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BREAKING: #SupremeCourtOfIndia has ruled that an accused has a right to bail if his arrest was in violation of Sections 41 and 41A of CrPc. The SC made these observations in the case of Satender Kumar Antil vs Central Bureau Of Investigation

SC had already laid down guidelines w.r.t grant of bail to accused who are not arrested during investigation on charge sheet being filed. Detailed guidelines were given by the SC for bail under three different categories of offences

Category A - offences punishable with imprisonment of 7 years or less;
Category B - offences punishable with death, imprisonment for life, or imprisonment for more than 7 years, including economic offences under special acts;
Category C - Offences punishable under Special Acts;

Category D - Economic offences not punishable under special acts.
For each category, the SC had prescribed separate and detailed guidelines for procuring bail

However, despite such guidelines, the SC found various Special Leave Petitions pending before it, challenging rejection of bail.

SC noted that 2/3rd of prisoners in Indian jails jails India are prisoners awaiting trial. Out of this majority may not even be required to be arrested despite registration of cognisable offences, as they are charged with offences punishable for 7 years or less.

As per the guidelines of the SC, bail applications of accused charged with offences punishable with 7 years or less imprisonment can be decided without taking the accused into custody or by granting interim bail till the bail application is decided. hence, no need for arrest

SC noted that such acts "certainly exhibits the mindset, a vestige of colonial India, on the part of the Investigating Agency"

The SC has also noted that Section 41 and 41A of the CrPC are important facets of the freedom of life and personal liberty under Article 21 of the Constitution.

Section 41 of CrPC lays down cases in which a police officer can arrest an accused without a warrant and Section 41A contemplates notice of appearance before police officer where the officer feels arrest of the accused is not required under Section 41

The SC held that Section 41 and 41A are facets of the freedom of life and personal liberty under Article 21 of the Constitution. These sections place checks and balances against the otherwise unbridled power of a police officer to arrest someone.