



## Surety Shouldn't Dictate Bail: SC

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### Why in News?

Recently, the [Supreme Court of India \(SC\)](#) addressed the complexities of **bail in a case** where an accused, granted bail in 13 criminal cases, **faced difficulties in securing sufficient sureties**.

- The **court recognised the challenges in securing sureties**, often relying on close relatives or friends.
- The court **emphasised balancing the accused's fundamental rights under Article 21** with ensuring his presence in court. [Article 21 protects the right to life and personal liberty](#), applicable to both citizens and non-citizens.

### What is Bail, Parole and Furlough?

- **Bail:** Bail is the **conditional/provisional release** of a person held **under legal custody**, by undertaking a **promise to appear in the Court as and when required**.
  - It signifies a **security/collateral deposited** before the Court for release.
  - In [Supt. and Remembrancer of Legal Affairs v. Amiya Kumar Roy Choudhry \(1973\)](#) case, the Calcutta High Court explained the principle behind giving Bail.
- **Types of Bail:**
  - **Regular Bail:** It is a direction given by the Court to release a person who is **already under arrest** and kept in police custody.
    - For such Bail, a person can file an application under **Section 437 and 439 of the CrPC** (now [Bharatiya Nagarik Suraksha Sanhita \(BNSS\)](#)).
  - **Interim Bail:** Bail granted for a **temporary and short period** by the Court till the application seeking Anticipatory Bail or Regular Bail is pending before a Court.
  - **Anticipatory Bail or Pre-arrest Bail:** It is a legal provision that allows an accused person to **apply for bail before being arrested**.
    - It is granted under **Section 438 of the CrPC (now BNSS)**. It is issued only by the Sessions Court and High Court.
- **Parole:** It is a system of **releasing a prisoner with suspension of the sentence**. The release is **conditional, usually subject to behaviour**, and requires **periodic reporting** to the authorities for a set period of time.
  - **Parole is not a right**, and is given to a prisoner for a **specific reason**, such as a death in the family or a wedding of a blood relative.
  - It **may be denied to a prisoner even when he makes out a sufficient case**, if the competent authority is satisfied that releasing the convict would not be in the interest of society.
- **Furlough:** It is **given in cases of long-term imprisonment**. The period of furlough granted to a prisoner is **treated as remission** of his sentence.
  - Unlike parole, furlough is seen as a **matter of right for a prisoner**, to be **granted periodically** irrespective of any reason, and **merely to enable the prisoner to retain family and social ties**, and to counter the ill-effects of prolonged time spent in prison.
- Both parole and furlough are considered as **reformative processes**. These provisions were introduced with a view to humanising the prison system. Parole and furlough are covered under

the [Prisons Act of 1894](#).

## UPSC Civil Services Examination, Previous Year Question (PYQ)

**Q. With reference to India, consider the following statements: (2021)**

1. When a prisoner makes out a sufficient case, parole cannot be denied to such prisoner because it becomes a matter of his/her right.
2. State Governments have their own Prisoners Release on Parole Rules.

**Which of the statements given above is/are correct?**

- (a) 1 only
- (b) 2 only
- (c) Both 1 and 2
- (d) Neither 1 nor 2

**Ans: (b)**

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