BLOGS

A Public Servant in Custody for More Than 48 Hours Is Deemed Suspended

Hanspal Bakul · 20 Nov 2026

The Supreme Court has linked two topics that are normally dealt with separately in exams, namely **bail in bribery cases and service law implications of arrest.** It declared that a **public servant who is in judicial custody for more than 48 hours is deemed suspended and that no formal order is required for that.**

It also warned the State that this *status cannot be reversed by simply transferring the said employee.*

Case: Vishwajeet Singh @ Bishwajeet Ramanand v. State of Bihar & Ors.
Bench: Justice J.B. Pardiwala and Justice Manmohan
Reported: 9 November 2026

Factual Background

The appellant served as a manager or administrator in Sadar Hospital, Samastipur. He was charged under Section 7(b) of the Prevention of Corruption Act, 1988 for demanding a bribe of ₹4,000 to release the complainant's wage of ₹36,421. *He was arrested, and subsequently, the Sessions Court released him on bail.*

The complainant appealed to the Patna High Court, which revoked the bail order after nearly a year and ordered that the appellant be taken into custody. The appellant challenged the order in the Supreme Court.

The Court's Reasoning on Bail

The **Court reinstated the bail provided by the Sessions Court. It noted that the High Court took action almost a year later after the release and seems to have been swayed by the comment made by the Sessions Court that the amount of bribery was small.**

The bench accepted the fact that the *amount of bribery is not the only factor in granting bail.* However, it still stated that the High Court could have allowed the appellant to stay out on bail.

On the general principle, the Court stated that in such cases as these, there should always be bail granted, **taking into consideration the maximum punishment in case of conviction.**

Section 7 of the PC Act which was amended in 2018 provides for punishment **ranging from three years' imprisonment to seven years with a fine.** The Court stated that bail should be given **unless the accused has a serious criminal background or the details of the case are very severe.**

The cancellation of bail has been discussed in this ruling. **Courts view the cancellation of bail under Section 439(2) of the CrPC (now Section 483 of the BNSS) as an important matter**.

There needs to be some ***extraordinary situation or an absurd order of bail*** passed as per ***Dolat Ram v. State of Haryana*, *Abdul Basit v. Mohd. Abdul Kadir Chaudhary*, and *Mahipal v. Rajesh Kumar*.**

The Service Law Point

The appellant had spent around fifteen days in custody after his arrest. **The Court described this as a worrying aspect and stated that if the public servant is in custody for more than 48 hours, he is to be deemed suspended irrespective of a formal order of suspension.**

According to Rule 10(2) of the CCS (CCA) Rules, 1965, the Central government servant is suspended from the date of detention if he is detained for more than 48 hours and a landmark precedent set in ***Union of India v. Rajiv Kumar (2003),*** **which established that deemed suspension doesn't automatically expire upon release on bail until an explicit revocation order is passed.**

The State represented to the Court that the appellant had indeed been suspended, but that this suspension had been lifted subsequently and he was posted back to the same hospital and to the same position. *The Court termed this as shocking and directed the State to look into it on an immediate basis.*

Analysis

The judgment maintains a distinction between the three questions which are often mixed up.

- Does the accused deserve bail *is one relating to criminal procedure.*
- Whether the accused is still in service or not *is a question related to service law.*
- Whether he has come back to the same desk *is the question of administrative propriety where the aspect of tampering with witnesses and evidence is a major consideration.*

The Court did not hold that the extent of bribery in no way matters for the commission of the crime but that bail cannot be determined on that ground. Further, it did not assert that revocation of suspension is always bad in law.

The concern of the Court simply was that a person charged with corruption has been reinstated to the very position which he was accused of misusing.

On the length of suspension generally, students should also recall ***Ajay Kumar Choudhary v. Union of India*, which disapproved of suspension continuing beyond a reasonable period without a charge memorandum.**