Haryana State Pollution Board, AIR 2020 SC 4288</a>
Court	Supreme Court of India
Issue	Whether the accused released on regular bail can apply for the anticipatory bail as his bail was cancelled due to non-appearance?
Held	A person released on bail is already in the constructive custody of law. If the law requires him to come back to custody for specified reasons, an application for anticipatory bail apprehending arrest will not lie. There cannot be an apprehension of arrest by a person already in the constructive custody of the law.
Relevant Para No.	Paragraph No.2.

Name	<a href="#">Myakala Dharmarajam v. State of Telangana, AIR 2020 SC 317</a>
Court	Supreme Court of India
Issue	The court discussed the relevant factors to be considered at a time of granting the bail and at a time of cancellation of bail. The court also laid down the scope of powers to be exercised by the court in the matter of cancellation of bail.
Held	<ul style="list-style-type: none"><li>• <u>Factors to be considered while granting bail:</u><ol style="list-style-type: none"><li>a) The character of the evidence.</li><li>b) Position and status of the accused with reference to the victim and witnesses.</li><li>c) The likelihood of the accused fleeing from justice and repeating the offence.</li><li>d) The possibility of his tempering with the evidence and witnesses.</li><li>e) Obstructing the course of justice etc.</li></ol></li><li>• <u>Factors to be considered at the time of cancellation of bail:</u><ol style="list-style-type: none"><li>a) The accused misuses his liberty by indulging in similar criminal activity.</li><li>b) Interferes with the course of investigation.</li><li>c) Attempts to tamper with evidence or witnesses.</li><li>d) Threatens witnesses or indulges in similar activities which would hamper smooth investigation.</li><li>e) There is likelihood of his fleeing to another country.</li><li>f) Attempts to make himself scarce by going underground or</li></ol></li></ul>

	<p>becoming unavailable to the investigating agency.</p> <p>g) Attempts to place himself beyond the reach of his surety, etc.</p> <ul style="list-style-type: none"> <li>• <u>Scope of powers to be exercised by the court in the matter of cancellation of bail:</u></li> <li>• It is necessary to examine whether the order passed by the Sessions Court granting bail is perverse and suffers from infirmities which has resulted in the miscarriage of justice.</li> <li>• It is not necessary for the Sessions Court to discuss the material on record in detail, but there is an indication from the orders by which bail was granted that the entire material was perused before grant of bail.</li> <li>• It is not the case of either the complainant-Respondent No.2 or the State that irrelevant considerations have been taken into account by the Sessions Court while granting bail to the Appellants.</li> <li>• The order of the Sessions Court by which the bail was granted to the Appellants cannot be termed as perverse as the Sessions Court was conscious of the fact that the investigation was completed and there was no likelihood of the accused tampering with the evidence.</li> </ul>
Relevant Para No.	Paragraph No.6, 7 and 9.

Name	<a href="#">Vinay Sharma v. Union of India., AIR 2020 SC 1451</a>
Court	Supreme Court of India
Issue	The rejection of mercy petition by the President was challenged by the Nirbhaya Convicts on various grounds such as solitary confinement, non-consideration of relevant documents by President and Lt. Governor, <i>inter alia</i> .
Held	<ul style="list-style-type: none"> <li>• In a writ petition seeking the judicial review of the order of the President passed under Article 72 of the Constitution, the scope of review by the Supreme Court is very limited and the court is called upon to examine:- <ul style="list-style-type: none"> <li>(i) Whether the order has been passed without application of mind</li> <li>(ii) Whether the order has been passed on extraneous or wholly irrelevant considerations</li> </ul> </li> </ul>



	<p>(iii) Whether the relevant materials have been kept out of consideration</p> <p>(iv) The order suffers from arbitrariness.</p> <ul style="list-style-type: none"> <li>• Single room where the Petitioner was placed had iron bars open to air and the same cannot be equated with solitary confinement as the Petitioner was permitted to come out and mingle with other inmates at regular interval.</li> <li>• The rejection of mercy petition of the Nirbhaya convicts was held to be valid and in accordance with law.</li> </ul>
Relevant Para No.	Paragraph No.16 and 28.

Name	<a href="#"><u>Arnab Manoranjan Goswami v. State of Maharashtra, Criminal Appeal No. 742 of 2020.</u></a>
Court	Supreme Court of India
Issue	Petition was filed against the order of the Hon'ble High Court denying the interim bail to Arnab Goswami.
Held	<ul style="list-style-type: none"> <li>• The High Court may consider granting bail to the Petitioner while exercising the jurisdiction under article 226 of the Constitution. Such powers can be exercised when the court is called upon to secure the liberty of the accused.</li> <li>• While considering an application for the grant of bail under Article 226 in a suitable case, the High Court must consider the settled factors for granting bail such as the nature of the alleged offence, the nature of the accusation and the severity of the punishment in the case of a conviction; apprehension of the accused tampering with the witnesses, possibility of securing the presence of the accused at the trial or the likelihood of the accused fleeing from justice, antecedents of and circumstances which are peculiar to the accused, whether prima facie the ingredients of the offence are made out, on the basis of the allegations as they stand, in the FIR and significant interests of the public or the State and other similar considerations.</li> <li>• High Court has the power to protect the citizen by an interim order in a petition invoking Article 226.</li> <li>• High Court should not foreclose itself from the exercise of the power when a citizen has been arbitrarily deprived of their personal liberty in an excess of state power.</li> </ul>

	<ul style="list-style-type: none"> <li>The Apex Court granted the Interim Bail to the Petitioner with the liberty to approach the Hon'ble Bombay High Court for deciding his pending petition on merits.</li> </ul>
Relevant Para No.	Paragraph No.12.

Name	<a href="#"><u>Shor v. State of Uttar Pradesh, Writ Petition (Criminal) No. 58/2020</u></a>
Court	Supreme Court of India
Issue	Factors to be considered for pre-mature release of the prisoner.
Held	<ul style="list-style-type: none"> <li>The factors that to be taken into account are               <ol style="list-style-type: none"> <li>Antecedents</li> <li>Conduct in the prison</li> <li>The person, if released, is likely to abstain from crime and lead a peaceable life.</li> </ol> </li> <li>The same cannot be denied solely on the ground that the crime is heinous and that release of such person would send a negative message against the justice system in society.</li> </ul>
Relevant Para No.	ALL

Name	<a href="#"><u>G Selvakumar v. State Of Tamil Nadu, Special Leave to Appeal (Cri) No. 4202-4203/2020</u></a>
Court	Supreme Court of India
Issue	The High Court dismissed the bail application of the Petitioner on the ground that the Petitioner did not abide by the undertaking given by him, while being released on interim bail, to settle the matter and has submitted that he is no position to make any payment. The order of High Court was challenged before the Apex Court.
Held	High Court ought to have heard the bail application on merits and ought not to have dismissed the same on the ground that the Petitioner has gone back of the promise made to the High Court while seeking the interim bail from the Court.
Relevant Para No.	Paragraph No.2 and 3.

<b>Name</b>	<a href="#"><u>Saravanan v. State , Criminal Appeal Nos. 681-682 OF 2020</u></a>
<b>Court</b>	Supreme Court of India
<b>Issue</b>	Whether while releasing the accused on default bail/statutory bail under Section 167(2), Cr.P.C., any condition of deposit of amount as imposed by the High Court, could have been imposed?
<b>Held</b>	The only requirement for getting the default bail/statutory bail under Section 167(2), Cr.P.C. is that the accused is in jail for more than 60 or 90 days, as the case may be, and within 60 or 90 days, as the case may be, the investigation is not completed and no chargesheet is filed by 60th or 90th day and the accused applies for default bail and is prepared to furnish bail, the Court observed that no other condition of deposit of the alleged amount involved can be imposed. Imposing such condition while releasing the accused on default bail/statutory bail would frustrate the very object and purpose of default bail under Section 167(2), Cr.P.C.
<b>Relevant Para No.</b>	Paragraph No.9.

<b>Name</b>	<a href="#"><u>Preet Pal Singh v. State of UP and Anr. AIR 2020 SC 3995</u></a>
<b>Court</b>	Supreme Court of India
<b>Issue</b>	Difference in approach while granting bail u/s 439 of Cr.P.C. in case of a pre-trial arrest and grant of bail post-conviction under Section 389 of the Cr.P.C?
<b>Held</b>	There is a difference between grant of bail under Section 439 of the Cr.P.C. in case of pre-trial arrest and suspension of sentence under Section 389 of the Cr.P.C. and grant of bail, post-conviction. In the earlier case there may be presumption of innocence, which is a fundamental postulate of criminal jurisprudence, and the courts may be liberal, depending on the facts and circumstances of the case, on the principle that bail is the rule and jail is an exception. However, in case of post-conviction bail, by suspension of operation of the sentence, there is a finding of guilt and the question of presumption of innocence does not arise. Nor is the principle of bail being the rule and jail an exception attracted, once there is conviction upon trial. Rather, the Court considering an application for suspension of sentence and grant of bail, is to consider the prima facie merits of the appeal, coupled with other factors. There should be strong

	compelling reasons for grant of bail, notwithstanding an order of conviction, by suspension of sentence, and this strong and compelling reason must be recorded in the order granting bail, as mandated in Section 389(1) of the Cr.P.C.
Relevant Para No.	Paragraph No.36.

Name	<a href="#"><u>Bikramjit Singh v. State Of Punjab, Criminal Appeal No. 667 of 2020</u></a>
Court	Supreme Court of India
Issue	<ul style="list-style-type: none"> <li>• Whether Special Court alone had the exclusive jurisdiction to extend the time for filing the charge sheet from period of 90 days to 180 days for under Section 43-D (2)(b) of the UAPA?</li> <li>• Whether subsequent filing of Chargesheet extinguishes infeasible right of Accused who applied for 'Default Bail'?</li> </ul>
Held	<ul style="list-style-type: none"> <li>• The Magistrate Court does not have power to extend the time for filing of chargesheet in the offences under UAPA and the same can only be done by the Special Court or if there is no designated special court, then by Court of Sessions. The Hon'ble Court held that all scheduled offences i.e. all offences under the UAPA, whether investigated by the National Investigation Agency or by the investigating agencies of the State Government, are to be tried exclusively by Special Courts set up under that Act. The Magistrate's jurisdiction to extend time under the first proviso in Section 43-D(2)(b) is non-existent, "the Court" being either a Sessions Court, in the absence of a notification specifying a Special Court, or the Special Court itself.</li> <li>• A conspectus of the aforesaid decisions would show that so long as an application for grant of default bail is made on expiry of the period of 90 days (which application need not even be in writing) before a charge sheet is filed, the right to default bail becomes complete. It is of no moment that the Criminal Court in question either does not dispose of such application before the charge sheet is filed or disposes of such application wrongly before such charge sheet is filed. So long as an application has been made for default bail on expiry of the stated period before time is further extended to the maximum period of 180 days, default bail, being an</li> </ul>

	indefeasible right of the accused under the first proviso to Section 167(2), kicks in and must be granted.
Relevant Para No.	Paragraph No.21 and 28.

Name	<a href="#"><u>Venkatesan Balasubramaniyan v. The Intelligence Officer, D.R.I. Bangalore [Criminal Appeal No.801 of 2020]</u></a>
Court	Supreme Court of India
Issue	Can High Court cancel the default bail granted under section 167(2)?
Held	A 'default bail' illegally or erroneously granted under Section 167(2) Cr.P.C. can be cancelled by High Court under Section 439(2) Cr.P.C.
Relevant Para No.	Paragraph No.10.

Name	<a href="#"><u>Prabhakar Tewari v. State of UP, Criminal Appeal No.152 of 2020</u></a>
Court	Supreme Court of India
Issue	Can factors like gravity & seriousness of alleged offence by themselves be the basis to refuse bail?
Held	Factors like gravity & seriousness of alleged offence by themselves cannot be the basis to refuse bail.
Relevant para no.	Paragraph No.7.

Name	<a href="#"><u>In Re Exploitation Of Children In Orphanages In The State Of Tamil Nadu v. UOI, Writ Petition(s)(Criminal) No(s).102/2007</u></a>
Court	Supreme Court of India
Issue	Whether a child in conflict with Law be kept in Jail or Police Lockup under any circumstances?
Held	<ul style="list-style-type: none"> <li>• A child in conflict with Law cannot be kept in Jail or Police Lockup under any circumstances and has to be kept in an observation home or place of safety.</li> <li>• All JJBs in the country must follow the letter and spirit of the</li> </ul>

	provisions of the Act. We make it clear that the JJBs are not meant to be silent spectators and pass orders only when a matter comes before them. They can take note of the factual situation if it comes to the knowledge of the JJBs that a child has been detailed in prison or police lock up. It is the duty of the JJBs to ensure that the child is immediately granted bail or sent to an observation home.
Relevant Para No.	Page no.6.

### POWER U/S 482 CR.P.C.

Name	<a href="#"><u>State Of Kerala v. Rajesh, Criminal Appeal No. 154-157 OF 2020</u></a>
Court	Supreme Court of India
Issue	Can the High Court recall its bail order by exercising the powers u/s 482 Cr.P.C. if the same has been passed under the misconception of facts?
Held	<ul style="list-style-type: none"> <li>• The remedy of the State lay in challenging the orders of this Court, if it was really aggrieved, before a superior forum and not before the same court. High Court cannot recall such order while exercising the powers u/s 482 Cr.P.C. and none of the applications seeking to recall the order of this Court is maintainable under law.</li> <li>• In the NDPS cases, while hearing bails, the Court must be cognizant of requirements u/s 37 of the NDPS Act.</li> </ul>
Relevant Para No.	Paragraph No.25.

Name	<a href="#"><u>Rajeev Kourav v. Baisahab, AIR 2020 SC 909</u></a>
Court	Supreme Court of India
Issue	Whether the statements recorded u/s 161 Cr.P.C. can be considered by the High Court while adjudicating a petition filed u/s 482 Cr.P.C. for quashing the FIR?
Held	<ul style="list-style-type: none"> <li>• It is trite law that the High Court cannot embark upon the appreciation of evidence while considering the petition filed under Section 482 Cr.P.C. for quashing criminal proceedings.</li> </ul>

	<p>It is clear from the law laid down by this Court that if a prima facie case is made out disclosing the ingredients of the offence alleged against the accused, the Court cannot quash a criminal proceeding.</p> <ul style="list-style-type: none"> <li>• Statements of witnesses recorded under Section 161 Cr.P.C. being wholly inadmissible in evidence cannot be taken into consideration by the Court, while adjudicating a petition filed under Section 482 Cr.P.C.</li> </ul>
Relevant Para No.	Paragraph No.6 and 8.

Name	<a href="#"><u>State of MP v. Yogendra Singh Jadon and Anr., AIR 2020 SC 911</u></a>
Court	Supreme Court of India
Issue	<ul style="list-style-type: none"> <li>• Scope of exercise of powers u/s 482 Cr.P.C?</li> <li>• Can the court quash the allegations pertaining to offence under 420 IPC, when the accused is also charged with offences under the Prevention of Corruption Act, 1988?</li> </ul>
Held	<ul style="list-style-type: none"> <li>• The power under Section 482 of Cr.P.C. cannot be exercised where the allegations are required to be proved in court of law.</li> <li>• The Hon'ble Apex Court reversed the finding of the High Court and denied to quash the charge for offence u/s 420 IPC by stating that the charge under section 420 IPC is not an isolated offence but it has to be read along with the offences under the PC Act to which the respondents may be liable with the aid of section 120-B of IPC.</li> </ul>
Relevant Para No.	Paragraph No.5.

Name	<a href="#"><u>Asian Resurfacing of Road Agency Pvt. Ltd. v. Central Bureau of Investigation, Miscellaneous application no. 1577 of 2020 in Criminal Appeal Nos. 1375-1376 of 2013</u></a>
Court	Supreme Court of India
Issue	For how long a stay granted in civil/ criminal proceeding would be operative?
Held	In cases where stay is granted in future, the same will end on expiry of six months from the date of such order unless similar extension is granted by a speaking order.

	The Hon'ble Apex Court also held that " <i>whatever stay has been granted by any court including the High Court automatically expires within a period of six months, and unless extension is granted for good reason, as per our judgment, within the next six months, the trial Court is, on the expiry of the first period of six months, to set a date for the trial and go ahead with the same</i> ".
Relevant Para No.	Entire Judgment.

<b>Name</b>	<a href="#"><b><u>K. Jagadish v. Udaya Kumar G.S., AIR 2020 SC 936</u></b></a>
<b>Court</b>	Supreme Court of India
<b>Issue</b>	FIR was quashed by the High Court on the ground of pendency of civil suit for registry cancellation, which was filed by the Complainant subsequent to the lodging of the FIR. Order of High Court was challenged before the Apex Court.
<b>Held</b>	<ul style="list-style-type: none"> <li>• In certain cases the very same set of facts may give rise to remedies in civil as well as in criminal proceedings and even if a civil remedy is availed by a party, he is not precluded from setting in motion the proceedings in criminal law.</li> <li>• It is true that civil proceedings have been subsequently initiated to get the registered Sale Deed set-aside but that has nothing to do with the present criminal proceedings.</li> <li>• Order of the High Court was set aside and the criminal proceedings were allowed to be continued in accordance with law.</li> </ul>
Relevant Para No.	Paragraph No.8 and 9.

### INVESTIGATION

<b>Name</b>	<a href="#"><b><u>Paramvir Singh Saini v. Baljit Singh &amp; Ors, Special Leave Petition (Criminal) No.3543 of 2020</u></b></a>
<b>Court</b>	Supreme Court of India
<b>Issue</b>	That the State and Union Territory Governments should ensure that CCTV cameras are installed in each and every Police Station functioning in the respective State and/or Union Territory.
<b>Held</b>	<p><b><u>Guidelines issued:</u></b></p> <ul style="list-style-type: none"> <li>• No part of a Police Station is to be left uncovered, it is to be</li> </ul>



ensured that CCTV cameras are fixed at all entry and exit points etc.

- CCTV systems that have to be installed must be equipped with night vision and must necessarily consist of audio as well as video footage. In areas in which there is either no electricity and/or internet, it shall be the duty of the States/Union Territories to provide the same as expeditiously as possible using any mode of providing electricity, including solar/wind power. The internet systems that are provided must also be systems which provide clear image resolutions and audio.
- The storage of CCTV camera footage which can be done in digital video recorders and/or network video recorders. CCTV cameras must then be installed with such recording systems so that the data that is stored thereon shall be preserved for a period of 18 months. If the recording equipment, available in the market today, does not have the capacity to keep the recording for 18 months but for a lesser period of time, it shall be mandatory for all States, Union Territories and the Central Government to purchase one which allows storage for the maximum period possible, and, in any case, not below 1 year. It is also made clear that this will be reviewed by all the States so as to purchase equipment which is able to store the data for 18 months as soon as it is commercially available in the market. The affidavit of compliance to be filed by all States and Union Territories and Central Government shall clearly indicate that the best equipment available as of date has been purchased.
- The duty and responsibility for the working, maintenance and recording of CCTVs shall be that of the SHO of the police station concerned. It shall be the duty and obligation of the SHO to immediately report to the DLOC any fault with the equipment or malfunctioning of CCTVs. If the CCTVs are not functioning in a particular police station, the concerned SHO shall inform the DLOC of the arrest / interrogations carried out in that police station during the said period and forward the said record to the DLOC. If the concerned SHO has reported malfunctioning or non-functioning of CCTVs of a particular Police Station, the DLOC shall immediately request the SLOC for repair and purchase of the equipment, which shall be done immediately.

	<ul style="list-style-type: none"> <li>The Director General/Inspector General of Police of each State and Union Territory should issue directions to the person in charge of a Police Station to entrust the SHO of the concerned Police Station with the responsibility of assessing the working condition of the CCTV cameras installed in the police station and also to take corrective action to restore the functioning of all non-functional CCTV cameras. The SHO should also be made responsible for CCTV data maintenance, backup of data, fault rectification etc.</li> </ul> <p><u>Other important aspects discussed in the judgment.</u></p> <ul style="list-style-type: none"> <li>CCTV is all to be installed in the offices of all Central Investigation agencies.</li> <li>Constitution of State and State and District Level Oversight Committee.</li> <li>Human Right Commissions/ Courts Can Summon CCTV Footages.</li> </ul>
Relevant Para No.	Paragraph No.13

Name	<a href="#"><u>Mukesh Singh v. State (Narcotic Branch Of Delhi) , Special Leave Petition(Criminal) Diary No.39528/2018</u></a>
Court	Supreme Court of India
Issue	The reference was made to the constitutional bench doubting the correctness of the decision in the case of <i>Mohan Lal v. State of Punjab, 2018 17 SCC 627</i> wherein it was held that in case the investigation is conducted by the police officer who himself is the complainant, the trial would be vitiated and the accused would be entitled for acquittal.
Held	<ul style="list-style-type: none"> <li>In a case where the informant himself is the investigator, by that itself cannot be said that the investigation is vitiated on the ground of bias or the like factor. The question of bias or prejudice would depend upon the facts and circumstances of each case. Therefore, merely because the informant is the investigator, by that itself the investigation would not suffer the vice of unfairness or bias and therefore on the sole ground that informant is the investigator, the accused is not entitled to acquittal. The matter has to be decided on a case to case basis.</li> <li>The Hon'ble Constitutional Bench overruled the judgment</li> </ul>

	passed in the case of <i>Mohan Lal v. State of Punjab, 2018 17 SCC 627.</i>
Relevant Para No.	Paragraph No.12.

Name	<a href="#"><u><b>Amar Nath Chaubey v. Union Of India S.L.P. (CRL.) NO.6951 of 2018</b></u></a>
Court	Supreme Court of India
Issue	<ul style="list-style-type: none"> <li>• Can a closure report be filed only on the basis of lack of adequate information provided by Informant?</li> <li>• Role of court in case the Investigating Agency fails to duly perform its duties.</li> </ul>
Held	<ul style="list-style-type: none"> <li>• A closure report cannot be filed merely on the ground that the investigation was not possible as the informant had not supplied adequate materials to investigate.</li> <li>• If the police has not investigated properly or is remiss in the performance of its duty, the court has a bounden constitutional obligation to ensure that the investigation is conducted in accordance with law. If the court gives any directions for that purpose within the contours of the law, it cannot amount to interference with investigation. A fair investigation is, but a necessary concomitant of Articles 14 and 21 of the Constitution of India and this Court has the bounden obligation to ensure adherence by the police.</li> </ul>
Relevant Para No.	Paragraph No.7 and 8.

Name	<a href="#"><u><b>Fertico Marketing and Investment Pvt. Ltd. v. Central Bureau of Investigation, 2020 SCC OnLine SC 93</b></u></a>
Court	Supreme Court of India
Issue	Can the illegality in investigation be a ground for quashing of order of cognizance?
Held	The cognizance and the trial cannot be set aside unless the illegality in the investigation can be shown to have brought about miscarriage of justice. It has been held, that the illegality may have a bearing on the question of prejudice or miscarriage of justice but the invalidity of the investigation has no relation to the competence of the court.

Relevant Para No.	Paragraph No.15.
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Name	<a href="#"><u>Dr Naresh Kumar Mangla v. Anita Agarwal, Criminal Appeal Nos.872-873 of 2020</u></a>
Court	Supreme Court of India
Issue	Can a CBI investigation be ordered even after submission of chargesheet?
Held	Wherever a charge-sheet has been submitted to the court, even the Supreme Court would not ordinarily reopen the investigation especially by entrusting it to a specialized agency. However, in a proper case, when the Court feels that the investigation by the police has not been in the proper perspective and that in order to do complete justice, where the facts of the case demand that the investigation be handed over to a specialized agency, a superior court is not bereft of the authority to do so.
Relevant Para No.	Paragraph No.22.

Name	<a href="#"><u>Arnab Ranajan Goswami v. Union of India and Others. AIR 2020 SC 2389</u></a>
Court	Supreme Court of India
Issue	<ul style="list-style-type: none"> <li>• Whether several FIRs can be lodged in different states on the same set of facts and allegations?</li> <li>• Can an accused person have a choice in regard to the mode or manner in which the investigation should be carried out?</li> <li>• Can the displeasure of an accused person about the manner in which investigation proceeds be a ground to invoke the extraordinary power of Supreme Court to transfer an investigation to the CBI?</li> <li>• Whether the allegations contained in FIR do or do not make out any offence be decided in pursuance of the jurisdiction of the Supreme Court under Article 32?</li> </ul>
Held	<p><b>Key Takeaways:</b></p> <ul style="list-style-type: none"> <li>• While highlighting the principle of proportionality and the need to adopt least restrictive measures in achieving the legitimate state aim, the Hon'ble Apex Court observed that subjecting an individual to numerous proceedings arising in</li> </ul>

	<p>different jurisdictions on the basis of same cause of action cannot be accepted as the least restrictive and effective method of achieving the legitimate state aim in prosecuting crime.</p> <ul style="list-style-type: none"> <li>• An investigation cannot be transferred to CBI in a routine manner. Power of transfer must be used sparingly and only in exceptional circumstances. One factor that courts may consider is that such transfer is “imperative” to retain “public confidence in the impartial working of the State agencies.”</li> <li>• An accused person does not have a choice in regard to the mode or manner in which the investigation should be carried out or in regard to the investigating agency. As long as the investigation does not violate any provision of law, the investigation agency is vested with the discretion in directing the course of investigation.</li> <li>• The displeasure of an accused person about the manner in which the investigation proceeds must not derail the legitimate course of law and warrant the invocation of the extraordinary power of this Court to transfer an investigation to the CBI</li> <li>• Whether the allegations contained in FIR do or do not make out any offence as alleged will not be decided in pursuance of the jurisdiction of the Supreme Court under Article 32, to quash FIR.</li> </ul>
Relevant Para No.	Paragraph No.33, 36,39, 41, 44, 49

### APPRECIATION OF EVIDENCE DURING TRIAL

Name	<a href="#"><u>Anwar Ali and Another v. State of Himachal Pradesh, AIR 2020 SC 4519</u></a>
Court	Supreme Court of India
Issue	<ul style="list-style-type: none"> <li>• Acquittal in the case based on circumstantial evidence, wherein the recoveries made during the investigation are under serious doubt.</li> <li>• Relevance of motive in the cases based on circumstantial evidence.</li> </ul>
Held	<ul style="list-style-type: none"> <li>• In deciding the sufficiency of the circumstantial evidences for the purpose of conviction, the Court has to consider the total cumulative effects of all the proved facts, each one of which</li> </ul>

	<p>reinforce the conclusion of guilt and if the combined effect of all these facts taken together is conclusive in establishing the guilt of the accused, the conviction would be justified even though it may be that one or more of these facts by itself or themselves is/are not decisive.</p> <ul style="list-style-type: none"> <li>• Absence of motive in a case depending on circumstantial evidence is a factor that weighs in favour of the accused.</li> <li>• Recovery is doubtful as the IO stated that the recovery of the knife and rope was done on the basis of the disclosure statement of accused, however, the witnesses suggested that the recovery was done with the help of sniffer dogs. Such story was neither mentioned in the FIR nor was stated by IO during his court statement. Thus, the Court was justified in disbelieving in the disclosure statement.</li> <li>• The Investigation Officer did not follow the procedure prescribed u/s 166(3 and 4) and section 100 of Cr.P.C. Non-following the aforesaid provisions alone may not be a ground to acquit the accused. However, considering the overall surrounding circumstances and in case where recovery is seriously doubted, non-compliance of these provisions play an important role.</li> </ul>
Relevant Para No.	Paragraph No.6.1, 7 and 9.

Name	<a href="#"><u>Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal and Others, Civil Appeal Nos. 20825-20826 OF 2017</u></a>
Court	Supreme Court of India
Issue	Whether requirement of certificate u/s 65-B(4) of Evidence Act, mandatory for production of electronic evidence?
Held	<ul style="list-style-type: none"> <li>• Certificate under Section 65B(4) evidence act is a condition precedent to the admissibility of electronic evidence but Certificate under Section 65B(4) is unnecessary if the original document itself is produced.</li> <li>• In the case of CD, VCD, chip, etc., the same shall be accompanied by the certificate in terms of Section 65-B obtained at the time of taking the document, without which, the secondary evidence pertaining to that electronic record, is inadmissible.</li> <li>• Where the requisite certificate has been applied for from the</li> </ul>

	<p>person or the authority in the position to issue such certificate, and the person or authority either refuses to give such certificate, or does not reply to such demand, the party asking for such certificate can apply to the Court for its production under the provisions aforementioned of the Evidence Act, CPC or Cr.P.C..</p> <ul style="list-style-type: none"> <li>• The Court also issued general directions to cellular companies and internet service providers to maintain CDRs and other relevant records for the concerned period (in tune with Section 39 of the Evidence Act) in a segregated and secure manner.</li> <li>• The court also directed that appropriate rules and directions should be framed for preservation, retrieval and production of electronic record by exercising powers such as in Section 67C, and also framing suitable rules for the retention of data involved in trial of offences, their segregation, rules of chain of custody, stamping and record maintenance, for the entire duration of trials and appeals, and also in regard to preservation of the meta data to avoid corruption.</li> <li>• Thus, in the case of CD, VCD, chip, etc., the same shall be accompanied by the certificate in terms of Section 65-B obtained at the time of taking the document, without which, the secondary evidence pertaining to that electronic record, is inadmissible.</li> </ul>
Relevant Para No.	Paragraph No.32, 45 and 62.

Name	<a href="#"><u>Karulal v. State Of MP, Criminal Appeal No. 316 of 2011</u></a>
Court	Supreme Court of India
Issue	Relevance of the testimony of a related Witness
Held	The testimony of a related witness, if found to be truthful, can be the basis of conviction. If the witnesses are otherwise trustworthy, past enmity by itself will not discredit any testimony.
Relevant Para No.	Paragraph No.14, 15, 20-23.

Name	<a href="#"><u>Somasundaram Alias Somu v. State Rep. by the Deputy Commissioner of Police AIR 2020 SC 3327</u></a>
Court	Supreme Court of India

Issue	<ul style="list-style-type: none"> <li>• The Appeals were filed by the persons convicted for abducting M.K. Balan, Ex-MLA, for ransom and later killing him. The accused persons were convicted by the Trial Court and the conviction was later upheld by the High Court.</li> <li>• The essential elements of abduction and kidnapping were discussed by the Apex Court. The Court also laid down several principles pertaining to presumptions u/s 106 of the Evidence Act, importance of testimony of accomplice, <i>inter alia</i>.</li> </ul>
Held	<ul style="list-style-type: none"> <li>• The law does not permit the abettor to escape punishment for abetment even if the actual player who commits the offence is not criminally liable for the actual act which results in the commission of an offence. Thus, there need not be meeting of minds between all the persons involved in a conspiracy and it is sufficient if a person is engaged in the conspiracy following which the offence is committed.</li> <li>• An accomplice may become an approver under Section 306 Cr.P.C. resulting in exposure under Section 308 Cr.P.C.</li> <li>• Statements under Section 164 Cr.P.C. did not constitute substantial evidence and can only be used for contradiction and corroboration.</li> <li>• The accused cannot contend that non-production of the deceased's body was fatal to the prosecution when they have been proved to have not only committed the act of murder but also "attempted to efface the most important evidence relating to the same, viz., the corpus delicti". This was because the abduction followed by murder in appropriate cases can enable a court to presume that the abductor is the murderer. This was in line with Section 106 Indian Evidence Act.</li> <li>• Uncorroborated testimony of the accomplice cannot in itself be the basis of conviction.</li> </ul>
Relevant Para No.	Paragraph No.71,79 to 83, 87,88, 103, 152 and 156

Name	<a href="#"><u>Surinder Kumar v. State Of Punjab Criminal Appeal No. 512 of 2009</u></a>
Court	Supreme Court of India



Issue	Whether failure to examine an independent witness would give rise to the conclusion that the accused is falsely implicated?
Held	Merely because prosecution did not examine any independent witness, would not necessarily lead to conclusion that accused was falsely implicated.
Relevant Para No.	Paragraph No.13.

Name	<a href="#"><u>Shailendra Rajdev Pasvan v. State of Gujarat, AIR 2020 SC 180</u></a>
Court	Supreme Court of India
Issue	Whether the accused can be convicted merely on the basis of extra-judicial Confession and on the basis of last seen theory?
Held	The entire case of prosecution is based on circumstantial evidence. The unfounded last seen theory, contradicting medical evidence, and facts of the case, particularly concerning the recovery of the body, the material details of the alleged extra-judicial confession is not reliable. Therefore, in the absence of any credible corroboration of both: the actual occurrence of such a confession and the incriminating facts alleged to have been disclosed in the confession, conviction of the appellants cannot be sustained on the basis of such a confession.
Relevant Para No.	Paragraph No.12, 20, 21.

Name	<a href="#"><u>Manoj Suryavanshi v. State of Chattisgarh, AIR 2020 SC 3863</u></a>
Court	Supreme Court of India
Issue	<ul style="list-style-type: none"> <li>• Can prosecution rely upon the deposition of a hostile defence witness?</li> <li>• What are the factors that need to be considered while hearing a plea on sentence under section 235(2)?</li> <li>• Whether sentencing would be vitiated if it is awarded on the date of conviction itself?</li> </ul>
Held	<ul style="list-style-type: none"> <li>• Even the deposition of the hostile witness to the extent it supports the case of the prosecution can be relied upon.</li> <li>• The object and purpose of the section 235(2) evaluates that whether at the time of awarding of the sentence, sufficient and proper opportunity has been given to the accused or not and</li> </ul>

	<p>whether at the time of awarding of the capital punishment is awarded, whether the accused has been given the opportunity to point out the aggravating and mitigating circumstances or not?</p> <ul style="list-style-type: none"> <li>• There is no absolute proposition of law laid down by this Court that if the sentencing is awarded on the very same day on which the conviction was recorded, the sentencing would be vitiated.</li> </ul>
Relevant Para No.	Paragraph No.20, 35.

### COGNIZANCE AND FRAMING OF CHARGE

Name	<a href="#"><u>Bhawna Bai v. Ghanshyam and Ors., AIR 2020 SC 554</u></a>
Court	Supreme Court of India
Issue	Whether the court is required to pass the detailed order at the time of framing of charge?
Held	For framing charges u/s 228 of Cr.P.C. the judge is not required to record detailed reasons. At the stage of framing of charge, the court is not required to hold an elaborate enquiry, only prima facie case is to be seen.
Relevant Para No.	Paragraph No.16.

Name	<a href="#"><u>Govind Prasad Kejriwal v. State of Bihar and Anr., AIR 2020 SC 1079</u></a>
Court	Supreme Court of India
Issue	Factors required to be considered by the Magistrate while conducting enquiry u/s 202 of Cr.P.C..
Held	Magistrate is required to consider whether prima facie case is made out or not and whether the criminal proceedings initiated are an abuse of process of law or court. Also, whether the complainant is trying to give the criminal flavour to the purely civil dispute.
Relevant Para No.	Paragraph No.6.5.

## INTERPRETATION OF PROCEDURAL LAWS

Name	<a href="#"><u>Kaushik Chatterjee v. State of Haryana, AIR 2020 SC 4633.</u></a>
Court	Supreme Court of India
Issue	<ul style="list-style-type: none"> <li>• Appropriate stage for seeking transfer of case u/s 406 Cr.P.C. on the ground of lack of territorial jurisdiction.</li> <li>• Interpretation of word "<i>tries an offender</i>" in section 462 Cr.P.C.</li> </ul>
Held	<ul style="list-style-type: none"> <li>• It is possible to take the view that the words "<i>tries an offence</i>" are more appropriate than the words "<i>tries an offender</i>" in section 461(1). This is because, lack of jurisdiction to try an offence cannot be cured by section 462 and hence section 461, logically, could have included the trial of an offence by a Magistrate, not empowered by law to do so, as one of the several items which make the proceedings void. In contrast, the trial of an offender by a court which does not have territorial jurisdiction, can be saved because of section 462, provided there is no other bar for the court to try the said offender.</li> <li>• In case of issues pertaining to territorial jurisdiction, the answer would depend upon the facts to be established by evidence. The facts to be established by evidence, may relate either to the place of commission of the offence or to other things dealt with by sections 177 to 184 Cr.P.C. The superior court cannot transfer the case, on the ground of lack of territorial jurisdiction, even before evidence is marshalled.</li> </ul>
Relevant Para No.	Paragraph No.38 and 41.

Name	<a href="#"><u>Satish Kumar Nyalchand Shah v. The State Of Gujarat, Criminal Appeal No. 353 OF 2020</u></a>
Court	Supreme Court of India
Issue	Whether in the facts and circumstances of the case, the appellant-one of the co-accused against whom the charge-sheet is already filed and against whom the trial is in progress, is required to be heard and/or has any locus in the proceedings under Section

	173(8) Cr.P.C. for further investigation qua another accused against whom no charge-sheet has been filed till date?
Held	The co-accused against whom no relief is sought for further investigation does not have any locus and/or any say in the application for further investigation under Section 173(8) Cr.P.C. Such person cannot be said to be a necessary and a proper party in such application or appeal/revision against the order on such application.
Relevant Para No.	Paragraph No.7 and 8.

Name	<a href="#"><u>Ramji Singh v. State Of Uttar Pradesh AIR 2020 SC 169</u></a>
Court	Supreme Court of India
Issue	<ul style="list-style-type: none"> <li>• Whether delay in compliance of requirements of Section 157 Cr.P.C. by the police officials is fatal to prosecution?</li> <li>• The scope of reliability of interested witness.</li> <li>• Whether the accused can be given the benefit of negligence of investigation agency even when the ocular evidence is direct and clear?</li> </ul>
Held	<ul style="list-style-type: none"> <li>• Even if prosecution has failed to prove that Section 157 Cr.P.C. was complied with then also the effect thereof has to be assessed. Mere delay in compliance of Section 157 by itself is not fatal to prosecution. All it does is to raise a doubt that the prosecution story may have been concocted at a later stage.</li> <li>• It may be true that their relations with the accused may not have been cordial but the evidence does not show that the enmity or dispute between these two witnesses and the accused was of such a nature that these two witnesses would make false statements only to settle scores with the appellants thereby leaving the real culprits to go scotfree. Merely because these witnesses are interested witnesses their testimony cannot be discarded.</li> <li>• When the ocular evidence is direct and clear, and this ocular evidence is fully supported by the medical evidence, the negligence of the investigation team cannot be used by the defence in support of their case.</li> </ul>
Relevant Para No.	Paragraph No.11, 19 and 21.

Name	<a href="#"><u>Puneet Dalmia v. Central Bureau of Investigation, Hyderabad AIR 2020 SC 214</u></a>
Court	Supreme Court of India
Issue	Factors to be considered while deciding the exemption application filed by the Accused u/s 205 Cr.P.C.
Held	Court can dispense with the personal appearance of the Accused provided that such exemption would not affect the conclusion of trial at the earliest and the accused shall ensure his presence through counsel on every date of hearing. Further, he would present himself before the Court when his personal presence is ordered by the trial court.
Relevant Para No.	Paragraph No.7.

Name	<a href="#"><u>Parvinder Kansal v. State Of Nct Of Delhi, Criminal Appeal No. 555/2020</u></a>
Court	Supreme Court of India
Issue	Can the victim file the appeal against the inadequacy of sentence under proviso to section 372 Cr.P.C.?
Held	While the victim is given opportunity to prefer appeal in the event of imposing inadequate compensation, but at the same time there is no provision for appeal by the victim for questioning the order of sentence as inadequate, whereas Section 377, Cr.P.C. gives the power to the State Government to prefer appeal for enhancement of sentence. While it is open for the State Government to prefer appeal for inadequate sentence under Section 377, Cr.P.C. but similarly no appeal can be maintained by victim under Section 372, Cr.P.C. on the ground of inadequate sentence. It is fairly well settled that the remedy of appeal is creature of the Statute. Unless same is provided either under Code of Criminal Procedure or by any other law for the time being in force no appeal, seeking enhancement of sentence at the instance of the victim, is maintainable.
Relevant Para No.	Paragraph No.9.

Name	<a href="#"><u>Miss A v. State Of UP, Criminal Appeal No.659 of 2020</u></a>
Court	Supreme Court of India

Issue	Stage at which the accused can seek the copy of the statements recorded u/s 164 Cr.P.C..
Held	Filing of the charge-sheet by itself, does not entitle an accused to copies of any of the relevant documents including statement under Section 164 of Cr.P.C. The right to receive a copy of such statement will arise only after cognisance is taken and at the stage contemplated by Sections 207 and 208 of the Code and not before.
Relevant Para No.	Paragraph No.14 to 18.

Name	<a href="#"><u>Ramesan (Dead) Through LR. Girija A v. State Of Kerala Criminal Appeal No. 77 of 2020</u></a>
Court	Supreme Court of India
Issue	Can appeal against composite sentence of imprisonment & fine u/s 394 Cr.P.C. abate on the death of the accused?
Held	The appeal before the High Court being against sentence of fine was required to be heard despite death of accused. However, the appeal against sentence of imprisonment shall abate. Opportunity must be given to legal heirs to make their submissions on the merits of the appeal.
Relevant para no.	Paragraph No.19 and 20.

Name	<a href="#"><u>Chunthuram v. State of Chhattisgarh, Criminal Appeal No.1392 of 2011</u></a>
Court	Supreme Court of India
Issue	<ul style="list-style-type: none"> <li>• Whether presence of police during test identification makes statements by identifiers fall within the ban of section 162 Cr.P.C.?</li> <li>• Whether unnatural conduct of the eye-witness is relevant while determining his credibility?</li> </ul>
Held	<ul style="list-style-type: none"> <li>• When the identifications are held in police presence, the resultant communications tantamount to statements made by the identifiers to a police officer in course of investigation and they fall within the ban of section 162 of the Code.</li> <li>• The witness here knew the victim, allegedly saw the fatal assault on the victim and yet kept quiet about the incident. If</li> </ul>

	<p>the eye-witness had the occasion to actually witness the assault, his reaction and conduct does not match upto ordinary reaction of a person who knew the deceased and his family. His testimony therefore deserves to be discarded.</p> <ul style="list-style-type: none"> <li>• If two innocence, the view favourable to the accused should be adopted.</li> </ul>
Relevant Para No.	Paragraph No.10 and 14.

Name	<a href="#">D. Devaraja v. Owais Sabeer Hussain, Criminal Appeal No. 458 of 2020</a>
Court	Supreme Court of India
Issue	What is the test to ascertain whether sanction u/s 197 CrPC is required to be obtained to prosecute a public servant in a particular case or not?
Held	The Court held that the test for ascertaining whether sanction is necessary or not is “whether the act is totally unconnected with official duty or whether there is a reasonable connection with the official duty.” In the case of an act of a policeman or any other public servant unconnected with the official duty there can be no question of sanction. However, if the act alleged against a policeman is reasonably connected with discharge of his official duty, it does not matter if the policeman has exceeded the scope of his powers and/or acted beyond the four corners of law.
Relevant Para No.	Paragraph No.73 and 74.

### OFFENCES AGAINST WOMEN

Name	<a href="#">Maheshwar Tigga v. State of Jharkhand, AIR 2020 SC 4535</a>
Court	Supreme Court of India
Issue	The Hon’ble Apex Court considered the jurisprudence of consent in the cases of allegation of rape under the false pretext of marriage. Accused alleged for commission of offence u/s 376, 341, 323 and 91 IPC.
Held	<ul style="list-style-type: none"> <li>• Acquittal – The consent of the prosecutrix was but a conscious and deliberate choice, as distinct from an involuntary action or denial and which opportunity was available to her, because of</li> </ul>

	<p>her deep seated love for the appellant, leading her to willingly permit him liberties with her body, which according to normal human behaviour are permitted only to a person with whom one is deeply in love.</p> <ul style="list-style-type: none"> <li>• Delay of four years in lodging the FIR and lodging of FIR seven days prior to the date of marriage of accused with other girl, raises serious doubt about the veracity of the allegations levelled by the prosecutrix.</li> <li>• Court relied on the its previous judgments delivered in the case of <i>Dhruvaram Murlidhar Sonar v. State of Maharashtra</i>, AIR 2019 SC 327 and in the case of <i>Pramod Suryabhan Pawar v. State of Maharashtra</i>, 2019 9 SCC 608.</li> </ul>
Relevant Para No.	Paragraph No.10, 17 and 20.

Name	<a href="#">Sanjeev Kapoor v. Chandana Kapoor &amp; Ors., AIR 2020 SC 1064</a>
Court	Supreme Court of India
Issue	Whether the order of maintenance passed u/s 125 Cr.P.C. be subsequently altered/modified or cancelled by the Magistrate?
Held	The magistrate does not become <i>functus officio</i> after passing order of maintenance u/s 125 Cr.P.C. He is empowered to cancel or vary such order, as and when needed. The embargo prescribed u/s 362 Cr.P.C. is not applicable on the orders passed u/s 125 Cr.P.C.
Relevant Para No.	Paragraph No.25, 26 and 31.

Name	<a href="#">Abhilasha v. Prakash, AIR 2020 SC 4355</a>
Court	Supreme Court of India
Issue	Whether the daughter who has attained majority but unmarried is entitled to claim maintenance from her father in proceedings u/s 125 Cr.P.C, although she is not suffering from any physical or mental abnormality/injury?
Held	Unmarried daughter is not entitled for maintenance from her father u/s 125 Cr.P.C. However, an unmarried hindu daughter can claim maintenance from her father till she is married u/s 20 of the Hindu Adoption and Maintenance Act, 1956.



Relevant Para No.	Paragraph No.36 and 38.
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Name	<a href="#"><u>Aishwarya Atul Pusalkar v. Maharashtra Housing and Area Development Authority, AIR 2020 SC 4238.</u></a>
Court	Supreme Court of India
Issue	Builder discharging his obligation by accommodating original owners in the redeveloped premise. Can the wife invoke the writ jurisdiction to enforce her rights to matrimonial home against the builder, if her husband does not permit her to reside in the allocated portions?
Held	<ul style="list-style-type: none"> <li>• A married woman is entitled to live, subsequent to her marriage, with rest of her family members on the husband's side, in case it is a joint-property. If she resides in an accommodation as an independent family unit with her husband and children, the matrimonial home would be that residential unit. There cannot be forcible dishousing of a wife from her matrimonial home. For a husband to compel his wife to live in a separate household, which is not her matrimonial home, an order from appropriate legal forum would be necessary.</li> <li>• The wife cannot claim such rights by filing a writ petition against the Builder by diffusing her right with the rights of the husband arising from the family property.</li> <li>• Wife free to exhaust the legal remedies conferred to her under the Protection of Women from Domestic Violence Act and other civil laws</li> </ul>
Relevant Para No.	Paragraph No.8 and 11.

Name	<a href="#"><u>Rajnish v. Neha &amp; Anr., Criminal Appeal No. 730/2020</u></a>
Court	Supreme Court of India
Issue	Important judgment on determination and payment of maintenance under various matrimonial laws.
Held	<u>Issue of overlapping jurisdiction</u> <ul style="list-style-type: none"> <li>• Where successive claims are filed for seeking maintenance under various statutes, the Court would consider the</li> </ul>

	<p>adjustment or set-off of the maintenance awarded in other proceedings.</p> <ul style="list-style-type: none"> <li>• The Applicant is mandatorily required to disclose the previous proceedings and orders passed in the subsequent proceedings.</li> <li>• If any correction or modification is required in the previous order, then it would only be done in that proceeding.</li> </ul> <p><u>Payment of interim maintenance</u></p> <ul style="list-style-type: none"> <li>• The Hon'ble Court has directed that both the parties would be compulsorily required to file the Affidavit of Disclosure of Assets and Liabilities in all maintenance proceedings. The format of the affidavit has been prescribed in the judgment.</li> <li>• Such affidavit would also be filed in the pending proceedings</li> </ul> <p><u>Criteria for determining the maintenance</u></p> <ul style="list-style-type: none"> <li>• The Hon'ble Court has enumerated the list of criteria to be considered by the Court while deciding the quantum of maintenance. However, the list is not exhaustive and the concerned would be free to consider other relevant factors.</li> </ul> <p><u>Date from which maintenance is to be awarded</u></p> <ul style="list-style-type: none"> <li>• From the date of filing of the Application</li> </ul> <p><u>Enforcement / Execution of orders of maintenance</u></p> <p>Order or decree of maintenance may be enforced under Section 28A of the Hindu Marriage Act, 1956; Section 20(6) of the D.V. Act; and Section 128 of Cr.P.C., as may be applicable. The order of maintenance may be enforced as a money decree of a civil court as per the provisions of the CPC.</p>
Relevant Para No.	Part VI of the Judgment.

<b>Name</b>	<a href="#"><u>Ruhi v. Anees Ahmed, Criminal Appeal 7 of 2020</u></a>
<b>Court</b>	Supreme Court of India
<b>Issue</b>	Whether the court, within whose territorial jurisdiction wife resides after leaving matrimonial home, can entertain complaints under 498A of IPC?
<b>Held</b>	The courts at the place where the wife takes shelter after leaving or driven away from the matrimonial home on account of acts of

	cruelty committed by the husband or his relatives, would, dependent on the factual situation, also have jurisdiction to entertain a complaint alleging commission of offences under Section 498- A of the Penal Code.
Relevant page no.	Paragraph No.16.

<b>Name</b>	<a href="#"><b><u>Rakesh Malhotra v. Krishna Malhotra, Criminal Appeal No(s).246-247/2020</u></b></a>
<b>Court</b>	Supreme Court of India
<b>Issue</b>	Whether the wife can file the application for maintenance u/s 125 CrPC after being granted permanent alimony u/s 25 Hindu Marriage Act?
<b>Held</b>	Application seeking maintenance u/s 125 CrPC filed by wife, who was granted permanent alimony u/s 25 Hindu Marriage Act, cannot be entertained.
<b>Relevant Para No.</b>	Page no.6.

<b>Name</b>	<a href="#"><b><u>Shyamlal Devda v. Parimala, Criminal Appeal No. 141 of 2020</u></b></a>
<b>Court</b>	Supreme Court of India
<b>Issue</b>	Factors to be considered by the Court while issuing process on the Complaint under Domestic Violence Act.
<b>Held</b>	<ul style="list-style-type: none"> <li>• When acts of domestic violence is alleged, before issuing notice, the court has to be prima facie satisfied that there have been instances of domestic violence.</li> <li>• If no specific allegations have been levelled against a particular accused, though named in the Complaint, the criminal case of domestic violence against such person cannot be continued and is liable to be quashed.</li> </ul>
<b>Relevant Para No.</b>	Paragraph No.8 and 9.

**I.P.C**

Name	<a href="#"><b>Stalin v. State represented by Inspector of Police., AIR 2020 SC 4195</b></a>
Court	Supreme Court of India
Issue	<ul style="list-style-type: none"> <li>• Whether the accused can be held liable for the offence of murder in the case of single blow or injury caused to the deceased?</li> <li>• Whether the death caused without any motive but due to sudden quarrel be covered u/s 302 or 304 IPC?</li> </ul>
Held	<ul style="list-style-type: none"> <li>• It cannot be laid down as a rule of universal application that whenever the death occurs on account of a single blow, the section 302 IPC is ruled out. It has to be seen that whether the act by which the death was caused was done with an intention of causing death or knowledge that it is likely to cause death but with the intention to cause death.</li> <li>• Though the incident was caused due to sudden quarrel, without premeditation, however, since the accused inflicted the injury with knife and the injury was inflicted on vital parts of body, it is presumed that causing such bodily injury was likely to cause death. Hence, covered in part I of section 304 IPC.</li> </ul>
Relevant Para No.	Paragraph No.7.2 and 11.

Name	<a href="#"><b>Jugut Ram v. State of Chhattisgarh, AIR 2020 SC 4395</b></a>
Court	Supreme Court of India
Issue	Section 302 and 304 IPC – Death caused due to assault by lathi.
Held	<ul style="list-style-type: none"> <li>• A lathi is a common item carried by a villager in this country, linked to his identity. The fact that it is also capable of being used as a weapon of assault, does not make it a weapon of assault simpliciter. In a case of assault on head by lathi, without any premeditation, it is always a question fact in each case whether there was intention to cause death or only knowledge that death was likely to occur. The circumstances, manner of assault, nature and number of injuries will all have to be considered cumulatively to decipher the intention or knowledge, as the case may be.</li> <li>• The conviction of accused was altered from 302 to 304 Part II</li> </ul>

	of IPC.
Relevant Para No.	Paragraph No.7 and 11.

<b>Name</b>	<a href="#"><u>Subed Ali v. State of Assam, AIR 2020 SC 4657</u></a>
<b>Court</b>	Supreme Court of India
<b>Issue</b>	Essential factors for establishing the common intention u/s 34 of the IPC.
<b>Held</b>	Common intention consists of several persons acting in unison to achieve a common purpose, though their roles may be different. The role may be active or passive is irrelevant, once common intention is established. There can hardly be any direct evidence of common intention. It is more a matter of inference to be drawn from the facts and circumstances of a case based on the cumulative assessment of the nature of evidence available against the participants. The foundation for conviction on the basis of common intention is based on the principle of vicarious responsibility by which a person is held to be answerable for the acts of other with whom he shared the common intention.
Relevant Para No.	Paragraph No.13.

<b>Name</b>	<a href="#"><u>M/s Bandekar Brothers Pvt. Ltd. v. Prasad Vassudev Keni, AIR 2020 SC 4247</u></a>
<b>Court</b>	Supreme Court of India
<b>Issue</b>	<ul style="list-style-type: none"> <li>• Whether private complaint is maintainable for the offence u/s 191-193 IPC, if such offences are committed outside the Court?</li> <li>• Whether provisions of section 195(1)(b)(i) is applicable when offence u/s 191-193 IPC have been committed outside the Court?</li> <li>• Whether the principle laid down in the case of Iqbal Singh Marwah v. Meenakshi Marwah and Anr., 2005 4 SCC 370 is also applicable for the offences covered u/s 195(1)(b)(i) Cr.P.C.?</li> </ul>
<b>Held</b>	<ul style="list-style-type: none"> <li>• Private Complaint is not maintainable for the offences u/s 191 to 193 of IPC, even when the said offences have been alleged</li> </ul>

	<p>to be committed outside the Court. In case of the offences covered u/s 195(1)(b)(i) Cr.P.C., the procedure prescribed u/s 340 is necessarily required to be complied with, in all the cases.</p> <ul style="list-style-type: none"> <li>• The principle laid down in Iqbal Singh Marwah v. Meenakshi Marwah and Anr., 2005 4 SCC 370 is merely applicable in relation to the offences covered u/s 195(1)(b)(ii) and not on the offences 195(1)(b)(i) Cr.P.C.</li> </ul>
Relevant Para No.	Paragraph No.19, 22 and 33.

<b>Name</b>	<a href="#"><b>Ananta Kamilya v. State of West Bengal, AIR 2020 SC 315</b></a>
<b>Court</b>	Supreme Court of India
<b>Issue</b>	<ul style="list-style-type: none"> <li>• Whether the death caused without any motive but due to sudden quarrel be covered u/s 302 or 304 IPC?</li> <li>• Section 302 and 304 IPC – Death caused due to assault by lathi.</li> </ul>
<b>Held</b>	<ul style="list-style-type: none"> <li>• The incident was caused due to sudden quarrel, without premeditation, without intention to cause death. However, since the accused inflicted the injury with lathi and the injury was inflicted on the head of the accused, it is presumed that there does not appear to be any premeditation or intention to kill the deceased. The death resulted due to injury in quarrel. Hence, the case would fall under the Exception 4 to section 300 IPC.</li> <li>• Therefore, the conviction of accused was altered from 302 to 304 Part I of IPC.</li> </ul>
Relevant Para No.	Paragraph No.6.1, 6.2 and 7.

<b>Name</b>	<a href="#"><b>Mohd. Anwar v. State (Nct Of Delhi), Criminal Appeal No. 1551/2010</b></a>
<b>Court</b>	Supreme Court of India
<b>Issue</b>	Burden of proof in the cases when the accused places the defence of mental unsoundness.
<b>Held</b>	Mere production of photocopy of an OPD card and statement of mother on affidavit have little, if any, evidentiary value. In order to successfully claim defence of mental unsoundness under Section 84 of IPC, the accused must show by

	preponderance of probabilities that he/she suffered from a serious-enough mental disease or infirmity which would affect the individual's ability to distinguish right from wrong. Further, it must be established that the accused was afflicted by such disability particularly at the time of the crime and that but for such impairment, the crime would not have been committed. The reasons given by the High Court for disbelieving these defences are thus well reasoned and unimpeachable
Relevant Para No.	Paragraph No.12 to 15.

Name	<a href="#"><u>Gurcharan Singh v. State Of Punjab, Criminal Appeal No.40 of 2011</u></a>
Court	Supreme Court of India
Issue	The husband was convicted for the offence u/s 306 IPC for abetment of suicide of his wife, though the allegation of 304 B and 498-A were not found to be proved. The conviction was upheld by the High Court and the same was challenged before the Apex Court.
Held	<ul style="list-style-type: none"> <li>• To prove the offence of abetment, as specified under Sec 107 of the IPC, the state of mind to commit a particular crime must be visible, to determine the culpability. In order to prove mens rea, there has to be something on record to establish or show that the appellant herein had a guilty mind and in furtherance of that state of mind, abetted the suicide of the deceased. The ingredient of mens rea cannot be assumed to be ostensibly present but has to be visible and conspicuous.</li> <li>• In order to bring a case within the purview of Section 306 IPC there must be a case of suicide and in the commission of the said offence, the person who is said to have abetted the commission of suicide must have played an active role by an act of instigation or by doing certain act to facilitate the commission of suicide. Therefore, the act of abetment by the person charged with the said offence must be proved and established by the prosecution before he could be convicted under Section 306 IPC.</li> <li>• Husband was acquitted by the Apex Court</li> </ul>
Relevant Para No.	Paragraph No.13.

<b>Name</b>	<a href="#"><u>Choota Ahirwar v. State of MP, AIR 2020 SC 1150</u></a>
<b>Court</b>	Supreme Court of India
<b>Issue</b>	Essential elements to establish common intention u/s section 34 of the IPC
<b>Held</b>	<ul style="list-style-type: none"> <li>• Section 34 is only attracted when a specific criminal act is done by several persons in furtherance of the common intention of all, in which case all the offenders are liable for that criminal act in the same manner as the principal offender as if the act were done by all the offenders. This Section does not whittle down the liability of the principal offender committing the principal act but additionally makes all other offenders liable. The essence of liability under Section 34 is simultaneous consensus of the minds of persons participating in the criminal act to bring about a particular result, which consensus can even be developed at the spot.</li> <li>• Section 34 of the Indian Penal Code, is really intended to meet a case in which it is difficult to distinguish between the acts of individual members of a party and prove exactly what part was played by each of them.</li> <li>• To attract Section 34 of the Indian Penal Code, no overt act is needed on the part of the accused if they share common intention with others in respect of the ultimate criminal act, which may be done by any one of the accused sharing such intention.</li> <li>• It is not enough to have the same intention independently of each other.</li> </ul>
<b>Relevant Para No.</b>	Paragraph No.24, 26 and 27.



## SPECIAL ACTS

### NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES ACT, 1985

Name	<a href="#">Rizwan Khan v. State of Chhattisgarh, AIR 2020 SC 4297</a>
Court	Supreme Court of India
Issue	Whether it is essential to prove the ownership of vehicle for proving the commission of offence under NDPS Act?
Held	To prove the case under the NDPS Act, the ownership of the vehicle is not required to be established and proved. It is enough to establish and prove that the contraband articles were found from the accused from the vehicle purchased by the accused. Ownership of the vehicle is immaterial. What is required to be established and proved is the recovery of the contraband articles and the commission of an offence under the NDPS Act. Therefore, merely because of the ownership of the vehicle is not established and proved and/or the vehicle is not recovered subsequently, trial is not vitiated, when the prosecution has been successful in proving and establishing the recovery of the contraband articles from the accused on the spot.
Relevant Para No.	Paragraph No.11.

Name	<a href="#">Toofan Singh v. State of Tamil Nadu, Criminal Appeal No. 152/2013</a>
Court	Supreme Court of India
Issue	<ul style="list-style-type: none"> <li>• Whether an officer “empowered under Section 42 of the NDPS Act” and/or “the officer empowered under Section 53 of the NDPS Act” are “Police Officers” and therefore statements recorded by such officers would be hit by Section 25 of the Evidence Act?</li> <li>• Whether the confessional statement recorded by the officer in exercise of the powers conferred u/s 67 of the NDPS Act would be capable of being used as substantive evidence to convict an accused?”</li> </ul>
Held	<ul style="list-style-type: none"> <li>• The officers who are invested with powers under section 53 of the NDPS Act are “police officers” within the meaning of</li> </ul>

	<p>section 25 of the Evidence Act, as a result of which any confessional statement made to them would be barred under the provisions of section 25 of the Evidence Act, and cannot be taken into account in order to convict an accused under the NDPS Act.</p> <ul style="list-style-type: none"> <li>Statement recorded under section 67 of the NDPS Act cannot be used as a confessional statement in the trial of an offence under the NDPS Act.</li> </ul>
Relevant Para No.	Paragraph No.155.

<b>Name</b>	<b><a href="#">Gurmail Chand v. State of Punjab, Criminal Appeal No. 149 of 2020</a></b>
<b>Court</b>	Supreme Court of India
<b>Issue</b>	Whether the failure to comply with the time-line prescribed u/s 57 of the NPDS Act would vitiate the entire trial?
<b>Held</b>	Failure to send the report to the higher official within the period as prescribed u/s 57 of the NDPS Act, would not vitiate the entire trial. The provision has been held to be directory and to be complied with but mere not sending the report within the said period cannot have such consequence as to vitiate the entire proceeding.
Relevant Para No.	Paragraph No.7 and 8.

<b>Name</b>	<b><a href="#">Sheru v. Narcotics Control Burea, Criminal Appeal Nos.585-586 OF 2020</a></b>
<b>Court</b>	Supreme Court of India
<b>Issue</b>	Can passage of time during pendency of appeal be a ground to suspend sentence and grant bail in NDPS Cases?
<b>Held</b>	Mere passage of time during pendency of appeal cannot be a ground to suspend sentence and grant bail in NDPS cases.
Relevant Para No.	Page No.1.

Name	<a href="#"><u>Jeet Ram v. Narcotics Control Bureau, Chandigarh, Criminal Appeal No.688 of 2013</u></a>
Court	Supreme Court of India
Issue	<ul style="list-style-type: none"> <li>• Whether section 50 of NDPS Act is applicable only in the case of personal search?</li> <li>• Consequence of false answers by accused in examination u/s 313 of Cr.P.C.</li> </ul>
Held	<ul style="list-style-type: none"> <li>• Section 50 of the NDPS Act is applicable only in the case of personal search, as such, there is no basis for the findings recorded by the trial court that there was non-compliance of provision under Section 50 of the NDPS Act.</li> <li>• Where accused offers false answers in examination under Section 313 Cr.P.C., same also can be used against him.</li> </ul>
Relevant Para No.	Para No.10.

Name	<a href="#"><u>UOI v. Ashok Kumar Sharma S.L.P.(CRIMINAL)No.4178 of 2019</u></a>
Court	Supreme Court of India
Issue	<ul style="list-style-type: none"> <li>• What is the interplay between the provisions of the Code of Criminal Procedure and the Drugs and Cosmetics Act, 1940?</li> <li>• Whether in respect of offences falling under chapter IV of the NDPS Act, a FIR can be registered under Section 154 of the Cr.P.C. and can the case be investigated by the police?</li> <li>• Whether Section 32 of the Act supplants the procedure for investigation of offences under Cr.P.C. and the taking of cognizance of an offence under Section 190 of the Cr.P.C.?</li> <li>• Can the Inspector under the NDPS Act, arrest a person in connection with an offence under Chapter IV of the NDPS Act?</li> </ul>
Held	<p>The Hon'ble Apex Court in its landmark judgment, laid down the following principles of law:</p> <ul style="list-style-type: none"> <li>• In regard to cognizable offences under Chapter IV of the Act, in view of Section 32 of the Act and also the scheme of the Cr.P.C., the Police Officer cannot prosecute offenders in regard to such offences. Only the persons mentioned in Section 32 are entitled to do the same.</li> <li>• There is no bar to the Police Officer, however, to investigate</li> </ul>

and prosecute the person where he has committed an offence, as stated under Section 32(3) of the Act, i.e., if he has committed any cognizable offence under any other law.

- Having regard to the scheme of the Cr.P.C. and also the mandate of Section 32 of the Act and on a conspectus of powers which are available with the Drugs Inspector under the Act and also his duties, a Police Officer cannot register a FIR under Section 154 of the Cr.P.C., in regard to cognizable offences under Chapter IV of the Act and he cannot investigate such offences under the provisions of the Cr.P.C.
- Having regard to the provisions of Section 22(1)(d) of the Act, we hold that an arrest can be made by the Drugs Inspector in regard to cognizable offences falling under Chapter IV of the Act without any warrant and otherwise treating it as a cognizable offence. He is, however, bound by the law as laid down in D.K. Basu Case and to follow the provisions of Cr.P.C.
- It would appear that on the understanding that the Police Officer can register a FIR, there are many cases where FIRs have been registered in regard to cognizable offences falling under Chapter IV of the Act. We find substance in the stand taken by learned Amicus Curiae and direct that they should be made over to the Drugs Inspectors, if not already made over, and it is for the Drugs Inspector to take action on the same in accordance with the law. We must record that we are resorting to our power under Article 142 of the Constitution of India in this regard.
- Further, we would be inclined to believe that in a number of cases on the understanding of the law relating to the power of arrest as, in fact, evidenced by the facts of the present case, police officers would have made arrests in regard to offences under Chapter IV of the Act. Therefore, in regard to the power of arrest, we make it clear that our decision that Police Officers do not have power to arrest in respect of cognizable offences under Chapter IV of the Act, will operate with effect from the date of this Judgment.
- We further direct that the Drugs Inspectors, who carry out the arrest, must not only report the arrests, as provided in Section 58 of the CrPC, but also immediately report the arrests to their superior Officers.

Relevant Para No.	Paragraph No. 150.
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### Negotiable Instruments Act, 1881

Name	<a href="#"><u>Rajeshbhai Muljibhai Patel v. The State Of Gujarat, Criminal Appeal No. 251-252 of 2020</u></a>
Court	Supreme Court of India
Issue	Whether the High Court can quash the Complaint u/s 138 of the NI Act on the ground of <i>inter se</i> dispute between the parties?
Held	<ul style="list-style-type: none"> <li>• Though, the Court has the power to quash the criminal complaint filed under Section 138 of the N.I. Act on the legal issues like limitation, etc. criminal complaint filed under Section 138 of the N.I. Act ought not have been quashed merely on the ground that there are <i>inter se</i> dispute between the parties.</li> <li>• Until the accused discharges his burden, the presumption under Section 139 of N.I. Act will continue to remain. It is for the accused to adduce evidence to rebut the statutory presumption. When disputed questions of facts are involved which need to be adjudicated after the parties adduce evidence, the complaint under Section 138 of the N.I. Act ought not to have been quashed by the High Court by taking recourse to Section 482 Cr.P.C.</li> </ul>
Relevant Para No.	Paragraph No.7 and 8.

Name	<a href="#"><u>Shiv Kumar Alias Jawahar Saraf v. Ramavtar Agarwal Criminal Appeal No.1688 of 2017</u></a>
Court	Supreme Court of India
Issue	Whether rebuttal of Presumption U/s 139 NI Act has to be considered by the Court at the time of taking cognizance?
Held	The presumption available under Section 139 of NI Act has to be rebutted and that rebuttal can only be done after adducing evidence. This, by itself clearly reflects that the rebuttal presumption cannot be looked into at the stage of the Court taking cognizance of the offence and registering the case. All that

	Court would have to see is whether there is a prima facie case made out meeting the conditions precedent as envisaged under Section 138 of NI Act.
Relevant Page. No	Paragraph No.3.

Name	<a href="#"><u>APS Forex Services Pvt. Ltd. V. Shakti International Fashion Linkers, AIR 2020 SC 945</u></a>
Court	Supreme Court of India
Issue	Reverse burden of proof on the accused in the case of dishonouring of cheque.
Held	<ul style="list-style-type: none"> <li>• Section 139 of the Act is an example of reverse onus clause and therefore once the issuance of the cheque has been admitted and even the signature on the cheque has been admitted, there is always a presumption in favour of the complainant that there exists legally enforceable debt or liability and thereafter it is for the accused to rebut such presumption by leading evidence.</li> <li>• Story put forward by the accused that the cheques were given by way of security is not believable in absence of further evidence to rebut the presumption and more particularly the cheque in question was issued for the second time, after the earlier cheques were dishonoured.</li> </ul>
Relevant Para No.	Paragraph No.7.

## **Mines and Minerals (Development and Regulation) Act, 1957**

Name	<a href="#"><u>Jayant and Ors. v. State of Madhya Pradesh, Criminal Appeal No. 824-825 of 2020</u></a>
Court	Supreme Court of India
Issue	In case of illegal/unauthorized mining, whether the Magistrate can order for lodging of FIR u/s 156(3) Cr.P.C. for the commission of offences under the Mines and Minerals (Development and Regulation Act) (hereinafter as MMDR) Act and IPC, specifically in the case when the violator is already permitted to compound the offence by payment of penalty u/s 23

	A of the MMDR Act?
Held	<ul style="list-style-type: none"> <li>• In exercise of powers u/s 156(3) of the Cr.P.C. the Magistrate can order/direct the S.H.O. of the concerned police station for lodging the FIR for the offences under the MMDR Act and the rules made thereunder. At this stage, the bar imposed u/s 22 of the MMDR Act shall not be attracted.</li> <li>• The bar u/s 22 of the MMDR Act would be attracted only the stage when the magistrate takes the cognizance of the offences under the MMDR Act and the rules made thereunder.</li> <li>• For the commission of offences under the IPC, on receipt of the police report, the Magistrate having jurisdiction can take the cognizance of the said offences without waiting for the report of the authorized officer regarding the offences under the MMDR Act and the rules made thereunder.</li> <li>• In respect of the offence under the MMDR Act and the rules made thereunder, when the Magistrate has ordered for lodging of FIR u/s 156(3) Cr.P.C., the concerned Investigation Officer will carry out the investigation and he will submit his investigation report to the concerned Magistrate and to the concerned authorized officer as mentioned u/s 22 of the MMDR Act. Thereafter, the concerned authorized officer may file the Complaint before the Magistrate, along with the report submitted by the investigation officer. Thereafter, it is open for the Magistrate to take cognizance on such complaint for the offences under the MMDR Act and the rules made thereunder and issue processes in accordance with the prescribed procedure.</li> <li>• When the violator is permitted to compound the offence by paying the penalty in accordance with section 23A of the MMDR Act, there shall be no proceedings against such offender in respect of the offences punishable under the MMDR Act or any rule made thereunder so compounded as such proceedings would be barred in light of restriction prescribed u/s 23A(2) of MMDR Act. However, the restriction u/s 23A(2) of MMDR Act shall not affect the proceedings for the offences under the IPC such as section 379 and 414 of IPC and the same proceed.</li> </ul>

	The Supreme Court partly allowed the appeal by quashing the proceedings to the extent of offences under the MMDR Act.
Relevant Para No.	Paragraph No.13 and 14.

### **Foreign Exchange Management Act, 1999**

Name	<a href="#"><b>Suborno Bose v. Enforcement Directorate, AIR 2020 SC 4288</b></a>
Court	Supreme Court of India
Issue	<ul style="list-style-type: none"> <li>• Whether the proceedings for imposition of penalties for contravention of provisions of FEMA Act would be civil or criminal in nature?</li> <li>• Whether the Managing Director of the Company be liable for the non-compliance done prior to him becoming the Managing Director?</li> </ul>
Held	<ul style="list-style-type: none"> <li>• Once it is held that the contravention is a continuing offence, the fact that the Managing Director was earlier not looking after the affairs of the Company would be of no avail to the him until corrective steps were taken in right earnest after his taking over the management of the Company and in particular after becoming aware about the contraventions.</li> <li>• Imposition of penalty for contravention of provisions of section 10(6) read with section 46 and 47 of FEMA Act was held to be civil proceedings wherein there is no need to establish the <i>mens rea</i>.</li> </ul>
Relevant Para No.	Paragraph No.14 and 15.

### **Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989**

Name	<a href="#"><b>Hitesh Verma v. State Of Uttarakhand [Criminal Appeal No. 707 of 2020</b></a>
Court	Supreme Court of India
Issue	Whether an insult without attributing to the caste of a person belonging to SC or ST is sufficient to be charged under Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act ?



Held	The offence under Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act is not established merely on the fact that the informant is a member of Scheduled Caste unless there is an intention to humiliate a member of Scheduled Caste or Scheduled Tribe for the reason that the victim belongs to such caste.
Relevant Para No.	Paragraph No.18.

### **Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974**

Name	<a href="#">Ankit Ashok Jalan v. Union of India, AIR 2020 SC 1936</a>
Court	Supreme Court of India
Issue	Whether the detention authority under COFEPOSA Act is bound to consider representation of detenu, without waiting for opinion of Central Advisory Board?
Held	<p>Four different ways to deal with the representation in four different situation:</p> <p>A. If the representation is received well before the reference is made to the Advisory Board and can be considered by the appropriate Government, the representation must be considered with expedition. Thereafter the representation along with the decision taken on the representation shall be forwarded to and must form part of the documents to be placed before the Advisory Board.</p> <p>B. If the representation is received just before the reference is made to the Advisory Board and there is no sufficient time to decide the representation, in terms of law laid down in Jayanarayan Sukul vs. State of West Bengal, (1970) 1 SCC 219 and Haradhan Saha vs. The State of West Bengal and ors. (1975) 3 SCC 198 the representation must be decided first and thereafter the representation and the decision must be sent to the Advisory Board. This is premised on the principle that the consideration by the appropriate Government is completely independent and also that there ought not to be any delay in consideration of the representation.</p> <p>C. If the representation is received after the reference is made but</p>

	<p>before the matter is decided by the Advisory Board, according to the principles laid down in <i>Haradhan Saha</i>, the representation must be decided. The decision as well as the representation must thereafter be immediately sent to the Advisory Board.</p> <p>D. If the representation is received after the decision of the Advisory Board, the decisions are clear that in such cases there is no requirement to send the representation to the Advisory Board. The representation in such cases must be considered with expedition.</p>
Relevant Para No.	Paragraph No.15.



## Rajasthan High Court Judgments (Reportable)

<b>Name</b>	<a href="#"><u>Ramswaroop v. State of Rajasthan, S.B. Criminal Miscellaneous (Petition) No.3545/2020</u></a>
<b>Court</b>	Rajasthan High Court, Jaipur Bench
<b>Issue</b>	If the witness/victim has been prevented from giving his statement out of his own freewill and his statement under Section 161 Cr.P.C. has been recorded against his will, can he move an application before the Magistrate u/s 164 Cr.P.C. for getting his statement recorded in support of the complaint made by him?
<b>Held</b>	Magistrate does not have the power to record the statement of a person unsponsored by the Investigating Agency. The law only empowers the Investigating Agency to move an appropriate application for recording the statement of any witness. Hon'ble Court held that the principle laid down by the Apex Court in the case of <i>Jogendra Nahak &amp; Others v. State of Orissa &amp; Others</i> reported in 2000(1) SCC 272 is equally applicable on the complainant/victim.
<b>Relevant Para No.</b>	Paragraph No.16.

<b>Name</b>	<a href="#"><u>Govind Verma v. State of Rajasthan, S.B. Criminal Writ Petition No.643/2020</u></a>
<b>Court</b>	Rajasthan High Court, Jaipur Bench
<b>Issue</b>	Can paternity parole be granted to an imprisoned person?
<b>Held</b>	The essential aspect for emergent parole is to see if there is an involvement of humanitarian consideration. A new born child needs the warmth of the mother and also the care of his father. Human touch is that little snippet of physical and emotional affection that doesn't take much from the one who gives it but can make a huge difference to the one who receives it. A man is not complete until he has seen the baby he has made. It therefore calls for a humanitarian intervention to release a person on parole so that he can establish that emotional and physical connect with his child and the mother creating

	an edifice of family.
Relevant Para No.	Paragraph No.6 and 7.

<b>Name</b>	<b><u>Gokulram Vishnoi and Anr. v. State of Rajasthan, S.B. Criminal Bail Application No. 16572/2020</u></b>
<b>Court</b>	Rajasthan High Court, Jaipur Bench
<b>Issue</b>	<ul style="list-style-type: none"> <li>• Will the date of remand be included while computing the number of days for which the accused has remained in judicial custody, for the purpose of granting the default bail to the accused?</li> <li>• Can default bail be granted to the accused alleged for commission of offence under the NDPS Act, 1985?</li> </ul>
<b>Held</b>	<ul style="list-style-type: none"> <li>• Date of remand is to be excluded while computing the number of days for which the accused has remained in judicial custody, for the purpose of granting the default bail to the accused.</li> <li>• The limitation laid down under Section 36-A(4) of NDPS Act can only be stated to be as directory and the benefit cannot be given to the accused petitioners on account of delay in filing of the charge-sheet. Moreso, as there is a proviso to Section 36A(4), which allows the Special Court to extend the investigation beyond 180 days and thus, the strict limitation as is applicable to Section 167(2) Cr.P.C. would not have the same import in relation to Section 36A(4).</li> </ul>
Relevant Para No.	Paragraph No.11 and 13.

<b>Name</b>	<b><u>Smt. Madhu v. State of Rajasthan, S.B. Criminal Misc. Petition No. 1834/2020</u></b>
<b>Court</b>	Rajasthan High Court, Jaipur Bench
<b>Issue</b>	Petition seeking directions for fair and impartial investigation from the Hon'ble High Court u/s 482 Cr.P.C.
<b>Held</b>	Once an FIR has been registered, presumption is drawn that the police shall be conducting proper investigation as it is their duty to do so. Merely because the police authorities have not arrested

	any individual, it cannot be said that investigation is not being done properly. There is no allegation made by the petitioner of any police officer being biased or in favour of the accused nor any person has been impleaded as party to the petition. In such circumstances, filing of criminal misc. petition u/s.482 Cr.P.C. seeking fair and prompt investigation by police, is nothing but an attempt to browbeat the investigation agency and interfere in fair investigation. The court would not exercise its inherent powers under Section 482 Cr.P.C. for such purposes and leaves it for the concerned investigating agency to conduct investigation.
Relevant Para No.	Paragraph No.3.

<b>Name</b>	<a href="#"><u>Solar4Max.com v. Oxide Power Product Pvt. Ltd, S.B. Criminal Misc. Petition No. 6765/2020</u></a>
<b>Court</b>	Rajasthan High Court, Jaipur Bench
<b>Issue</b>	Can the period for payment of interim compensation u/s 143 A of the Negotiable Instrument Act, 1881 be extended by the Magistrate beyond the period prescribed in sub-section 3 of Section 143 A of the Act? Whether the use of term "shall" in sub-section 3 of Section 143 A of the Act be treated as mandatory or directory?
<b>Held</b>	The period of depositing the amount can always be extended as the purpose in making amendment is essentially to grant relief to the aggrieved party by immediate compensation of payment of 20% of the total value of the cheque. The use of word "shall" is directory not mandatory.
Relevant Para No.	Paragraph No.11.

<b>Name</b>	<a href="#"><u>Yogendra Durlabhji v. State of Rajasthan, S.B. Criminal Misc. Petition No. 5944/2019</u></a>
<b>Court</b>	Rajasthan High Court, Jaipur Bench
<b>Issue</b>	<ul style="list-style-type: none"> <li>• Whether the trustee of the Hospital be made responsible for any wrongful act committed while conducting the business of sale of drugs?</li> <li>• Can the cognizance be taken against such trustee u/s 18(c) of the Drugs and Cosmetics Act, 1940 when there is no</li> </ul>

	specific role assigned or allegation levelled against such person?
Held	<ul style="list-style-type: none"> <li>• The complaint does not mention as to the specific role of the Accused (Trustee) with regard to the concerned sale of the medicines and whether the license was to be obtained by him for the purpose of sale, storage and distribution.</li> <li>• The vicarious liability of the persons arises only when he is at the relevant time incharge for the conduct of the said business. The overall responsibility of a hospital would not entail the liability of all actions which any other person may be responsible performing.</li> <li>• Since there was no specific averment of overt act except of bald statement of overall responsibility, the order of cognizance against the Trustee was quashed.</li> </ul>
Relevant Para No.	Paragraph No.11 and 12.

Name	<a href="#"><u><b>Shyam Sundar Singhvi v. Union of India, S.B. Criminal Revision Petition No. 273/2019</b></u></a>
Court	Rajasthan High Court, Jaipur Bench
Issue	<ul style="list-style-type: none"> <li>• While taking cognizance u/s 3 and 4 of the PMLA Act, 2002, was the Ld. Special Court correct in issuing arrest warrants against the accused persons, on the first instance itself?</li> <li>• Whether the arrest warrants are liable to be converted into summons/bailable warrants in light of the principle laid down by the Hon'ble Apex Court in the case of Inder Mohan Goswami Vs. State of Uttranchal, (2007) 12 SCC 1?</li> <li>• The scope of powers of the revision court u/s 397 read with 401 Cr.P.C.?</li> </ul>
Held	<ul style="list-style-type: none"> <li>• Economic offences are required to be dealt with strict approach as these offences affect the economy of the whole Nation and economic offences are committed with a pre-meditated design. The economic offences stand on a different footing and they constituent a class apart and need to be visited with a different approach.</li> <li>• The principle laid down in Inder Mohan Goswami Case cannot be applied in the cases of economic offences. Status of the accused is one of the considerations that has to be</li> </ul>

	<p>taken into account and those people who are supposed to uphold the law and if they violate the law such persons should also realize the consequences of violating the law</p> <ul style="list-style-type: none"> <li>• While exercising revisional power, High Court should not interfere only because it forms a different opinion on the same material. The High Court, unless finds that the order impugned is perverse on face of it and the court below did not exercise its jurisdiction or there is an illegality or irregularity on the face of order impugned, should not interfere with the order passed by the court below while exercising powers under Sections 397 and 401 Cr.P.C. The satisfaction of the court taking cognizance, if based on the material placed before it, discloses that cognizance of an offence is required to be taken, the said order will not be termed as a perverse order.</li> </ul>
Relevant Para No.	Paragraph No.28, 58, 59 and 61.

Name	<a href="#"><u>Dinesh Kumar Agarwal v. State of Rajasthan, S.B. Criminal Misc. Petition No. 8018/2019</u></a>
Court	Rajasthan High Court, Jaipur Bench
Issue	Whether at the stage of cognizance, whether the Ld. Judge was justified in also taking the cognizance against the investigation officer u/s 166 A of the IPC by holding that the Investigation Officer tried helping the accused by giving the negative final report?
Held	<p>Provision of Section 173(2) Cr.P.C read with Section 190(1) provide that Magistrate has a power to take into account the statement of witnesses which have been recorded during investigation by Investigating Officer and he can arrive to a different opinion to that of the Investigation Officer and conclusion can be drawn independently on the basis of investigation report. However, while the Magistrate can do so, there is no provision at that stage to take cognizance against the concerned Investigation officer.</p> <p>Thus, the order was quashed to the extent of taking the cognizance against the investigation officer u/s 166 A of IPC.</p>
Relevant	Paragraph No.6 and 7.

Para No.	
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Name	<a href="#"><u>Capt. Amit K. Agarwal and Anr. v. State of Rajasthan &amp; Anr., S.B. Criminal Misc. Petition No.1253/2019</u></a>
Court	Rajasthan High Court, Jaipur Bench
Issue	Quashing of FIR u/s 482 Cr.P.C. on the ground that the civil transaction and dispute has been converted into FIR u/s 420 and 406 IPC.
Held	If on account of closure of the commercial activity, any particular person, who is associated with such commercial venture, suffers loss, the same would not amount to commit an offence by the Company under Section 420 or 406 IPC.
Relevant Para No.	Paragraph No.8.

Name	<a href="#"><u>Jaipal Singh v. State of Rajasthan &amp; Anr., S.B. Criminal Misc. Petition No. 7721/2019</u></a>
Court	Rajasthan High Court, Jaipur Bench
Issue	Whether the Magistrate was justified in taking cognizance against the Investigation officer u/s 217 of IPC by concluding that the IO has failed to perform his duties and has deliberately left out some accused and has not included certain offences which were found to be committed?
Held	Once during the course of hearing and after examining the documents and statements on record, the Court reaches to a conclusion that any Investigating Officer or his superior has failed to perform his duty or has deliberately left out an accused from being arrayed as an accused and has also deliberately left out certain offence which is found to have been committed, prima-facie, in the charge-sheet filed before it, he may take cognizance under Section 217 IPC and also send the case to the Government for prosecution sanction in terms of Section 195 Cr.P.C. The IO is free to make his representation before the authorities granting prosecution sanction and thereafter he would be also having other remedies available under the law.
Relevant Para No.	Paragraph No.9 and 13.



Name	<a href="#"><u>Nand ram v. State of Rajasthan &amp; Anr., S.B. Criminal Misc. Petition No. 2332/2012</u></a>
Court	Rajasthan High Court, Jaipur Bench
Issue	Whether the co-accused has the right to be heard in the revision petition filed by the other accused wherein the burden of offence has been shifted on the co-accused?
Held	In terms of Section 401 (2) Cr.P.C. a right of hearing has been provided to the accused or other person if the order is passed to their prejudice. Therefore, this would also mean that where a culpability is shifted from one accused to another, on a revision filed by the former, the later will also have a right of hearing
Relevant Para No.	Paragraph No.8.

Name	<a href="#"><u>Julfi Singh v. State of Rajasthan &amp; Anr., S.B. Criminal Misc. Petition No. 397/2020</u></a>
Court	Rajasthan High Court, Jaipur Bench
Issue	Petition seeking release of tractor/trolley seized by the mining engineer due to allegations of use of these vehicles in illegal mining?
Held	Unless the Mining Authorities or the State have confiscated the goods/vehicle under the Rajasthan Minor Mineral Concession Rules, 2017, the vehicle can be released by the concerned Magistrate laying down the conditions under Section 457 Cr.P.C. The prime reason is that goods or vehicle, which have been seized should not go waste or rusted. Of course, the condition of bond can always be imposed by the Court. The judgment passed by the Hon'ble Principle Bench in case of <i>Naval Singh Vs. State of Rajasthan</i> , S.B. Criminal Misc. Petition No.2670/2020 was declared <i>per-incuriam</i> .
Relevant Para No.	Paragraph No.19 and 25.

Name	<a href="#"><u>Swarn Singh v. State of Rajasthan &amp; Anr., S.B. Criminal Misc. Petition No. 273/2020</u></a>
Court	Rajasthan High Court (Jodhpur)
Issue	Can the accused file the application before the trial court

	seeking summoning of the call details of the seizure officer and other police officials? The accused alleged that these officials were not present at the place of seizure on the date and time, as stated.
Held	<ul style="list-style-type: none"> <li>• Summoning of these call details was absolutely imperative for fair trial and providing a just opportunity of defence to the accused. In case, the allegations set out in the application for summoning the call details are fortified from the call details, manifestly, the entire prosecution case would stand falsified. Therefore, the trial court was not justified in rejecting the application.</li> <li>• All Courts in the State of Rajasthan are directed that whenever an application is moved to summon the call details, during a criminal proceeding, the same shall not be deferred and will be decided forthwith so as to ensure that the prayer to summon the call details is not rendered infructuous by passage of time because the service providers have a protocol of deleting the records after one year where after, the same cannot be retrieved.</li> </ul>
Relevant Para No.	Paragraph No.3 and 5.

Name	<a href="#"><u>Jugal v. State of Rajasthan, S.B. Civil Miscellaneous Bail Application No. 13513/2020.</u></a>
Court	Rajasthan High Court (Jodhpur)
Issue	Need for providing the details of criminal antecedents of the accused while deciding the bail application.
Held	Court directed that all learned trial courts shall, while allowing or disallowing any regular/anticipatory bail application of any accused person, give the complete details of the antecedents, if any, and also record that there are no antecedents of the accused person in case of none being there. If there are antecedents of the accused, then the complete details of the antecedents i.e. FIR Number(s) & Case Number(s), Section(s), date(s), status and date of arrest & release on any previous occasion, if any, in the chart form shall be prepared and incorporated in the learned trial courts' order, while granting or dismissing the bail application

Relevant Para No.	Paragraph No.9
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Name	<a href="#"><u>Pankaj Damo v. State of Rajasthan S.B. Criminal Misc. 3rd Bail No.14379/2020</u></a>
Court	Rajasthan High Court, Jodhpur
Issue	Whether inherent power under Section 482 Cr.P.C. can be exercised to grant bail to the approver?
Held	In the circumstances when the approver has withstood with his promise and deposed in favour of the prosecution by examining himself as the prosecution witness, though the bail application of such approver may not be maintainable u/s 439 Cr.P.C., however, the court can exercise its inherent power u/s 482 Cr.P.C. to release such approver on bail, during the pendency of trial.
Relevant Page No.	Page No. 9

Name	<a href="#"><u>Abid v. State Of Rajasthan, Through Pp S.B. Criminal Miscellaneous Bail Application No. 14546/2020</u></a>
Court	Rajasthan High Court, (Jodhpur)
Issue	Is it mandatory to give notice to the victim or his/her representative under Section 15-A (3) of the SC/ST Act when accused is seeking bail under section 439 Cr.P.C.?
Held	Section 15-A(3) of SC/ST Act is a mandatory provision of law requiring the victim or his/her representative or complainant to be arrayed as a respondent and to be given timely notice in all Court proceedings including a bail proceeding and not adding the private respondent would tantamount to attracting dismissal of bail application on account of non-joinder of necessary party.
Relevant Page No.	Page No. 2,3

Name	<a href="#"><u>Dinesh v. State of Rajasthan, Through Pp S.B. Criminal Miscellaneous Bail Application No. 12956/2020</u></a>
Court	Rajasthan High Court, (Jodhpur)

Issue	Whether all offences under Arms Act, 1959, by virtue of Section 37 of the Act r/w Section 436 Cr.P.C., are bailable or non-bailable?
Held	<ul style="list-style-type: none"><li>• All offences, including the offence with minimum punishment provided under the Arms Act, as prescribed under Section 25(1B) which is extendable upto three years imprisonment, are non-bailable offences.</li><li>• All the offences under the Arms Act as non-bailable offences.</li></ul>
Relevant Page No.	Page No.18,19



## *Important Judgments of Other High Courts*

Name	<a href="#"><u>Sumit v. State of UP &amp; Anr., Application U/S 482 No. 491/2020</u></a>
Court	Allahabad High Court
Issue	<ul style="list-style-type: none"> <li>• Whether special Court under SC/ST Act is empowered to take direct cognizance of the offences under IPC?</li> <li>• Whether committal of a case by a magistrate under section 193 of Cr.P.C. to Special Court under SC/ST act is a mandatory condition?</li> <li>• What was the objective behind introducing amendment u/s 14 of SC/ST Act?</li> </ul>
Held	<ul style="list-style-type: none"> <li>• If an offence is found to have been committed under IPC as well as under SC/ST Act, the same should be tried by one court only i.e. Special Court which has been conferred with the power of taking cognizance directly and committal of the case to it by a magistrate under Section 193 of CrPC is not a mandatory precondition.</li> <li>• The main aim for introducing the amendment u/s 14 of the SC/ST Act was to ensure expeditious disposal of offences pertaining to this Act, hence keeping in mind the said aim, the amendment has been incorporated in the said Act conferring upon Special Judge power to directly try the case and not wait for the commitment of the case to it because that would result in delay</li> </ul>
Relevant Para No.	Paragraph No.12, 13.

Name	<a href="#"><u>Boya Kajje Pedda Ambaraju v. State of Andhra Pradesh &amp; Anr., Criminal Revision Case No.533 of 2015</u></a>
Court	Andhra Pradesh High Court
Issue	Exercise of powers u/s 319 of Cr.P.C.

Held	Though named in the FIR but not charge-sheeted can also be added as accused under Section 319 of Cr.P.C as it appears from the evidence on record that they have also committed the said offences.
Relevant Para No.	Paragraph No.47, 48.

Name	<a href="#"><u>Sanjay v. The State of Maharashtra, Crl. W.P.No.1764 of 2019</u></a>
Court	Bombay High Court
Issue	Whether the ambit of questions in cross- examination need to be Restricted only to what the witness has stated in his examination-in-chief?
Held	In certain cases the cross cannot be limited to the contents of the examination-in-chief. It may go beyond that as the purpose of the cross-examination is to test the veracity or impeach the credit of the witnesses.
Relevant Para No.	Paragraph No.15.

Name	<a href="#"><u>Mazidul Miah @ Mia &amp; Ors. Vs. State of West Bengal, CRA No. 247 of 2006</u></a>
Court	Calcutta High Court (DB)
Issue	Whether causing cruelty to wife for her black complexion amount to offence u/s 498-A of IPC?
Held	Causing cruelty to deceased victim for her black complexion even after her marriage by the in-law's members would definitely attract Section 498A/34 I.P.C. against the in-law's members, including accused husband.
Relevant Para No.	Page No.15.

Name	<a href="#"><u>Chirag Madan v. Union of India, W.P.(CRL) 986/2020</u></a>
Court	Delhi High Court (DB)
Issue	Petition seeking directions for supply of status reports/ report by the Jail Superintendent/ reply filed on behalf of the prosecution at the time of hearing bail applications under section 437 Cr.P.C., 438 Cr.P.C. and 439 Cr.P.C.
Held	As a general rule, a copy of the report given by the Jail Superintendent as well as the report given by the Investigating Officer should be supplied to the applicant so that accused can properly understand the reasons given therein and defend their case in the Court of law. This is a basic need for access to justice and for rendering justice to the public.
Relevant Para No.	Paragraph No.7.

Name	<a href="#"><u>Dharmander Singh @ Saheb V. The State (Govt. Of Nct, Delhi), Bail Appl. 1559/2020</u></a>
Court	Delhi High Court
Issue	Whether presumption u/s 29 of POCSO Act be raised against the accused while deciding the bail application, even though the trial is yet to commence?
Held	Section 29 gets triggered and applies only once trial begins, that is after charges are framed against the accused but not before that. The significance of the opening words of section 29 “where a person is prosecuted” is that until charges are framed, the person is not being prosecuted but is being investigated or is in the process of being charged. Accordingly, if a bail plea is considered at any stage prior to framing of charges, section 29 has no application since upto that stage an accused is not being prosecuted.
Relevant Para No.	Paragraph No.68.

Name	<a href="#"><u>Sandeep Kumar v. The State (GOVT. OF NCT OF DELHI) W.P (Crl.)No. 2189/2018</u></a>
Court	Delhi High Court
Issue	Delhi High Court issued the detailed guidelines on Inter-state investigation and arrest.
Held	<p>The Hon'ble Court issued the detailed guidelines in five parts, which are enlisted hereunder:</p> <ul style="list-style-type: none"> <li>• Primary procedure to be followed by Police Officers.</li> <li>• Duties upon Magistrates</li> <li>• Other directions <ul style="list-style-type: none"> <li>• Guidelines to ensure adults are not illegally and forcibly taken away against their free will</li> <li>• Guidelines for when it is not feasible to inform the local police in advance.</li> </ul> </li> </ul> <p>Thus, through these guidelines, the Hon'ble Court laid down the duties and obligations of all the state machineries and also ensured the adequate protection of the rights of the accused persons.</p> <p>Note*- The detailed guidelines can be accessed from the hyperlink of the Judgment.</p>
Relevant Para No.	Paragraph No.11.

Name	<a href="#"><u>Karan v. State NCT of Delhi, CRL.A. 352-53/2020</u></a>
Court	Delhi High Court
Issue	<ul style="list-style-type: none"> <li>• Delhi High Court (FB) mandates filing of convict's income affidavit &amp; Victim Impact Report to determine compensation u/s 357 Cr.P.C.</li> <li>• Whether the word 'may' as used in section 357(3) Cr.P.C. would be construed as "shall" and thereby binding upon courts ?</li> </ul>
Held	<ul style="list-style-type: none"> <li>• The word "may" in Section 357(3) Cr.P.C. means "shall" and therefore, Section 357 Cr.P.C. is mandatory.</li> </ul>



	<ul style="list-style-type: none"> <li>• Further, the Hon'ble Court issued the detailed guidelines/procedure to be followed for determination of the compensation to be paid to the victim and also laid down the procedure for payment of such compensation.</li> <li>• The convict is required to file the affidavit of his assets and income before the Court. The format of the affidavit has been prescribed by the Hon'ble Court in its judgment.</li> <li>• The district legal service authority would prepare the Victim Impact Report.</li> </ul>
Relevant Para No.	Paragraph No.166, 136 260.

Name	<a href="#"><u>Rajeev Sharma v. State (NCT) of Delhi, Crl. Rev. P. 363/2020</u></a>
Court	Delhi High Court
Issue	Whether an accused is entitled to default bail if chargesheet is not filed in 60 days and if no minimum sentences is prescribed under the statute for the offences alleged against him?
Held	<ul style="list-style-type: none"> <li>• An accused is entitled to default bail if chargesheet is not filed in 60 days, if no minimum sentences is prescribed under the statute for the offences alleged against him.</li> <li>• The Court observed that undoubtedly the legislature can bind the sentencing Court while laying down the minimum sentence (not less than) and it can also lay down the maximum sentence. If the minimum is laid down, the sentencing Judge has no option but to give a sentence period not less than that sentence provided for. Therefore the words "not less than" occurring in clause (i) of proviso (a) to Sub Section (2) of Section 167 of Cr.P.C. must be given their natural and obvious meaning which is to say, not below the minimum threshold and in case of Section 167 Cr.P.C. these words must relate to the offence punishable with a minimum imprisonment of 10 years.</li> <li>• Under the Official Secret Acts for which the petitioner is being tried, though entail punishment which may extend to 14 years but the Section does not talk of minimum period of sentence and thus does not pass the test of clear period of 10 years or more and as such the period of challan in this case</li> </ul>

	would be 60 days.
Relevant Para No.	Paragraph No.21,23.

<b>Name</b>	<a href="#"><u>Mohd. Danish v. GNCTD, Bail Appln. 3550/2020</u></a>
<b>Court</b>	Delhi High Court
<b>Issue</b>	Prosecuting Agencies To Follow The Model Form Issued By Gujarat HC for filing of status report in criminal cases.
<b>Held</b>	<ul style="list-style-type: none"> <li>• All prosecuting agencies are directed to file status report under affidavit, as prescribed by the Hon'ble Gujarat High Court in the case of Thakore Laxmanji vs. State of Gujarat: MANU/G/J/0267/1992.</li> <li>• The Hon'ble Delhi High Court issued the model form for the preparation of status report.</li> </ul>
<b>Relevant Para No.</b>	Paragraph No.7.

<b>Name</b>	<a href="#"><u>Miss G (Minor) Thr. Her V. State Of Nct Of Delhi &amp; Anr, CRL.M.C. 1474/2020 &amp; CRL.M.As. 6330/2020, 6705/2020</u></a>
<b>Court</b>	Delhi High Court
<b>Issue</b>	Hearing not being afforded to victims/complainants/informants, in bail applications filed on behalf of those accused who are facing trial under the provisions of Sections 376(3), 376- AB, 376 - DA or 376 DB of the IPC.
<b>Held</b>	<ul style="list-style-type: none"> <li>• Hon'ble Delhi High Court held that the victim/ complainant/ informant has an integral right to be heard by the court while deciding the bail application of the accused alleged for the commission of these offences.</li> <li>• Whenever an accused who is charged under Sections 376(3), 376- AB, 376 - DA or 376 DB of the IPC or the provisions of the POCSO Act, moves an application for regular bail or interim bail, notice shall be issued to the IO as also any counsel on record for the victim/complainant/informant.</li> </ul>

	<p>The bail applications cannot be heard by the Court unless the victim/ complainant/informant is represented or at least the service report is received.</p> <ul style="list-style-type: none"> <li>• The Hon'ble Court issued the detailed guidelines for issuance of notices of the victim and regarding the service of notices to the victim.</li> </ul>
Relevant Para No.	Paragraph No.23.

Name	<a href="#"><u>Md. Rustum v. The State of Jharkhand, Cr. M.P. No. 2722 of 2019.</u></a>
Court	Jharkhand High Court
Issue	Integral conditions for proclamation u/s 82 Cr.P.C.
Held	<ul style="list-style-type: none"> <li>• Non-bailable warrant of arrest and processes and order of attachment under the CrPC cannot be issued in a mechanical manner.</li> <li>• The Court has to have sufficient materials before it to reach to a conclusion to believe that a person, against whom warrant of arrest has been issued, is absconding or is concealing himself, and it is not possible for the authorities to execute the warrant of arrest. This satisfaction has to be recorded in the order while issuing processes under Section 82 of the Code. Non-recording of subjective satisfaction in the order will make the order bad and a non-speaking one. A non-speaking order involving a procedure, which attracts a penal offence (if the order is not complied with), cannot sustain in the eyes of law.</li> </ul>
Relevant Para No.	Paragraph No.21

Name	<a href="#"><u>Karnataka State Legal Services Authority v. State Of Karnataka, Criminal Revision Petition NO.306 OF 2018</u></a>
Court	Karnataka High Court
Issue	Whether the Trial Court has power to fix the quantum of compensation under the POCSO Act or under Section 357-A of

	Cr.P.C.?
Held	Trial courts cannot order for the payment of compensation to the victim beyond the amount prescribed under the Victim Compensation Scheme, 2011.
Relevant Para No.	Paragraph No.11.

Name	<a href="#"><u>Rakesh Shetty v. State of Karnataka and others [W.P.No.11169 of 2020]</u></a>
Court	Karnataka High Court
Issue	Whether investigation agency can retain the username and password of social media/digital platform during pendency of investigation?
Held	<p>Investigating agency cannot retain the user name and password of social media/digital platform like Facebook and YouTube pending investigation, the investigation agency can download the data required from such account and thereafter has to give back the changed credentials to the person who owns the said social media.</p> <p>Facebook and YouTube accounts are important aspects of the Petitioner's business to carry out his day-to-day business, the police cannot on the ground of investigation block the same so as to come in the way of Petitioner carrying out his day-to-day business. The police is free to preserve the relevant data.</p>
Relevant Para No.	Paragraph No.13.9.

Name	<a href="#"><u>Justin @ Renjith v. Union of India &amp; Ors. , WP(C).No.15564 of 2017(U)</u></a>
Court	Kerala High Court
Issue	Constitutional Validity of Reverse Burden of Proof under section 29 & 30 of POCSO Act was under challenge.

Held	<ul style="list-style-type: none"> <li>• With the inbuilt safeguards in the Act, the limited presumption do not upset the basic features of criminal law. Sections 29 and 30 of the POCSO Act is held to be Constitutional and they do not violate the Fundamental Rights, nor are they contrary to the basic criminal Principles.</li> <li>• The prosecution is required to establish the foundation facts. Foundational facts in a POCSO case include the proof that the victim is a child that alleged incident has taken place, the accused has committed the offence and whenever physical injury is caused, to establish it with supporting medical evidence. Thus, the insistence on establishment of foundational facts by prosecution acts as a safety guard against misapplication of statutory presumptions.</li> </ul>
Relevant Para No.	Paragraph No.74 and 77.

Name	<a href="#"><u>Dr.Prasad Pannian Vs. Central University Of Kerala [WP(C).No.9219 OF 2020(B)]</u></a>
Court	Kerala High Court
Issue	Whether discrimination on ground of 'Sex' in absence of express or implied sexual advance, sexual undertone or unwelcome behaviour can be considered as“sexual harassment”, so as to be covered under Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013?
Held	Mere Discrimination On Ground Of 'Sex' Without any express or implied sexual advance, sexual undertone or unwelcome behaviour sexual Undertones is Not 'Sexual Harassment' and ergo would not be covered under Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.
Relevant Para No.	Paragraph No.12, 13.

Name	<a href="#"><u>District collector alappuzha v. District legal service authority, alappuzha and others [WP(C).No.7250 OF 2014(E)]</u></a>
Court	Kerala High Court
Issue	<ul style="list-style-type: none"> <li>• Whether the term “victim” as used in Section 357A(4) Cr.P.C, if interpreted based on the definition in Section 2(wa), will render the provision in Section 357A(4) and 357A(5) redundant?</li> <li>• Whether victim compensation scheme under Section 357A(4) of Cr.P.C. is retrospective or prospective in its application?</li> <li>• Whether the victim, of a crime that occurred prior to the enactment of 357A(4) of the Cr.P.C., be entitled to claim compensation under the said provision?</li> </ul>
Held	<ul style="list-style-type: none"> <li>• The context of Section 357A(4) Cr.P.C., requires a different meaning to be adopted for the word 'victim'. To add meaning and life to Section 357A(4) Cr.P.C, it is necessary that the word 'victim' in Section 357A(4) is meant as a person who suffers any loss or injury by reason of the act or omission of another in which the offender has not been traced or identified and against whom a trial has not taken place. Such an interpretation alone would make Section 357A(4) Cr.P.C., workable, and have meaning.</li> <li>• Section 357A(4)&amp;(5) Cr.P.C., ought to be interpreted in such a manner that it benefits victims. The provisions in Section 357A(1)(4)&amp;(5) Cr.P.C are substantive in character and thus the victims under Section 357A(4) of the Cr.P.C. are entitled to claim compensation for incidents that occurred even prior to the coming into force of the said provision.</li> <li>• Giving the benefit to victims under Section 357A(4) Cr.P.C., for crimes that occurred prior to 31.12.2009, would result in retrospective implementation rather it would amount to conferring a prospective benefit based on an antecedent fact</li> </ul>
Relevant Para No.	Paragraph No. 20 and 36.

Name	<a href="#"><u>Balveer Singh Bundel v. State of Madhya Pradesh, Miscellaneous Criminal Case No.5621/2020</u></a>
Court	Madhya Pradesh High Court
Issue	Is anticipatory bail maintainable even after filing of chargesheet?
Held	<ul style="list-style-type: none"> <li>• Anticipatory bail application is maintainable even after filing of charge-sheet, till the person is arrested.</li> <li>• So far as maintainability of anticipatory bail is concerned, it is maintainable even the person is declared absconder under section 82 of Cr.P.C. but on merits case would be governed by the judgment of Apex Court rendered in the case of Lavesch Vs. State (NCT Of Delhi), (2012) 8 SCC 73.</li> <li>• Section 82/83 Cr.P.C. is transient provision subject to finality of proceedings as provided under Sections, 84, 85 and 86 of Cr.P.C.</li> </ul>
Relevant Para No.	“Law laid down” section of the Judgment.

Name	<a href="#"><u>Ku. Priyanka v. The State of MP, Cr. Revision No. 789/2019</u></a>
Court	Madhya Pradesh High Court
Issue	Can women who is the victim of prostitution be charged for offence u/s 370 IPC?
Held	Woman involved in prostitution is herself a victim of human trafficking and therefore, she cannot be charged for the offence of trafficking under Section 370 of IPC
Relevant Para No.	Paragraph No.12, 13.

Name	<a href="#"><u>Sunita Gandharva v. State of MP &amp; Anr., Misc. Criminal Case No. 22615/2020</u></a>
Court	Madhya Pradesh High Court

Issue	<ul style="list-style-type: none"> <li>• Whether, High Court can entertain an application under Section 439(2) of Cr.P.C. for cancellation of bail granted in exercise of powers conferred under Section 14-A(2) of Atrocities Act ?;</li> <li>• Whether, the Court granting bail in an appeal under Section 14-A (2) of Atrocities Act can be recalled/cancelled as the order granting bail does not attain finality?</li> <li>• Whether, in an offence where the provisions of Atrocities Act and POCSO Act are involved, the procedural law of POCSO Act will apply or the provisions of Atrocities Act?</li> <li>• Whether, in a composite offence involving of provisions of POCSO Act and Atrocities Act, an order refusing bail under Section 439 Cr.P.C. will be appealable as per Section 14-A (2) of Atrocities Act or an application under Section 439 Cr.P.C. simpliciter will lie before the High Court ?; and</li> <li>• What is the scope and extent of bail conditions as referred in Section 437 (3) of Cr.P.C.?</li> </ul>
Held	<p><b><u>Law laid down:-</u></b></p> <ul style="list-style-type: none"> <li>• High Court can entertain application under Section 439 (2) of Cr.P.C. for cancellation of bail granted in exercise of powers conferred under Section 14-A(2) of Atrocities Act;</li> <li>• High Court granted bail in an appeal under Section 14-A(2) of Atrocities Act can also recall the said order of bail if facts disclose so;</li> <li>• In an offence, where the provisions of Atrocities Act and POCSO Act are involved, the procedural law of POCSO Act will apply and in a composite set of offences involving provisions of both the Acts, against an order refusing bail under Section 439 of Cr.P.C. by Special Court, an application under Section 439 Cr.P.C. simpliciter will lie before the High Court;</li> <li>• Scope and extent of bail conditions as referred in Section 437 (3) of Cr.P.C. are wide enough to include Community Service and other reformatory measures also but conditions ought not be onerous and excessive in nature. Concept delineated.</li> </ul>
Relevant Page No.	Page No. 1



Name	<a href="#"><u>Kavuru Harikrishna v. State of Odisha, BLAPL NO.11313 of 2020</u></a>
Court	Orissa High Court
Issue	Directions to issue notices to complainant/informant/victim before hearing bail in certain offences.
Held	Directions were issued to all subordinate courts under Orissa High Court to ensure that service to the complainant/informant/victim can be effected before the hearing of bail application in the category of cases specified under proviso to sub-section (1) of section 439 of Cr.P.C., as per mandate of law.
Relevant Page No.	Page No.3.

Name	<a href="#"><u>Krishan Kumar v. State of Haryana, CRM-M- 19907-2020</u></a>
Court	Punjab and Haryana High Court
Issue	Can pre-arrest bail be granted to juvenile?
Held	If this special enactment is silent as regard a particular provision then that has to be read with the general law i.e. Criminal Procedure Code. An inference can certainly be not drawn that the legislature intended to debar a juvenile from seeking relief of pre-arrest bail. If it was so, then a specific provision in that regard would have been there on analogy of Section 18 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, which clearly bars grant of pre-arrest bail to a person alleged to have committed offence under the said act.
Relevant Page No.	Page No.3.

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