SUMMARY

CRIMINAL PAPER

SUB TOPIC - I

SCHEME FOR GRANT OF COMPENSATION UNDER SECTION 357 OF CODE OF CRIMINAL PROCEDURE;

1. The law which enables the Court to direct compensation to be paid to the dependents is found in Section 357 of Cr.P.C. According to Section 357, the Court is enabled to direct the accused, who caused the death of another person, to pay compensation to the persons, who are, under the Fatal Accident Act, 1855, entitled to recover damages for the loss resulting to them from such death. The object of the section therefore, is to provide compensation payable to the persons who are entitled to recover damages from the person even though fine does not form part of the sentence.

2. By Section 357 (3) when a Court imposes a sentence, of which fine does not form a part, the Court may direct the accused to pay compensation. In awarding compensation it is necessary for the Court to decide whether the case is fit one in which the compensation has to be awarded. If it is found that compensation should be paid, the capacity of the accused to pay compensation has to be determined. In directing compensation, the object is to collect the fine and pay it to the person who has suffered the loss. The purpose will not be served if the accused is not able to pay the fine or compensation for, imposing a default sentence for non-payment of fine would not achieve the object. If the accused is in a position to pay the compensation to the injured or his dependents to which they are entitled to, there could be no reason for the court not directing such compensation. When a person, who caused injury due to negligence or is made vicariously liable is bound to pay compensation. It is only appropriated to direct payment by the accused who is guilty of causing an injury with mens rea to pay compensation for the person who has suffered injury.

3. While awarding the compensation the Court must take into the account the nature of crime, the injury suffered, the justness of the claim for compensation, the capacity of the accused to pay and other relevant circumstances. If there are more

than one accused, quantum of compensation may be divided equally unless there is considered variation in their paying capacity. The payment may vary depending upon the acts of each accused. Reasonable period for payment for compensation, if necessary, by installments, may also be given. The Court may enforce the order by imposing sentence in default.

4. Section 357 (1) deals with situation when a Court imposes fine or sentence (including sentence of death) of which fine also forms a part. It confers a discretion on the Court to order as to how the whole or any part of the fine recovered is to be applied for bringing in application of Section 357 (1), it is statutory requirement that fine is imposed and thereupon to make further orders as to the disbursement or the said fine in the manner envisaged therein.

5. Sub-section (3) of section 357 (1) on the other hand deals with the situation where fine does not form part of the sentence imposed by a court. In such a case the Court while passing a judgment can order the accused persons to pay by way of compensation such amount as may be specified in the order to the person who has suffered a loss or injury by reason of the act of which the accused person has been so convicted and sentenced.

6. The basic difference between sub-section (1) and (3) of Section 357 is that in the former case, the imposition of the fine is the basic and essential requirement, while in the latter even in the absence thereof court can direct payment of compensation. Such power is available to exercised by the appellate Court or by the High Court or Court of Sessions when exercising revisional powers. However, the appellate or revision Court can award compensation only after giving accused an opportunity of hearing. The power of court to award compensation under Section 357 of Cr.P.C. is not ancillary to power to award other sentences. It is in addition thereto.

PERSON ENTITLED TO GET COMPENSATION;

7. Ideally, all victims of all crimes should be entitled to get compensation. Under different laws and court verdicts persons have been declared entitle to get compensation for their suffering. The victim may be, the person himself or the successors or the person, who are successor in interest and dependent upon the deceased. Justice requires that a person who has suffered (including dependents)

must be compensated. Basically, the accused is responsible for the reparation of any harm caused by him. However, it might be that the accused, being too poor, is unable to make any payment or otherwise unable to compensate the victim. In such situation, the State, that has failed to protect the life, liberty and property of its citizens should compensate the victim for loss and suffering.

8. A victim should be eligible for compensation whether the offender is convicted or not or whether the offender is not responsible for the offence because of infancy, insanity etc. compensation may be withheld or reduced if the victim himself has a criminal record or he is injured because of his own conduct, or he failed in his duty to inform the police without delay or refused to co-operate in the investigation.

9. In the case of **Suresh V/s State of Haryana, 2015 (3) Mh.L.J. (Cri) 565**, the Hon'ble Apex Court held;

"we are of the view that it is the duty of the courts, on taking cognizance of a criminal offence, to ascertain whether there is tangible material to show commission of crime, whether the victim is identifiable and whether the victim of crime needs immediate financial relief. On being satisfied on an application or on its own motion, the court ought to direct grant of interim compensation, subject to final compensation being determined later. Such duty continues at every stage of final hearing. It is obligatory on the part of the court to advert to the provision and record a finding whether a case for grant of compensation has been made out and, if so, who is entitled to compensation and how much. Award of such compensation can be interim. Gravity of offence and need of victim are some of the guiding factors to be kept in mind, apart from such other factors as may be found relevant in the facts and circumstances of an individual case. We are also of the view that there is need to consider upward revision in the scale for compensation and pending such consideration to adopt the scale for compensation notified by the State of Kerala in its scheme, unless the scale awarded by any other State or Union Territory is higher. The States of Andhra Pradesh, Madhya Pradesh, Meghalaya and Telengana are directed to notify their schemes within one month from receipt of a copy of this order. We also direct that a copy of this judgment be forwarded to National Judicial Academy so that all judicial officers in the country can be

imparted requisite training to make the provision operative and meaningful."

10. In a very recent case of **Manohar V/s State of Rajasthan, 2015 (4) Mh.L.J. 270**, the Hon'ble Apex Court held that;

"The court has to give attention not only to the nature of crime, prescribed sentence, mitigating and aggravating circumstances to strike just balance in needs of society and fairness to the accused but also to keep in mind the need to give justice to the victim of crime. In spite of legislative changes and decision of this court, this aspect at times escapes attention. Rehabilitating victim is as important as punishing the accused. Victim's plight can not be ignored even when a crime goes unpunished for want of adequate evidence".

11. However, if the accused does not have the capacity to pay the compensation or the compensation awarded against the accused is not adequate for rehabilitation of the victim, the court can invoke section 357A to recommend the case to the state / District legal services Authority for award of compensation from the state funded Victim compensation fund under the Maharashtra Victim compensation scheme, 2013. Section 357 Cr.P.C. is mandatory and it is the duty of all courts to consider it in every criminal case. The court is required to give reasons to show such consideration.

12. The scheme implemented by the State Government viz. "Manodhairya". As per scheme the State would give monetary compensation in the range of Rs. 2 lacs to 3 lacs to victims of crime especially of rape, child sex abuse and acid attacks. Victims who suffer from complete disfigurement of face or physical handicap in acid attack will get compensation of Rs. 3 lacs while in case of minor injuries Rs. 50,000/- There is also provision to held women and child victims meet emergency expenses up to Rs. 50,000/- apart from a host of support services to victims such as housing, counsellings, medical and legal aid, education and vocational training that the scheme offers.

13. Section 431 of the Code of Criminal Procedure clearly provides that the amount of compensation awarded under section 357 (3) will be recoverable in the same way as if it were a fine. Section 421 Cr.P.C. further provides the mode of recovery of a fine. It clearly provides that a person can be imprisoned for nonpayment of fine. Therefore going by the provisions of the code, the intention of

the legislature is clear to ensure that mode of recovery of a fine and compensation is on same footing.

DISPOSAL OF PROPERTY :

14. Sections 451 to 458 of the Code of Criminal Procedure deals with disposal of property. Under the code of criminal procedure there are three different provision for different stages at which the court may pass suitable orders for the disposal of property.

I) Before the court receives a charge sheet, the matter is covered by section 457 of the code. Where an inquiry or trial has not been commenced, the proper section to be applied is section 457.

II) During the pendency of an inquiry or trial the matter comes within Section 451 of the Code; and

III) on the conclusion of an inquiry or trial, the matter comes within the purview of section 452 of the code.

Property includes :

a) property of any kind or document which is produced before the court or which is in its custody.

b) any property regarding which appeared to have been used for the commission of any offence.

15. The Hon'ble supreme court in **Sunderbhai Desai V/s State of Gujarat (2002) 10 SCC 283** held that the powers under Section 451 should be exercised expeditiously and judiciously. It would serve various purposes, namely;

1) Owner of the article would not suffer because of its remaining unused or by its misappropriation,

2) Court or the police would not be required to keep the article in safe custody.

3) if the proper panchanama before handing over possession of article is prepared, that can be used in evidence instead of its production before the court during the trial. If necessary, evidence could also be recorded describing the nature of the property in detail; and

4) This jurisdiction of the court to record evidence should be exercised promptly so that there may not be further chance of tampering with the articles.

DIRECTION IN CRIMINAL MANUAL

16. Para 67 to 82 of Chapter VI provide guidelines in respect of disposal of property. In order to avoid loss of muddemal properties in disposed of cases

a) The property in non-appeallable cases should be disposed of as soon as possible after decision of the case.

b) In appellable cases;

i) if appeal lies to the sessions court and no intimation of an appeal having been filed has been received, the property may be disposed of after 90 days from the date of decision.

ii) If appeal lies to the High Court, but arises from the order of the Sessions Court and no intimation of an appeal having been filed has been received, the property may be disposed of after one year from the date of decision of the Sessions Court.

iii) If appeal has been filed the property shall not disposed of until the appeal is decided.

For the rules to conduct the sale of confiscated property (auction sale) see para 82 of Chapter VI of Criminal Manual.

DISPOSAL OF GOLD ORNAMENTS

17. As regard the disposal of ornaments coming into their possession, the courts can not be treated as dealers as they will not be selling the ornaments in the sense of carrying on any business. The Court would, therefore, stand on par with private individuals. In such cases, there is no instruction regarding the purity of the gold ornaments sold. In other words, the court will be free to sell ornaments of over 14 caret purity as well, to any purchaser, irrespective of whether he is a private individual or a dealer.

DISPOSAL OF NON-ORNAMENTAL GOLD

18. Whenever, non-ornamental gold in the custody of a court is to be returned, the owner, if he is not licensed dealer, should be required to obtain necessary authorization or permit from the Deputy Secretary, regional office of the Gold Control Administration.

DISPOSAL OF FORGED COINS AND CURRANCY NOTES

19. The Court should transmit to Treasuries coins coming before it under Sections 452,457 and 458 of Cr.P.C. 1973, together with short description of the case and any implements such as dies, molds etc. which may have been found, for being sent on by the Treasuries to the Mint through the Deputy Inspector General of Police, CID

In case of forgery of currency notes all molds, dies and other instruments produced in the case should be delivered to the District superintendent of police.

DISPOSAL OF CONFISCATED ARTICLES UNDER THE MAHARASHTRA PROHIBITION ACT 1949 ;

20. The confiscated articles shall be made over to the collector of excise for disposal or shall be disposed of under the orders of Collector of Excise.

DISPOSAL OF USEFUL AGRICULTURAL IMPLEMENTS (I.E. AXES, CROWBARS, SICKLE ETC.)

21. Such implements, if not covered by the Indian Arms Act, should be disposed of by public auction and amount realized should be credited to the Government. If such articles cannot be sold as agricultural implements, it be sold as scrap by public auction and sale proceeds may be credited to the Government.

DISPOSAL OF WEAPONS ;

22. The weapons like swords, big knives, scimitars, spear etc. should be sent to the District Magistrate for disposal of after confiscating them.

MAGISTRATE NOT TO DECIDE OWNERSHIP IN MANNER OF CIVIL COURT ;

23. Where there are rival claims to a seized vehicle, the property should be released only to person who has the rightful or lawful title to hold the property. The Magistrate has to come to a prima-facie conclusion and has not to decide the question of title in the manner of a Civil Court.

INDIAN FOREST ACT, 1927

BAR OF JURISDICTION IN CERTAIN CASES

24. The Forest Act is self contained legislation laying down the procedure for release and confiscation. S.61-A confers jurisdiction to direct confiscation on an

officer authorized by the Government in this behalf by notification in official gazette. S. 61-G provides that it is only the officer authorized under S. 61-A or the officer specially empowered under section 61-C or the sessions judge hearing the appeal under S. 61-D who shall have the power to deal with the matter relating to confiscation and notwithstanding anything to the contrary contained in this Act or in the code of criminal procedure 1973 or any other law for the time being in force, no other officer, court, tribunal or authority shall have the jurisdiction to make an order with regard to the custody, possession, delivery or distribution of such property including vehicle. (**State of Goa V/s Devanand Shrikant Naik J.T. (2001) 10 SCC 180**)

ESSENTIAL COMMODITIES ACT, 1955

S.6-E. JURISDICTION IN CERTAIN CASES

25. Whenever any essential commodity is seized in pursuance of an order made under Section 3 in relation thereto, or any package, covering or receptacle in which such essential commodity is found, or any animal, vehicle, vessel or other conveyance used in carrying such essential commodity is seized pending confiscation under S 6-A, the collector or, as the case may be the judicial authority appointed under S.6-C, shall have, and, notwithstanding anything to the contrary contained in any other law for the time being in force, any other court, tribunal or authority shall not have, jurisdiction to make orders with regard to the possession, delivery, disposal, release or distribution of such essential commodity, package, covering receptacle animal, vehicle, vessel or other conveyance.

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SUB-TOPIC- II

RECORDING OF STATEMENT UNDER SECTION 164 OF CODE OF CRIMINAL PROCEDURE ;

1. Normally, statements in the Court are recorded under Sec.162. Under Sec.164, the confession of the accused is recorded, so also, the statements of the witnesses. As per Sec.164(1) of Code, Judicial Magistrate or Metropolitan Magistrate, whether or not having jurisdiction in the case can record any statement or confession made to him in the course of investigation. Section 164(5) of Code empower the Judicial Magistrate to record statement (other than the confession) which is in the opinion of the Magistrate a best fitted to the circumstances of the case. The Magistrate is also empowered to administer the oath to the person making such statement. The statements of the witnesses recorded in the course of investigation under Sec.164 shall be forwarded to the Judge by whom the case is enquired into or tried.

2. The term ' statement ' is not defined anywhere in the Act. However,it has got wide connotation. Section itself contemplates that statement which is either written by the witness himself or reduced to writing by someone else and so, the statement recorded under Sec.164 is previous statement of the witness. The Section speaks of " in his confession or statement " . It may be the statement of an accused person which is a non confessional statement or of a witness capable of giving useful information relating to an offence. The word statement means a statement of a witness and does not mean a statement of the accused person. Section 164 of the Code does not provide for recording of any statement of an accused person other than confession. This Section specifically provides record of two clause of a thing i.e. I) the statement of the witness and 2) confession of a person accused of an offence. The word statement in sub-clause (1) has been used in wider sense and may include statement either of a person or even of a different person and they would have recorded in course of Chapter XII if they were intended to be a statement made during investigation. The statements which were made by the person at identification parade are nothing but the statement under Sec.164 of the Code. A statement made under Sec.164 of the Code is inadmissible in the evidence

and may be used to corroborate or contradict a statement made in the Court in the manner provided under Sec.145 and 157 of the Evidence Act. The statement made under this Section cannot be used as substantive piece of evidence. But, it can be used for the purpose of corroboration. It can be used to cross-examine the person who made it to show that the evidence of the witness is false but that does not establish that what is stated out of the Court under this Section is true. A statement made by a witness under Sec.164 can be used for the purpose of cross-examining him and discrediting his evidence in the Court.

THE NEED FOR RECORDING STATEMENT UNDER SEC.164 OF CODE ;

3. A question may arise as to why there is need to record the statement under Sec.164 in addition to statement recorded under Sec.162 of the Code. The object of recording of statements of witnesses under Sec.164 of the Code is two fold ;

i) to deter witnesses from changing their version subsequently and

ii) to get over the immunity from the prosecution in regard to information given by the witnesses under Sec.162 of the Code,

The another reason of recording statement of witnesses under Sec.164 is to minimize the chances of changing the version by the witnesses at the trial under the fear of being involved in perjury.

4. A question may also arise as to why the Magistrate is empowered to record statement in addition to the statements recorded by police under Sec.162 of the Code and particularly when Sec.145 apparently does not distinguish between the statement under Sec.162 or 164 and there is no additional weightage is given to the statements recorded under Sec.164 for the purpose of contradicting the witness. The object behind it that when during the course of investigation police records the statements under Sec.162, they cannot be administered oath to the person making statement and cannot obtain his signature, but under Sec.164, a Magistrate recording statement of a person can administer oath to him and obtain his signature over the statement. The person making and signing a statement before the Magistrate during investigation will not disown it and will suport the case of prosecution. Certainly if a person makes and signs a statement then naturally he comes under moral obligation and chances of his turning hostile will be reduced. In

our social condition prevailing in our country tampering of prosecution witnesses is favourate pastime. So getting statement recorded by the Magistrate is the recognized method to deter prosecution witnesses from changing their versions subsequently.

PROCEDURE TO BE FOLLOWED BY THE MAGISTATE;

5. Any Magistrate may record any confession or statement made to him in the course of an investigation under this Chapter or under any other law for the time being in force, or at any time afterwards but before the commencement of the enquiry or trial. In view of Sec.164(5) of the Code, it appears that it does not speak whether the signature of the witness making statement is to be obtained or not. In fact, it specifically states that the Magistrate shall record the statement of the witnesses in a manner provided for recording of evidence. While recording of evidence of a person we do not obtain signature whose evidence is being recorded. That itself means while recording a statement there is no need to obtain the signature of witness who is making his statement before the Magistrate. Thus, after recording a statement of witness, a Magistrate should endorse his certificate at the foot of such statement. The statement recorded under Sec.164 of the Code is the public document according to the Section 74 of the Evidence Act. Such statement is admissible in evidence under Sec.80 of the Evidence Act.

6. In case of **Kasmira Singh V/s State of M.P.,AIR 1952 SC 159**, it is observed that, " in case witness denies the fact of recording of his statement by Magistrate or if he denies specific portion of his statement to be not told by him, examination of Magistrate not necessary to prove contradiction which is unlike the case of statement recorded by police under Sec.162".

7. In case of **Guruvind Palli Anna Rao V/s State of A.P.2003 Cri.L.J.3253**, it has been specifically observed that, " statement of witnesses recorded under Sec.164 is public document which does not require any formal proof. Hence, summoning of Magistrate by Sessions Court to prove contents of said statement is improper. Section 80 of the Evidence Act states that whenever any document is produced before any Court, purporting to be a record or memorandum of the evidence or any part of the evidence, given by witness in a judicial proceeding or before any officer authorized by law to take such evidence or to be a statement or

confession by any prisoner or accused person, taken in accordance with law, and purporting to be signed by any Judge or Magistrate, or by any such Officer as aforesaid, the Court shall presume that the document is genuine, that any statement as to the circumstances under which it was taken, purporting to be made by the person signing it, are true, and that such evidence, statement or confession was duly taken".

8. As per Section 80 of the Evidence Act, if the statement which bears the signature of the maker can only come under the perview of Section 80. In such situation if the statement bears the signature of the maker then and then only a statement can be held as public document and the presumption under Sec.80 can be made applicable to it. If the statement does not bear the signature of maker, then it cannot be considered as public document and no presumption under Sec.80 can be applied to it in spite of the endorsement of the Magistrate who has recorded the statement. In such circumstances, it is incumbent on the prosecution to adduce the evidence of Magistrate in order to prove the contents of the statement for making its use in the trial.

9. In case of **Patiram V/s State of Maharashtra, 2003 Cri.L.J.4718**, the statement recorded under Sec.164 is part and parcel of the case diary of investigation. Even in the charge-sheet, there should be mentioned of recording of statement by the Magistrate. Section 207(iv) specifically states that the copies of confession and statement recorded under Sec.164 has to be supplied to the accused before committing the case under Sec.209 of the Code.

10. In the Section 164, there is no specific embargo that only particular set of persons can record their statement. The basic important thing is that such person should be capable of giving useful information relating to an offence. Thus, a statement under Sec.164 may be recorded by a Magistrate not only at the instance of police but also, at the instance of the accused, or the witness or the aggrieved person during investigation only or any time afterwards but, before the commencement of the enquiry or trial by ensuring that the same is voluntary. It should not be out of any fear or favour and there is no policeman present while the same is recorded.

11. Both the statements recorded under Secs.162 and 164 of the Code are the

previous statements to invoke Sec.145 of the Act. In the case of **Tahsildarsing V/s State of U.P.AIR 1959 SC 1012**, the basic requirement of Sec.145 of the Act is that there must be two contradictory statements of the same person available on record. It is matter of right of a party to cross-examine a witness as to his previous statement if it is relevant to the matter in question. A Court cannot refuse to allow the cross-examination of a witness with reference to his previous statement on the ground that the document which contained statement is not being produced at the time of cross-examination. If person is not examined as a witness in a case, his previous statement cannot be used to contradict the other evidence. Section 145 makes it necessary to put the previous statement to a witness, if a witness does not go to the witness box, the process cannot be adopted. But that does not entitle a Court to use previous statement to contradict him in his present case. A witness whose previous statement is recorded under Sec.164 not entered in the witness box and subsequently introduced as a defence witness then he cannot be contradicted under Sec.145 of the Act with his previous statement. The previous statement of witness can be proved ordinarily by the admission of the witness himself or by the evidence of a person who has recorded it. Section 145 of the Act specifically provides cross-examination of the previous statement of the witness himself but not of the statement of third parties.

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SUB TOPIC- III

BAIL IN DEFAULT AND BAIL BY MAGISTRATE;

1. There is no definition of bail in the Criminal Procedure Code although the term ' bailable offence and non-bailable offence ' has been defined. The bail has been defined in the law lexicon as security for the appearance of the accused person from legal custody, by undertaking that he shall appear at the time and place designated and submit himself to the jurisdiction and judgment of the Court.

2. The release on bail is crucial to the accused as the consequences of pre trial detention are grave. The jail accused looses his job and is prevented from contributing effectively to the preparation of his defence. Equally important, the burden of his detention frequently falls heavily on the innocent member of his family. Therefore, the law of bail attempts to devise such system and to operate it in such a manner as to enable it to release on bail maximum number of accused without seriously endangering the objectives of arrest and trial.

BAIL IN DEFAULT/ STATUTORY BAIL ;

3. Bail under Sec.167(2) of Cr.P.C.is known as default bail. The accused is entitled to be released on bail on account of default on the part of prosecution to file charge-sheet under Sec.173(2) within the prescribed of 60 or 90 days. The period of 60 or 90 days commences from the date of the production and not from the date of arrest.

INDEFEASIBLE RIGHT OF ACCUSED ;

4. The indefeasible right accruing to the accused is enforceable only prior to the filing of the challan and it does not survive to remain enforceable on the challan being filed, if already not availed of. Once the challan has been filed, the question of grant of bail has to be considered and decided only with reference to the merits of the case under the provisions relating to grant of bail to an accused after the filing of challan. The custody of the accused after the challan has been filed not governed by Sec.167 of Cr.P.C.

5. In case of **Uday Mohanlal Acharya V/s State of Maharashtra, AIR 2001, SC 1910**, it is held that application under Sec.167(2) must be decided forthwith. However, if accused failed to furnish surety after passing of bail and in

the meanwhile charge-sheet is filed, then indefeasible right of accused of default bail get extinguished.

6. It is also observed in the case of **Union of India V/s Nirala Yadav, 2014 Cri.L.J.3952 (SC).** Sec.167- Statutory bail – grant of – initial period for filing charge-sheeet is 90 days – prosecution neither filed charge-sheet prior to date of expiry of 90 days – nor filed an application for extension of its time – asking accused to fiile re-joinder affidavit to application for extension of time filed subsequently – is improper – application for statutory bail has to be decided on same date it is filed.

7. It is observed in the case of **Shivaji Jaibhaye V/s State of Maharashtra, 2010, All MR (Cri) 3794** that the period of 90 days to be completed from the 1st day the accused is produced along with remand report before the Magistrate.

BAIL BEFORE MAGISTRATE ;

8. As per Section 436(1), the Magistrate may release the accused by an order to execute the bond and without surety. In bailable cases, the accused may be released on bail. But no bail can be granted where the accused appears on reasonable ground to be guilty of an offence punishable either with death imprisonment for life. But, the rule does not apply to the person is under 16 years of age, woman or a sick or infirm person. If the arrested person is accused of a bailable offence and he is an indigent and cannot furnish surety. The Court shall release him on execution of bond without sureties. The power of Magistrate to grant bail does not depend upon his competence to try the case, but on the punishment prescribed for the offence.

9. Where under trial prisoners were detained in jail for a period beyond the maximum period of imprisonment provided for the alleged offence. A new Section 436-A is brought to provide that where an under trial prisoner other than the offence for which death has been prescribed as one of the punishment, has been under detention for a period extending to ½ of the maximum period provided for the alleged offence, he should be released on his personal bond with or without surety.

10. It is held in the case of **Bhimsing V/s Union of India, Writ Petition**

No.310/2005, by Hon'ble Apex Court that Magistrate, Sessions Judge shall hold one sitting in jail and identify the UTP who have completed half period of sentence and who had exceeded it may be released.

11. Section 437 of Cr.P.C. gives the power to the Court other than the High Court or Court of Sessions to release the accused on bail in non-bailable cases, except where there appear reasonable ground that the accused has been guilty of an offence punishable with death or with imprisonment for life.

12. In the case of **State of Rajasthan V/s Balchand, AIR 1977 SC 2447**, Hon'ble Apex Court has observed that basic rule is bail and not jail.

13. Hon'ble Justice Krishna Iyer in the matter of **A.K.Khan V/s State of Gujrat, 1990(1) Crimes 182** observed, " the issue of bail is one of the liberty, justice, public safety and the burden of public treasury of all which insists that a developed jurisprudence of bail is integral to a socially sensitize judicial process. After all personal liberty of an accused or convict is fundamental suffering lawful eclipe only in terms of procedure established by law".

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LIST OF JUDGMENTS

1) **State of M.P.V/s Mehataab, 2015(4) Mh.L.J.(Cri) 688**,

In this case, the accused has caused the death by negligence.

The Hon'ble Apex Court has awarded compensation of Rs.two lakhs to the heirs of deceased.

2) **Manohar Singh V/s State of Rajasthan, 2015(4) Mh.L.J.268**,

wherein it is held that,

" The Court has to give attention not only to the nature of crime, prescribed sentence, mitigating and aggravating circumstances to strike just balance in needs of society and fairness to the accused, but also to keep in mind the need to give justice to the victim of crime".

3) **Laxmi V/s Union of India & Ors, AIR 2005, Supreme Court 3662**

(B) Penal Code (45 of 1860), Section 326-A – Acid attack victims- Free treatment to be made available by Govct and private hospitals – States/U.Ts. to ensure that private hospitals do not refuse free treatment – Free treatment not only means provision of physical treatment to victim of acid attack but also availability of medicines, bed and food in the concerned hospital.

(C) Penal Code (45 of 1860), S.326-A – Acid attack victim – Free treatment – Hospital to issue certificate that individual is acid attack victim – Victim can use it for treatment and re-constructive surgeries or any other Govt. Scheme that victim may be entitled to".

4) **Anita W/o Rajendra Mishra V/s Arunkumar and others, 2016(1) Mh.L.J.29,**

The case filed for dishonour of cheque. The settlement arose between the parties in Lok Adalat in respect of compromise, the accused issued cheque in view of settlement which has been dishonoured and therefore, the complainant filed second complaint against the accused for dishonour of cheque. That cheque was not issued in discharge of debt or liability of company. It was issued on account of settlement arrived between the parties. It is held that, the order of taking cognizance of matter liable to be set aside and the complainant has given liberty for taking appropriate action for enforcement of settlement and for filing of

recovery suit.

5) **Chandrakant V/s State, AIR 2015 SC 3665**

It is held that while granting anticipatory bail when serious allegations of corruption and misappropriation of public funds released for rural development. Considering conduct of appellant investigation is held up as custodial interrogation of appellants could not be done due to anticipatory bail.

6) **Central Bureau of Investigation V/s Anju Pandey, 2015 Cri LJ 4488**

Police remand can be sought in respect of accused arrested at the stage of further investigation, if interrogation is needed by the investigating agency.

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