

CASE COMMENT: SATENDRA KUMAR ANTIL V. CENTRAL BUREAU OF INVESTIGATION

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INTRODUCTION

The term “bail” has not been defined in the Code, though Section 2A¹ defines a bailable and non-bailable offense (Now Section 2(b)², Bharatiya Nagarik Suraksha Sanhita, 2023). Bail is nothing but surety inclusive of a personal bond from the accused. It means the release of an accused person either by the orders of the Court or by the police or the Investigating Agency.³ Jails in India are flooded with undertrial prisoners. Studies show that almost 75% of the jail is occupied with undertrial prisoners. Liberty is one of the most essential requirements of the modern man. The landmark decision of *Satendra Kumar Antil v. CBI*⁴ by the Supreme Court of India in July 2022 has significant importance in constitutional jurisprudence surrounding bail in India. It relates to the rights of the accused on bail in various categories of offenses punished with imprisonment of fewer than 7 years, offenses punishable with imprisonment of more than 7 years, death, life imprisonment, or offenses punishable under special act containing stringent provisions for bail like Narcotic Drugs and Psychotropic Substances Act, 1985 (S.37)⁵, Prevention of Money Laundering Act (PMLA), 2002 (S.45),⁶ Unlawful Activities (Prevention) Act (UAPA), 1967 (S.43D(5))⁷, Companies Act, 2013, etc.⁸

This judgment reiterates the importance of personal liberty and freedom of an individual guaranteed under articles 19(1)(a)⁹, 19(1)(d)¹⁰, and 21¹¹, which emphasizes that bail is a fundamental right unless there are compelling reasons for its denial. There cannot be an inevitable formula in the matter of granting bail. The facts and circumstances of each case

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¹ Indian Penal Code 1860, s 2A

² Bharatiya Nagarik Suraksha Sanhita 2023, s 2(b)

³ Satendra Kumar Antil v Central Bureau Of Investigation, (2022) 10 SCC 51

⁴ ibid

⁵ Narcotic Drugs and Psychotropic Substances Act 1985 s 37

⁶ Prevention of Money Laundering Act 2002, s 45

⁷ Unlawful Activities (Prevention) Act 1967, s 43D

⁸ ibid

⁹ Constitution of India 1950, Art 19(1)(a)

¹⁰ Constitution of India 1950, Art 19(1)(d)

¹¹ Constitution of India 1950, Art 21

will govern the exercise of judicial discretion of courts in granting or denying bail.¹²

This judgment is important for effective law enforcement in India and the protection of individuals' freedom. It sets clear guidelines for lower courts on the proper exercise of discretion in bail matters, thus aiming to correct the prevailing trend of over-reliance on incarceration during the pre-trial stage.

The court discussed essentially the origin of the concept and idea of bail; the principle of *“bail as a rule and jail as an exception”* by referring to the cases of *Gurbaksh Singh Sibbia v State of Punjab*¹³, *Gudikanti Narasimhulu v High Court of A.P.*¹⁴, *Sanjay Chandra v CBI*¹⁵, etc. in the criminal jurisprudence.

This case comment will explore the facts of the case, the legal issues involved, the contentions of both parties, the Court's observations and judgment, and the broader implications for the legal landscape in India.

FACTS

Satender Kumar Antil, the petitioner, was embroiled in a criminal case being investigated by the Central Bureau of Investigation (CBI). He was accused of seeking bribes while working as an Assistant Provident Fund Commissioner at the Employees Provident Fund Organization's regional headquarters in Noida.

The Supreme Court since 2021 has given a trilogy of judgments on the case, wherein it has laid down specific guidelines for the police for arrest under S.41¹⁶, S.41A¹⁷, and S.60A¹⁸ of the Criminal Procedure Code, 1973.¹⁹

In the FIR lodged by the CBI, the petitioner was identified as an accused under Section 120-B²⁰ of the Indian Penal Code (penalty of criminal conspiracy) and Section 7²¹ of the Prevention of Corruption offense about public servants being bribed). After the investigation

¹² Gurcharan Singh v. State (UT of Delhi), (1978) 1 SCC 118

¹³ Gurbaksh Singh Sibbia v State of Punjab (1980) (2) SCC 565

¹⁴ Gudikanti Narasimhulu v High Court of A.P. (1978) 1 SCC 240

¹⁵ Sanjay Chandra v CBI (2012) (1) SCC 40

¹⁶ Criminal Procedure Code 1973 s 41

¹⁷ Criminal Procedure Code 1973 s 41A

¹⁸ Criminal Procedure Code 1973 s 60A

¹⁹ Satender (n 3)

²⁰ Indian Penal Code 1860 s 120B

²¹ Prevention of Corruption Act 1988 s 7

was completed and the charge sheet was filed with the court, the accused was not arrested. Summons were issued by the court for the presence of the accused. The accused failed to present himself before the court and filed for an anticipatory bail application, The court rejected the bail application and a non-bailable warrant was issued. repeatedly, the lower courts denied him bail and cited the reason for the seriousness of charges in the offense committed, The petitioner in response stated his rights for the grant of bail and personal liberty as enshrined under Article 21²² of the Constitution, were being violated. The accused filed a special leave petition with the Supreme Court where the Court laid down a set of guidelines bifurcated into three sets of decisions that famously came to be known as the Antil Trilogy. The petitioner further argued that the lower courts needed to consider the principles governing bail, particularly the presumption of innocence and the need to balance individual rights with the interests of justice.

The denial of bail led Antil to approach the Supreme Court, seeking relief and asserting that his continued detention was unjustified and unconstitutional.

ISSUE RAISED

The primary issue involved in this case was whether the denial of bail was justified or not. this raises the concern regarding India's criminal justice system.

1. Can the severity of charges replace the accused's right to bail?
2. Should bail be rejected merely on the nature of the offense, even if the accused has met all legal requirements during the investigation procedure?
3. The discretion of courts in granting bail, especially in high-profile cases?
4. What are the consequences of pre-trial detention?

OBSERVATION OF SUPREME COURT

The Supreme Court in its decision led by Justice Sanjay Kishan Kaul made many important observations that are essential for understanding the court's rationale and principles. Further, the court emphasized the importance of the concept of presumption of innocence in the criminal justice system in India.

²² Constitution of India 1950 Art 21

The law presumes an accused to be innocent until proven guilty beyond a reasonable doubt.²³ This concept of presumption of innocence must guide the judiciary throughout the criminal proceedings, including the decisions to grant or refuse bail. The presumption of innocence has been recognized all over the world. Article 14(2)²⁴ of the International Covenant on Civil and Political Rights (ICCPR) of 1966 and Article 11²⁵ of the Universal Declaration of Human Rights (UDHR) recognize the presumption of innocence as a core of law unless the individual is proven guilty beyond reasonable doubt.

It was further emphasized by the court that the importance of balancing the accused's right to personal liberty guaranteed under Article 21 of the Constitution of India with the need for justice. While understanding the severity of charges upon the petitioner, it is necessary to understand the privilege of personal liberty granted by the Constitution. Denial of bail should not be used to penalize the accused before a conviction is obtained.

The court criticized the lower courts for relying on the severity of the charges on an offence as the sole criteria for denying bail, as in the above case; the petitioner was denied the grant of bail because of the seriousness of the charges imposed upon him. "The seriousness of the charge cannot be the only test for denial of bail."²⁶ The court emphasized that the discretion of the court must be applied judicially, when there exists a relevant factor that the grant of bail can make a platform for the accused to tamper with evidence, influence the witnesses, etc.

The court took the opportunity to provide clear guidelines for the lower court which has to be followed when deciding the bail applications. Denial of bail should be there only in circumstances where there exists some serious issue in future avenues. The court stressed that timely hearings and faster justice must be involved in cases to avoid unnecessary delays in deciding bail applications.

There seems increasing dependence on pre-trial detention in the Indian criminal justice system. The court stated that the pre-trial detention must not become the rule rather the grant of bail should be there. It was agreed that such practices not only contribute to the

²³ Robin Speed, 'The Presumption of Innocence' (*Rule of Law*) <<https://www.ruleoflaw.org.au/principles/presumption-of-innocence/>> accessed 26 August 2024

²⁴ International Covenant on Civil and Political Rights (adopted 19 December 1966) 2200A (XXI), art 14(2)

²⁵ Universal Declaration on Human Rights (adopted 10 December 1948) 217 A(III) (UNGA), art 11

²⁶ Satender (n 3)

overcrowding of undertrial prisoners but also strain the judicial process.

CONTENTION OF PETITIONER

The petitioner, Satendra Kumar Antil argued that his fundamental right guaranteed under article 21 of the Indian constitution was being violated when the lower court had refused to grant him bail as the lower courts had taken the seriousness of the offense as the sole criterion for the denial of bail, hence the personal liberty of the petitioner got infringed. It was further claimed that he was every time available, whenever called upon during the investigation procedure, and did nothing that could warrant his ongoing imprisonment.

The petitioner stated that the fundamental principle of presumption of innocence must be applied unless he is proven guilty beyond a reasonable doubt. The petitioner emphasized that his continuous confinement led to a negative impact on his both personal and professional life, and further, there exists no such convincing justification for his confinement for a long period. Antil claimed that the lower courts did not appropriately exercise their discretion for the grant of bail in his case.

CONTENTION OF RESPONDENT

The Central Bureau of Investigation (CBI) made counterarguments in response to the petitioner's claim, it was argued that the charges against the petitioner were grave in nature and grant of bail to him would give rise to future avenues and hence warranted the bail denial. It was stated that the releasing petitioner on bail could potentially hinder the investigation process and grant of justice.

Even though the petitioner fully cooperated during the investigation procedure, there stands the possibility of tampering with evidence, influencing the witnesses available, or hampering justice.

It stressed how cases related to corruption impact society in the future and how withholding the petitioner's bail process can uphold trust in the process of justice.

DECISION OF SUPREME COURT

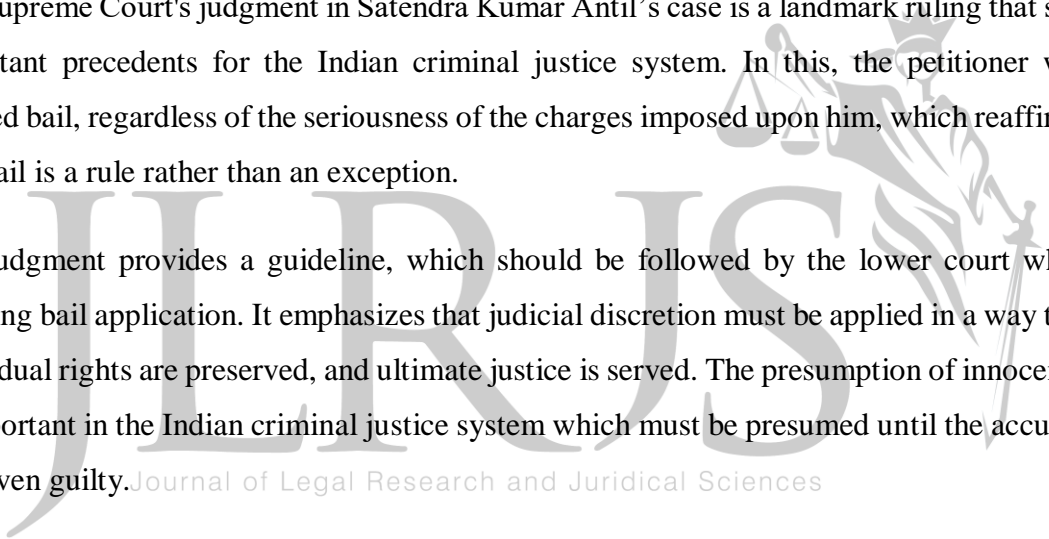
After considering the contentions made by both parties, the Supreme Court ruled in favor of the petitioner and granted him bail.

The court reiterated the fundamental right regarding bail in India. It laid down guidelines, which lay down rules regarding bail. The principle of ‘bail is a rule and jail is an exception’ was kept in mind, further pre-trial detention must not be made habitual in the cases where the accused have cooperated during the investigation. These recommendations overall laid that the severity of charges cannot be the sole criteria or core object for the bail denial.

It was stated that the court's discretion regarding refusal to bail must be taken cautiously and it should be kept in mind that the fundamental rights of the accused are not violated. This decision is an important step toward the overuse of power by courts and the protection of the fundamental rights of the accused while in custody.

JUDGEMENT

The Supreme Court's judgment in Satendra Kumar Antil's case is a landmark ruling that sets important precedents for the Indian criminal justice system. In this, the petitioner was granted bail, regardless of the seriousness of the charges imposed upon him, which reaffirms that bail is a rule rather than an exception.

The judgment provides a guideline, which should be followed by the lower court when deciding bail application. It emphasizes that judicial discretion must be applied in a way that individual rights are preserved, and ultimate justice is served. The presumption of innocence is important in the Indian criminal justice system which must be presumed until the accused is proven guilty. 

In its judgment, the Supreme Court emphasizes that the severity of charges in an offense cannot be the sole criterion for the denial of bail and further, a framework was laid down following which the lower courts will decide bail applications. Overall, this judgment has a broader implication for bail jurisprudence in India.

ANALYSIS

The judgment of Satendra Kumar Antil is of crucial importance which deals with the matters of bail application in the Indian criminal justice system. In this case, the lower courts solely relied upon the seriousness of the offense and the gravity of charges implied upon the petitioner for the denial of the bail. The petitioner overall argued regarding his right as an accused in the matter of bail application. A clear set of guidelines was provided by this

judgment, setting a framework for the courts that must be followed when dealing with bail applications it stated that the principle of bail is a rule and jail is an exception that must be kept in mind and bail should be granted to every accused to avoid unnecessary imprisonment and the bulk of undertrial prisoners in the jail. One of the significant aspects of this judgment is the impact of the practice of pre-trial detention.

The Supreme Court emphasizes that the lower courts must consider all relevant factors while considering bail applications, rather than solely relying on the severity of the charges and denying the bail. Bail is the right of every accused, and it should be denied only in such circumstances where there exists a risk of tampering with evidence, the influence of witnesses, hampering justice, etc.

CONCLUSION

The landmark judgment of Satendra Kumar Antil v. CBI is a ruling that recognizes an individual's liberty and the concept of presumption of innocence in the Indian criminal justice system. This judgment sets a framework for deciding bail applications in various cases.

The guidelines are set for dealing with bail applications, according to which the judicial discretions are taken upon to grant justice.

In conclusion, the judgment is a critical contribution to the jurisprudence on bail in India, setting a high standard for judicial decision-making in matters of bail. The Supreme Court's emphasis on the protection of individual liberties and the presumption of innocence is a timely reminder of the fundamental principles that must guide the criminal justice system in India.