BLOGS

Practice Legal Reasoning Questions for CLAT 2024

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PASSAGE 1

Appearing for the Delhi Police on Tuesday, Solicitor General Tushar Mehta said he had no objection to the release of Jamia Millia Islamia student Safoora Zargar on “humanitarian grounds”. The 27-year-old was arrested by the Delhi Police’s Special Cell in April and charged under the draconian UAPA for her alleged role in the communal violence in Northeast Delhi in February.

In her bail plea, Zargar listed pregnancy as one of the grounds for seeking relief. Following the SG’s submission, the Delhi High Court granted her bail. But the 27-year-old’s more than two-month-old ordeal—she was denied bail twice by sessions courts in Delhi—raises fundamental jurisprudential questions.

Why was the cardinal principle of criminal justice, “presumption of innocence until proven guilty”—enshrined in Article 11(1) of the Universal Declaration of Human Rights and invoked by the Indian judiciary in a number of cases—not applied in this case? Why should an accused be compelled to seek bail on humanitarian grounds? Does the Constitution offer protection against prolonged imprisonment to an undertrial?

The Code of Criminal Procedure does not define bail. But in Gurbaksh Singh Sibbia vs. the Supreme Court underlined, “The act of arrest directly affects freedom of movement of the person arrested by the police, and speaking generally, an order of bail gives back to the accused that freedom on condition that he will appear to take his trial”.

The Court talked about Article 21 and added that “the personal liberty of an accused or convict is fundamental, suffering eclipse only in terms of procedure established by law”.

More recently, in 2018, in Dataram Singh v. State of Uttar Pradesh, the apex court held that “The grant of bail is the general rule, and putting a person in jail is an exception”. Delivering the verdict, Justice Madan Lokur lamented: “Unfortunately, some of these basic principles appear to have been lost sight of, with the result that more and more people are being incarcerated and for longer periods.” He, too, invoked Article 21 and said that overcrowding of prisons affects the “dignity” of convicts.

The SC has repeatedly emphasized the “humane” treatment of the accused, including in the Dataram Singh case. As the Court pointed out, “conditions for the grant of bail ought not to be so strict as to be incapable of compliance”. It flows from the spirit of the apex court’s rulings, therefore, that bail should not be made to appear as an act of charity, as in the Zargar case, because it emanates from constitutional principles.

[Source: Safoora’s trial, editorial by the Indian Express, June 25, 2020]

1.1 Which of the following views can be correctly attributed to the author of the above passage?

(a) The author is concerned regarding the granting of bail to Safoora Zargar.

(b) The author is concerned as to why Article 11(1) of the Universal Declaration of Human Rights was not applied in the present case for granting bail.

(c) The Code of Criminal Procedure’s inadequacy to define the term ‘bail’.

(d) The judgment passed by the Hon’ble Supreme Court in Gurbaksh Singh Sibbia v. the State of Punjab (1980) curtailed the freedom of movement of a person.

1.2 According to the passage above, what were the Hon’ble Supreme Court’s views in Gurbaksh Singh Sibbia v. State of Punjab (1980)?

(a) The act of arresting a person is independent of the freedom of movement of the person.

(b) An order of bail does not give an accused freedom of movement.

(c) The personal liberty of an accused or convict is fundamentally subject to procedure. established by law.

(d) Article 21 of the Constitution of India does not guarantee protection against prolonged imprisonment of an undertrial.

1.3 According to the passage above, what was the court's view in Dataram Singh v. State of Uttar Pradesh?

(a) People are being incarcerated for longer periods; however, this overcrowding of Prisons does not affect the "dignity" of convicts.

(b) Article 21 of the Constitution has been interpreted very narrowly.

(c) The conditions for the grant of bail ought to be strict enough so as to be incapable of compliance.

(d) The grant of bail is the general rule, and putting a person in jail is an exception.

1.4 Based on the author's arguments in the passage above, which of the following would be most correct?

(a) Bail is an act of charity and should be given to every accused or convict.

(b) Bail emanates from constitutional principles.

(c) Article 21 of the Constitution guarantees protection against arrest.

(d) "Humanitarian grounds" should not be a ground for granting bail.

PASSAGE 2

During the lockdown, Section 188 of the Indian Penal Code was widely invoked against those not following it. In a communication to the states on March 24, the Home Ministry said persons violating the containment measures will be liable to be punished under provisions of the Disaster Management Act 2005, besides Section 188 IPC. A look at these and related provisions:

For disobedience

Section 188 of the IPC deals with those disobeying an order passed by a public servant and provides for imprisonment ranging from one to six months. For those violating orders passed under the Epidemic Diseases Act, Section 188 IPC is the provision under which punishment is awarded.

Section 51 of the Disaster Management Act, 2005, provides for punishment for two kinds of offenses: obstructing any officer or employee of the government or person authorized by any disaster management authority for the discharge of a function; and refusing to comply with any direction given by the authorities under the Act. Punishment can extend to one year on conviction, or two years if the refusal leads to the loss of lives or any imminent danger.

For spreading fear

Section 505 IPC provides for imprisonment of three years or a fine, or both, for those who publish or circulate anything that is likely to cause fear or alarm. Section 54 of The Disaster Management Act provides for imprisonment, extending to one year, for those who make or circulate a false alarm or warning regarding a disaster or its severity or magnitude.

For a false claim to aid

Under Section 52 of the Disaster Management Act, whoever makes a false claim for obtaining “any relief, assistance, repair, reconstruction, or other benefits” from any official authority can be sentenced to a maximum of two years imprisonment, and a fine will be imposed on the person.

For refusing to do duties

In the event of the refusal or withdrawal of any officer who has been tasked with any duty under the Act, the officer can be sentenced to imprisonment extending to one year. However, those who have the written permission of the superior or any lawful ground are exempt from such punishment. A case cannot be initiated without explicit sanction from the state or central government.

Legal shield

For any offense under the Disaster Management Act, a court will take cognizance only if the complaint is filed by the national, state, or district authority, or the central or state government. However, there is another provision: if a person has given notice of 30 days or more about an alleged offense and about his or her intention to file a complaint, he or she can approach the court, which can then take cognizance.

The Act protects government officers and employees from any legal process for actions they took "in good faith". Under the Epidemic Diseases Act, too, no suit or other legal proceedings can lie against any person for anything done or intended to be done in good faith.

[Extracted, with edits and revisions, from During India's Coronavirus Lockdown, the laws that come into play, explained by The Indian Express, April 4, 2020.]

2.1 Suppose Mr. Y, the head of a private company XYZ, passed on an order directing all his employees to make a certain donation to the company's fund. A, an employee, did not do Mr. Y brought an action against him under Section 188 of the IPC. Will A be held guilty?

(a) Yes, because A did not obey the order passed by Mr. Y.

(b) No, because Section 188 IPC cannot be invoked by Mr. Y against his employee.

(c) Yes, because it is an order passed by a public servant.

(d) No, because he has the freedom of choice to make his own decisions.

2.2 Suppose A, a news editor, publishes and distributes a warning notice to the public. regarding the severity of Cyclone Naini, claiming that it would hit the eastern coastal areas of the country and wreak havoc. Hundreds of inhabitants were evacuated from the area.

However, no such cyclone hit the eastern coastal area, and upon further investigation, it was revealed that A did not have any data to prove his claim. In such a scenario, would A be held criminally liable?

(a) No, because he did a service to the public by informing them about the possibility of a Cyclone.

(b) Yes, because he made and circulated a false warning regarding the cyclone.

(c) No, because he is immune from criminal proceedings as a news editor.

(d) Yes, because he spread misinformation.

2.3 Suppose B makes a false claim to obtain some assistance from his neighbor C, who works at a mill nearby. Based on the passage above, can B be prosecuted under Section 52 of the Disaster Management Act?

(a) Yes, because he made a false claim for obtaining assistance from

(b) No, because such frivolous claims do not require litigation.

(c) Yes, because his actions were a nuisance to his neighbor.

(d) No, because he did not make the false claim of obtaining assistance from an official authority.

2.4 What is the maximum term of imprisonment for an officer who refuses or withdraws to perform a duty assigned to him under the Disaster Management Act?

(a) Six months

(b) Ten months

(c) One year.

(d) Two years.

ANSWERS

1.1 Answer: (b)

Rationale:

The correct answer is (b): The author is concerned as to why Article 11(1) of the Universal Declaration of Human Rights was not applied in the present case for granting bail. As mentioned in the second paragraph of the passage, the author's primary concern is regarding the non-invocation of the cardinal principle of criminal justice, "presumption of innocence until proven"guilty"—enshrined in Article 11(1) of the Universal Declaration of Human Rights, which has also been applied by the Indian judiciary in a number of cases. Option (a) is incomplete and too broad. Option (c) and (d) are irrelevant here.

1.2 Answer: (c)

Rationale: The correct answer is (c): "The personal liberty of an accused or convict is fundamental to procedures established by law. A careful reading of the third paragraph leads us to this straightforward answer where the Hon'ble Supreme Court while talking about Article 21 gave this view. The other options are incorrect.

1.3 Answer: (d)

Rationale: The correct answer is (d): The grant of bail is the general rule, and putting a person in Jail is an exception. Continuing to read the passage further in the third paragraph, we arrive at

this quoted statement held by the court. Option (a) has two parts, each of which is contradictory to the other. The same applies to option (c). Option (b) puts forward a vague statement. Hence, option (d) is the correct answer.

1.4 Answer: (b)

Rationale: The correct answer is (b): bail emanates from constitutional principles. A simple reading of the last paragraph, particularly the last line, would lead to this answer. Nowhere in the passage has bail been referred to as an act of charity, so this strikes out option (a) as an answer. Option (c) is incomplete as it fails to take into consideration the exceptions in this respect. Option (d) is also not mentioned explicitly anywhere in the passage.

2.1 Answer: (b)

Rationale: The correct answer is (b): no because Section 188 IPC cannot be invoked by Mr. Y against his employee. Applying the principle from the passage to the factual situation, we can clearly see the reason why A will not be held guilty. All the other options are incorrect.

2.2 Answer: (b)

Rationale: The correct answer is (b): yes, because he made and circulated a false warning regarding the cyclone. A simple application of the principle of the law mentioned in the passage leads us to the correct answer. Option (d) is ambiguous and unrelated. The other options are incorrect.

2.3 Answer: (d)

Rationale: The correct answer is (d): no because he did not make the false claim of obtaining assistance from an official authority. A careful reading of Section 52, as mentioned in the passage would easily lead us to the correct answer. The main thing to keep in mind here is that the assistance was not from an “official authority”.

2.4 Answer: (c)

Rationale: The correct answer is (c): one year. A reading of the paragraph under the heading “for refusing to do duties” in the passage helps us arrive at the correct answer.

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