BLOGS

Bailable and Non-bailable Offences under CrPC

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Edit TABLE OF CONTENTS Introduction Bailable Offences Non-bailable Offences Difference between Bailable and Non-bailable Offence Landmark Cases on Bailable and Non-bailable Offences Conclusion

Introduction

The classification of offences into bailable and non-bailable offences is an important aspect of the Criminal Procedure Code (CrPC) in India. In India, offences are classified into two categories: bailable and non-bailable offences.

The classification is based on whether the accused is entitled to bail as a matter of right or whether the bail is a matter of discretion of the court. ***Section 2(a) of the CrPC*** defines bailable offences as those offences where bail can be granted as a matter of right and non-bailable offences as those offences where bail is not a matter of right, but is subject to the discretion of the court.

In this article, we will discuss bailable and non-bailable offences in detail, along with landmark cases related to these offences.

Bailable Offences

Bailable Offences: Bailable offences are relatively less serious offences and are punishable with imprisonment for a term of less than three years or with a fine only. Some examples of bailable offences are theft, causing hurt, mischief, defamation, and simple assault. ***Section 436 of the CrPC*** lays down the provisions for bail in bailable offences, which states that an accused person arrested or detained for a bailable offence shall be released on bail if he or she furnishes a bail bond with or without sureties.

However, in certain cases, the court may deny bail even in bailable offences. For instance, if the accused has a prior history of committing similar offences, the court may deny bail, as he or she may be likely to commit the offence again.

Bailable offences are those offences where bail is a matter of right. However, the person may still be required to furnish bail bonds to ensure his presence at the trial.

Non-Bailable Offences

Non-Bailable Offences: Non-bailable offences, as the name suggests, are those offences where bail is not a matter of right. In such cases, the accused has to approach the court for bail and is required to furnish reasons and provide sureties before the court considers the bail application.

Non-bailable offences are more serious in nature and are punishable with imprisonment for three years or more. Some examples of non-bailable offences are murder, rape, dacoity, and kidnapping. ***Section 437 of the CrPC*** lays down the provisions for bail in non-bailable offences, which states that an accused person arrested or detained for a non-bailable offence shall not be released on bail unless the court is satisfied that there are reasonable grounds for granting bail.

However, the court may deny bail even if the offence is bailable if the accused has a history of committing similar offences, or if there is a chance that the accused may tamper with the evidence, intimidate witnesses, or flee from the jurisdiction of the court.

The decision of the court in granting bail or refusing bail is at the discretion of the judge. In recent years, there have been concerns about the misuse of non-bailable offences to harass and intimidate individuals, particularly in cases of sedition and hate speech. The Supreme Court has taken note of these concerns and has emphasized the need to balance the right to free speech with the need to maintain social harmony and prevent hate speech.

Difference between Bailable and Non-bailable Offences

BAILABLE OFFENCES	NON-BAILABLE OFFENCES
Bail is a matter of right.	Bail is a matter of Court's discretion.
Section 436 of the CrPC lays down the provisions for bail in bailable offences	Section 437 of the CrPC lays down the provisions for bail in non-bailable offences
Bailable Offences are considered less serious in nature.	Non-bailable offences are more serious in nature

Generally punishable with imprisonment for less than three years	Generally punishable with imprisonment for three years or more

Landmark cases on Bailable and Non-bailable offences

1. Arnesh Kumar v. State of Bihar: In this case, the Supreme Court held that police officers cannot automatically arrest a person accused of a non-bailable offence without first conducting a preliminary investigation and forming an opinion that the arrest is necessary. The court also held that a person accused of a non-bailable offence is entitled to bail as a matter of right, and the police officers should not automatically oppose bail in such cases.
2. State of Rajasthan v. Balchand: In this case, the Supreme Court held that the right to bail is a fundamental right guaranteed under Article 21 of the Indian Constitution, and it cannot be denied except in the interest of justice or to prevent the person from fleeing the jurisdiction of the court.
3. Zahira Habibullah Sheikh v. State of Gujarat: In this case, the Supreme Court held that in cases where there is a threat to the life or safety of the witness, the court can refuse bail to the accused.
4. Gurbaksh Singh Sibbia v. State of Punjab: In this case, the Supreme Court held that the right to bail is not absolute and must be balanced against the interests of the society and the victim. The court also held that the accused has to provide cogent reasons to be released on bail and must show that he is not likely to abscond or tamper with the evidence.
5. Sanjay Chandra v. CBI : In this case, the Supreme Court held that economic offences are serious offences that have a wide-ranging impact on society and the economy. The court also held that the power to grant bail in such cases should be exercised with caution and that the accused must show that he is not likely to tamper with the evidence or influence the witnesses.

Conclusion

In conclusion, the classification of offences into bailable and non-bailable offences is an important aspect of the criminal justice system in India. While a person accused of a bailable offence is entitled to bail as a matter of right, the accused in a non-bailable offence has to approach the court for bail. However, the right to bail is not absolute, and the courts must balance the interests of society and the victim against the right of the accused to be released on bail. The landmark

cases discussed above have played an important role in shaping the jurisprudence of bail in India.

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