

CHAPER – VIII

CONCLUSION AND SUGGESTIONS

By the study of two courts i.e., Principal District Court, Guntur and I Additional District Court, Guntur which are big courts in Guntur District, the conclusion about granting of bails by the Judges in the court was derived. That, the granting of bails will never depends on economical status of the accused or social status of the accused or by Gender discrimination or by the caste of the accused, it only depends up on the nature of the offence charged up on the accused and facts and circumstances of the case.

The above study was made by observing the manner of granting or sanctioning bails to the accused for three successive years i.e., from the period 2007-2009 of two major courts of Guntur District. If granting of bails in remaining states of India follow this method in granting bails, the proverb that “Bails are for only rich people” will be totally removed.

The application of mind of judges in granting bails were only on the seriousness of the nature of the offence, was observed in my research work. The number of articles where published on bail system in India, number of suggestions were made by Law Commissions that bails are to be granted without observing economical status of the accused.

There is no lucana in the provisions of law laid down in the Criminal Procedure Code, 1993 about bails. The only thing what is required in granting of bails is the nature of offence with which accused is charged. If, such a offence is so heinous, will obviously be observed as per the facts and circumstances of the case.

The basic principles of Criminal Law is “Hundreds may escape but one culprit may not be punished”. Basing up on the above principle if one person commits a crime and he is brought before court he has to under go a long procedure of trail by the meant time he will be put into prison. If he is a innocent or until his crime is proved beyond reasonable doubt. He will suffer unnecessary imprisonment up to the end of the trail. In order to avoid such inconvenience to such person who brought before court. This bail system was included in the code. If an accused who is having chances to provided with bail, if rejected, he will suffer if he is an innocent.

The empirical study made reveals that, the bails are granted only depending upon the nature of offence the accused charged with.

Research Findings:

On general saying it is seen that, bails are granted to rich people only. But, surprisingly I find in my research work that bails are granted

by court of law basing upon the nature of the offence accused charged upon in each own circumstances of the case.

I collected data in the form of 13 columns i.e., 1) Senior number; 2) Criminal miscellaneous petition number; 3) Name of the accused; 4) Nature of offence or offence charged; 5) Occupation of accused; 6) Bailable or Non-bailable offence; 7) Bail is sanctioned or not; 8) If bail is not sanctioned reasons if any; 9) General discrimination; 10) Town or Village or City of the accused; 11) Caste; 12) Bail application is disposed or not; 13) Section under which bail application filed.

Of these above collected information preference is given by the judges in granting bails only on the nature of offence charged up on the accused. In all bail applications occupation of the accused is mentioned but how much income is earning per month is not at all mentioned anywhere. By this it is clearly seen that economical status of the accused in granting bails is a dependable factor.

Bail applications are disposed immediately from the date of filing, within two or three months. Bail applications will be never pending for more than four months. If the accused have to put forth any arguments he have to do within a stipulated time otherwise bail application will be

closed and he has to move for another fresh bail application. A case will be pending before court for years to years but bail application is not so.

Suggestions:

The following suggestions are forwarded to the policy makers to make the bail system operative in tune with the changing trends of prison and criminal justice systems ---

1. Bail procedure had to be simplified and be made understandable to even illiterate persons.
2. Right to speedy trial is a fundamental right and if trial is delayed and the cause of delay is attributed to prosecution, the accused should be released on bail.
3. The modes and forms of release on bail are to be rationalized, and streamlined, so as to enable an accused to ask for a specific form of release commensurate with the nature of the offence and circumstances of the case.
4. There is a general feeling that the existing procedure in granting bail is operating in favour of rich and as against poor. There is a need to treat rich and poor equally in granting bail.

5. The procedure for bail hearing needs a specific treatment. The court may be empowered to conduct any bail hearing in private. It may also be empowered to receive such information or material as may be relevant despite the question of its admissibility under the rules of evidence.
6. There is need to make statutory classification of offences for granting or refusing a bail.
7. The granting of bail be made a rule and its refusal as an exception as to prevent the influx of undertrial prisoners.
8. Procedure relating to insisting on furnishing monetary sureties be rationalised.
9. The court should not reject the persons as sureties just because they are not owning the property within the jurisdiction of the court concerned.
10. Courts are not following fixed procedure for cancellation of bail. There is a need for the courts to follow relevant criteria in cases of cancellation of bail.
11. A number of court decisions have already crystallized the factors which are relevant to assess risks involved in releasing arrested person on bail. These factors together with other necessary conditions may be catalogued to set up discernible criteria for use by the courts while exercising their discretion.

12. The reconsideration of bail on successive applications at various stages should be on merits, notwithstanding the refusal of bail at an earlier stage in the lower courts. Judicial review for modifying or revoking a bail order of the court of first instance has to find a significant place. The right of appeal against the bail order, both by the accused and state, should also be incorporated.
13. The question of fixing the amount of bail should not be left to the discretion of the police because the police officer may take advantage of the power entrusted to him for the purpose of extracting more amount from the person released.
14. Bail may be granted liberally to women even in non-bailable offences, unless special circumstances warrant a different stand.
15. Generally, the women will not make any attempt to escape and even if they escape, they are not dangerous to society and it is easy to re-arrest them. So, the women accused may be released on bail liberally.
16. Special provisions may be made for granting bail to minors, lunatics and also for persons for whom bail is denied for preventive purposes under special laws.

17. A mechanism based on voluntary participation of citizens or organizations in the trial process could be given legal recognition. Such citizens or organizations can take up the responsibility of presenting an accused who has been released on bail.

18. Alternative to the bail system i.e., the feasibility of community controlled custodial release shall be adopted.

The above suggestions are made to make the granting of bail in conformity with the canons of criminal justice and the standards of human rights jurisprudence.
