

A STUDY OF UNDERTRIAL PRISONERS IN INDIA THROUGH A SOCIO-LEGAL LENS

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ABSTRACT

India's prison system harbors a profound paradox, the overwhelming majority of its incarcerated population has not been convicted of any criminal offence. Undertrial prisoners those detained pending completion of trial constitutes approximately 75.8% of India's total prison population, as recorded in NCRB Prison Statistics 2022. This figure is not merely a statistical anomaly; it is a systemic indictment of India's criminal justice infrastructure. The present paper examines the undertrial crisis through a socio-legal lens, situating it at the intersection of constitutional guarantees, judicial interpretation, and socio-economic marginalization. It analyses the framework under Articles 14, 21, and 22, the evolution of bail jurisprudence, and key judicial pronouncements including Hussainara Khatoon, Satender Kumar Antil, and Maneka Gandhi. It further critiques structural impediments judicial delay, poverty-driven detention, inadequate legal aid, and discriminatory bail conditions that render the process itself a form of punishment. The paper evaluates post-2020 legislative developments including the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, and the functioning of Undertrial Review Committees. It concludes with reform proposals anchored in access to justice and constitutional dignity.

Keywords: *Undertrial Prisoners¹, Criminal Justice System², Socio-Legal Analysis³, Human Rights⁴, Judicial Delay⁵.*

1. INTRODUCTION

The presumption of innocence *ei incumbit probatio qui dicit, non qui negat* is a foundational axiom of criminal jurisprudence. Yet in India, this principle operates in inverse fashion for a significant majority of imprisoned persons. As of 2022, out of 5,73,220 total prisoners in India, 4,34,302 were undertrials, ¹ a figure that exposes the structural dysfunction embedded within the criminal justice system. Unlike convicted prisoners, undertrials are legally innocent; their detention is not punitive but preventive or procedural yet the material reality of their

¹ NCRB PSI 2022, Table 4.1: Total undertrial prisoners recorded as 4,34,302 out of a total prison population of 5,73,220.

incarceration is indistinguishable from punishment. The undertrial crisis is not merely a problem of court backlog. It is a socio-legal phenomenon rooted in poverty, caste, illiteracy, and institutional neglect. Marginalized communities Scheduled Castes, Scheduled Tribes, religious minorities, and the urban poor are disproportionately represented in undertrial populations,² reflecting how criminal law can operate as an instrument of social control rather than justice. This paper interrogates these dimensions, arguing that prolonged undertrial detention constitutes a violation of Articles 14, 19, and 21 of the Constitution and demands urgent, multi-pronged reform.

2. CONCEPT AND MEANING OF UNDERTRIAL PRISONERS

An undertrial prisoner is a person accused of a criminal offence who remains in custody whether judicial or police remand awaiting completion of the trial. The term carries no discrete statutory definition under Indian law, though it is employed extensively in NCRB reports, judicial orders, and policy documents. Under the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, such persons are detained pursuant to remand orders under Section 187, the successor provision to Section 167 of the CrPC, 1973.³ The distinction between an undertrial and a convict is not merely semantic it carries profound constitutional significance. The former retains the presumption of innocence; detention is legally justified only to ensure availability for trial, not to serve as a pre-adjudicatory sanction. The Supreme Court in *Hussainara Khatoon v. State of Bihar*⁴ categorically held that the right to a speedy trial is an intrinsic component of the right to life under Article 21, directly implicating the constitutional validity of extended undertrial detention. The concept therefore bridges criminal procedure, constitutional law, and sociological analysis.

3. CONSTITUTIONAL AND LEGAL FRAMEWORK

The constitutional architecture governing undertrial prisoners is multi-layered and deliberately protective. Article 21 guarantees the right to life and personal liberty, which the Supreme Court in *Maneka Gandhi v. Union of India*⁵ expanded to encompass a substantive fairness standard: any deprivation of liberty must be just, fair, and reasonable in procedure, not merely procedurally authorized by statute. Article 22 provides explicit procedural protections the right to be informed of grounds of arrest, the right to legal counsel of one's choice, and mandatory production before a Magistrate within 24 hours.⁶ Article 14 prohibits arbitrary state action, including detention that is capricious or disproportionate. Statutorily, the CrPC provided for bail under Sections 436–439, now transposed to Sections 478–483 BNSS. Section 436A CrPC now Section 479 BNSS mandates that an undertrial who has completed half the maximum prescribed sentence must ordinarily be released on

² NCRB PSI 2022, Table 4.3: Caste-wise Distribution of Undertrial Prisoners; see also Table 4.4: Religion-wise Distribution of Undertrial Prisoners.

³ Bharatiya Nagarik Suraksha Sanhita, 2023 (Act No. 46 of 2023), s. 187 (remand provision); s. 479 (bail after serving one-third of maximum sentence).

⁴ *Hussainara Khatoon v. State of Bihar*, (1980) 1 SCC 81 (Supreme Court of India).

⁵ *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248 (Supreme Court of India), per Krishna Iyer J. (procedure must be just, fair, and reasonable to satisfy Art. 21).

⁶ Constitution of India, 1950, Art. 22(1)–(2): rights upon arrest including immediate communication of grounds, right to consult legal counsel, and production before Magistrate within 24 hours

bail.⁷ The Legal Services Authorities Act, 1987 imposes an obligation on the State to provide free legal representation to persons who cannot afford counsel.⁸ Together, these provisions constitute a normative framework that should prevent mass pre-trial incarceration yet, as the following sections demonstrate, their implementation has been chronically deficient.

4. SOCIO-ECONOMIC PROFILE OF UNDERTRIAL PRISONERS IN INDIA

NCRB Prison Statistics 2022 reveals that Scheduled Castes and Scheduled Tribes together constitute approximately 21.0% of the undertrial population,⁹ disproportionate to their combined share of the general population a figure that speaks directly to structural inequalities in policing, prosecution, and bail adjudication. More strikingly, data on educational attainment indicates that a substantial majority of undertrials are illiterate or have not completed secondary schooling,¹⁰ severely restricting their capacity to navigate legal procedures without assistance. Religion-wise distribution further reveals community-specific vulnerabilities: Muslims constitute approximately 20.2% of the undertrial population, measurably higher than their 14.2% share of the national population.¹¹ The gendered dimension adds another layer of complexity: women undertrials, though numerically smaller, face compounded disadvantages including inadequate prison facilities, social stigmatization, loss of custody of minor children, and heightened vulnerability to institutional abuse.¹² The National Human Rights Commission has consistently highlighted that undertrial detention disproportionately affects those without financial resources to secure bail bonds, effectively pricing liberty out of reach for the economically marginalized.¹³

5. CAUSES OF RISING UNDERTRIAL POPULATION

The undertrial crisis is causally complex. First, judicial pendency: as of 2023, over 5.02 crore cases were pending across Indian courts at all levels,¹⁴ with criminal matters comprising a dominant share. The Law Commission of India had warned as early as 1979 that congestion of undertrials in jails reflected a systemic failure in the administration of criminal justice.¹⁵ Second, the bail system structurally disadvantages the poor. Monetary bail and surety conditions under erstwhile Section 436 CrPC disproportionately burden those unable to furnish financial guarantees, resulting in continued detention not because of demonstrable flight risk or

⁷ Code of Criminal Procedure, 1973, s. 436A (bail after half the maximum sentence); Bharatiya Nagarik Suraksha Sanhita, 2023, s. 479 (enhanced provision for first-time offenders: one-third of maximum sentence).

⁸ Legal Services Authorities Act, 1987 (Act No. 39 of 1987), ss. 12–13: entitlement to free legal services for persons in custody and those unable to afford representation on account of poverty

⁹ NCRB PSI 2022, Table 4.3: SC/ST undertrials constitute approximately 21.0% of total undertrial population

¹⁰ NCRB PSI 2022, Table 4.6: Educational Status of Undertrials significant proportion recorded as illiterate or below secondary education level

¹¹ NCRB PSI 2022, Table 4.4: Muslims account for approximately 20.2% of undertrials against a 14.2% share of national population (Census 2011).

¹² NCRB PSI 2022, Chapter 5: Women Prisoners data on female undertrial population and special vulnerabilities; see also NCRB PSI 2022, Table 5.2

¹³ National Human Rights Commission (NHRC), *Annual Report 2021–22* (NHRC, Government of India, 2022): repeated observations on poverty as a determinant of pre-trial detention and systemic deficiencies in legal aid

¹⁴ National Judicial Data Grid (NJDG), Department of Justice, Ministry of Law and Justice, Government of India (data accessed 2023), available at <https://njdg.ecourts.gov.in>: total pendency exceeding 5.02 crore cases across all court levels

¹⁵ Law Commission of India, *78th Report: Congestion of Under-Trial Prisoners in Jails* (Government of India, 1979): comprehensive analysis of causes of undertrial accumulation and recommendations for bail reform

societal danger, but because of poverty. The Supreme Court in *Moti Ram v. State of Madhya Pradesh*¹⁶ specifically criticized the imposition of onerous surety conditions as constitutionally impermissible when applied mechanically without regard to the accused's economic circumstances. Third, inadequate legal representation persists despite statutory guarantees. NALSA's own data reflects significant vacancies in district legal aid panels and inadequate case preparation by appointed counsel.¹⁷ Fourth, investigative delays and systemic inefficiencies prolong remand periods. Fifth, the social stigma associated with arrest particularly for Dalit, tribal, and minority individuals diminishes the likelihood of bail being actively pursued or secured. These causes collectively construct a system in which pre-trial detention becomes structurally normalized rather than exceptional.

6. JUDICIAL APPROACH AND LANDMARK CASE LAWS

Indian superior courts have produced a rich jurisprudential corpus on undertrial rights, though consistent enforcement remains elusive. In *Hussainara Khatoon v. State of Bihar* (1980),¹⁸ responding to investigative journalism documenting systematic injustice in Bihar's prisons, the Supreme Court ordered the release of undertrials who had already served beyond the maximum sentence for their charged offence constitutionalizing the right to a speedy trial as inherent to Article 21. *Maneka Gandhi v. Union of India* (1978)¹⁹ recalibrated the Article 21 standard, holding that any procedure depriving personal liberty must satisfy tests of reasonableness, fairness, and justice a standard that renders arbitrary prolonged detention constitutionally void. In *Moti Ram v. State of Madhya Pradesh* (1978),²⁰ the Court struck down the practice of demanding immovable property sureties from impoverished accused as a precondition to bail, recognizing the direct connection between wealth and liberty. *Babu Singh v. State of Uttar Pradesh* (1978)²¹ further cemented the principle that bail is the rule and incarceration the exception, particularly for non-heinous offences.

Satender Kumar Antil v. Central Bureau of Investigation (2022)²² represents the most comprehensive contemporary judicial intervention. The Court issued structured guidelines directing all courts to proactively consider bail applications without insisting on prosecutorial notice for first-time offenders charged with offences punishable up to seven years; it categorized offences and corresponding bail standards, and directed High Courts

¹⁶ *Moti Ram v. State of Madhya Pradesh*, (1978) 4 SCC 47 (Supreme Court of India), per Krishna Iyer J.: surety and property conditions must not be so onerous as to make bail illusory for the poor

¹⁷ National Legal Services Authority (NALSA), *Annual Report 2022–23* (NALSA, Government of India, 2023): data on panel advocate vacancies, caseload statistics, and quality concerns in district legal aid delivery

¹⁸ *Hussainara Khatoon v. State of Bihar*, (1980) 1 SCC 81, *supra* note 5: speedy trial constitutionalized as component of Art. 21; direction for immediate release of undertrials having served beyond maximum sentence

¹⁹ *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248, *supra* note 6: Article 21 interpreted expansively to impose substantive constraints on deprivation of liberty

²⁰ *Moti Ram v. State of Madhya Pradesh*, (1978) 4 SCC 47, *supra* note 17: monetary bail conditions must be proportionate and non-discriminatory on grounds of economic status

²¹ *Babu Singh v. State of Uttar Pradesh*, AIR 1978 SC 527 (Supreme Court of India): bail is the rule and jail is the exception; liberty must not be withheld without compelling justification.

²² *Satender Kumar Antil v. Central Bureau of Investigation*, (2022) 10 SCC 51 (Supreme Court of India): comprehensive bail guidelines issued; courts directed to consider bail applications promptly; offences categorized for bail purposes; monitoring mechanism directed.

to monitor compliance. In *Arnab Manoranjan Goswami v. State of Maharashtra* (2021),²³ the Court unequivocally reaffirmed that personal liberty is a constitutional paramount, and that courts at all levels bear an independent duty to grant bail where the case for detention is not compelling. The cumulative trajectory of this jurisprudence is unambiguous: bail is a constitutional entitlement, not an executive concession.

7. ISSUES AND CHALLENGES

Despite progressive jurisprudence, structural challenges continue to perpetuate mass undertrial detention. Prison overcrowding is among the most acute: India's prisons operated at a national average occupancy rate of 131.4% as per NCRB 2022,²⁴ with several states recording far higher figures. Undertrials bear disproportionate responsibility for this overcrowding, as they constitute the dominant portion of inmates. The resulting conditions compromised sanitation, inadequate healthcare, and absence of rehabilitation infrastructure render custodial detention a punitive experience wholly disproportionate to its legal character as preventive detention. The bail system's structural regress persists despite judicial directions. A significant proportion of undertrials are detained for petty and non-violent offences including minor theft, simple assault, and low-quantity NDPS violations,²⁵ where bail ought ordinarily to be available. Judicial over-caution, prosecution resistance, and poverty of sureties compound the problem. The quality of legal aid is critically deficient: the Law Commission of India found that panel lawyers under District Legal Services Authority schemes frequently handle excessive caseloads, lack motivation due to inadequate remuneration, and provide representation that fails minimum standards of effectiveness.²⁶ Caste and community dynamics additionally complicate access: implicit bias within the investigative and adjudicatory process operates to the disadvantage of Dalit, tribal, and minority undertrials, producing a layered inequality that procedural reform alone cannot address.²⁷

8. RECENT DEVELOPMENTS AND REFORMS (2020–2025)

The period 2020–2025 has produced significant, if incremental, reform activity. The Bharatiya Nagarik Suraksha Sanhita, 2023, which replaced the CrPC, introduces Section 479 as an enhanced provision: first-time offenders who have served one-third rather than the earlier one-half of the maximum sentence are now expressly

²³ *Arnab Manoranjan Goswami v. State of Maharashtra*, (2021) 2 SCC 427 (Supreme Court of India): personal liberty is paramount; courts at all levels must exercise independent judgment in bail matters without deference to prosecution.

²⁴ NCRB PSI 2022, Table 3.2: Occupancy Rate of Prisons—national average occupancy 131.4%; several states including Uttar Pradesh, Uttarakhand, and Madhya Pradesh recording significantly higher rates

²⁵ NCRB PSI 2022, Chapter 4 (Offence-wise Distribution of Undertrial Prisoners): substantial proportion of undertrials detained for offences against property and minor IPC offences where bail eligibility should ordinarily apply

²⁶ Law Commission of India, *Report No. 266: The Arrears and Backlog—Creating Additional Judicial (wo)manpower* (Government of India, 2017): analysis of systemic delays in criminal courts and inadequacy of legal aid infrastructure; recommendations for structural reform

²⁷ Malcolm M. Feeley, *The Process is the Punishment: Handling Cases in a Lower Criminal Court* (Russell Sage Foundation, 1979): seminal socio-legal work establishing that the burdens of criminal procedure itself cost, time, social disruption constitute punishment independent of conviction.

eligible for bail, a meaningful liberalization in favour of undertrial rights.²⁸ The Supreme Court's directions in *Satender Kumar Antil* (2022) have animated bail reform discourse across High Courts. Simultaneously, the ongoing case of *In Re: Inhuman Conditions in 1382 Prisons*²⁹ has generated continuous directions addressing prison decongestion, including mandatory activation of Undertrial Review Committees (UTRCs) under Section 436A CrPC/479 BNSS, quarterly meetings at district level to identify eligible undertrial prisoners for release, and video conferencing of remand hearings. Implementation has been uneven: Maharashtra, Kerala, and Delhi report relatively better UTRC compliance, while numerous other states remain substantially deficient. The Ministry of Home Affairs' Prisons MIS platform has expanded data visibility regarding undertrial populations across states, though coverage and real-time accuracy remain incomplete.³⁰ These developments collectively signal institutional recognition of the problem but the gap between directive and implementation reflects the depth of systemic inertia.

9. COMPARATIVE PERSPECTIVE

A targeted comparative analysis illuminates viable reform pathways. In the United Kingdom, the Bail Act 1976 legislatively entrenches a statutory presumption in favour of bail, placing the burden on the prosecution to justify remand by reference to specified grounds risk of absconding, risk of reoffending, or risk of obstruction of justice.³¹ Pre-trial detention in England and Wales constitutes approximately 10–12% of the total prison population a fraction of India's 75% demonstrating the transformative effect of statutory presumption. In the United States, cash bail has attracted significant criticism as economically discriminatory, mirroring India's crisis in structural terms. However, states including New Jersey and California have enacted reform legislation replacing monetary bail with evidence-based risk assessment tools. New Jersey's Criminal Justice Reform Act (effective January 2017) achieved a 44% reduction in pre-trial detention within two years of implementation.³² These models statutory presumption of release, non-monetary conditions, and risk-based assessment offer conceptual templates for India, subject to adaptation to its federal structure, resource constraints, and evidentiary culture.

²⁸ Bharatiya Nagarik Suraksha Sanhita, 2023 (Act No. 46 of 2023), s. 187 (remand provision); s. 479 (bail after serving one-third of maximum sentence).

²⁹ Bail Act 1976 (c. 63) (United Kingdom), s. 4: statutory presumption in favour of bail; Ministry of Justice (UK), *Offender Management Statistics Bulletin* (2022): pre-trial detainees constitute approximately 10–12% of total prison population; New Jersey Criminal Justice Reform Act, P.L. 2014, c. 31 (effective 1 January 2017): evidence-based risk assessment replacing monetary bail; 44% reduction in pre-trial detention documented within two years of implementation.

³⁰ Code of Criminal Procedure, 1973, s. 436A (bail after half the maximum sentence); Bharatiya Nagarik Suraksha Sanhita, 2023, s. 479 (enhanced provision for first-time offenders: one-third of maximum sentence).

³¹ Bail Act 1976 (c. 63) (United Kingdom), s. 4: statutory presumption in favour of bail; Ministry of Justice (UK), *Offender Management Statistics Bulletin* (2022): pre-trial detainees constitute approximately 10–12% of total prison population; New Jersey Criminal Justice Reform Act, P.L. 2014, c. 31 (effective 1 January 2017): evidence-based risk assessment replacing monetary bail; 44% reduction in pre-trial detention documented within two years of implementation.

³² Bail Act 1976 (c. 63) (United Kingdom), s. 4: statutory presumption in favour of bail; Ministry of Justice (UK), *Offender Management Statistics Bulletin* (2022): pre-trial detainees constitute approximately 10–12% of total prison population; New Jersey Criminal Justice Reform Act, P.L. 2014, c. 31 (effective 1 January 2017): evidence-based risk assessment replacing monetary bail; 44% reduction in pre-trial detention documented within two years of implementation.

10. CRITICAL ANALYSIS: SOCIO-LEGAL PERSPECTIVE

From a socio-legal standpoint, India's undertrial crisis epitomizes what scholars have termed the "process as punishment" phenomenon:³³ the experience of arrest, remand detention, loss of livelihood, social stigmatization, and family disruption inflicts harms indistinguishable from penal sanctions upon persons who remain, in law, entirely innocent. The criminal process in this reading does not merely delay justice it delivers injustice in advance of any adjudication. The inequality in access to justice is starkly illustrated by comparing high-profile and ordinary cases. Affluent, legally represented accused can invoke the Supreme Court's jurisdiction within days of arrest, as demonstrated by *Arnab Goswami v. Maharashtra*.³⁴ The marginalized undertrial in a district jail, unable to afford a surety bond, may spend years awaiting trial for an offence carrying a sentence shorter than the period of his detention.³⁵ This disparity reveals a structurally two-tiered justice system in which the constitutional guarantees of Articles 14 and 21 remain aspirational for the poor. The socio-legal approach, as articulated in the Indian context, demands that law be analyzed not merely as text but as practice embedded in social relations.³⁶ Poverty, caste hierarchy, illiteracy, and institutional bias do not merely complicate the operation of bail law they determine its outcomes. Any reform framework that ignores these structural determinants will replicate the existing inequity in new procedural forms.

11. SUGGESTIONS AND REFORMS

Several analytically grounded reforms emerge from the foregoing examination. First, a statutory presumption of bail for all offences carrying a maximum sentence of seven years or below should be legislatively entrenched in the BNSS, with release rebuttable only on the prosecution's demonstration of specific, individualized grounds.³⁷ Second, monetary bail and surety-based conditions must be replaced by personal recognizance release as the default for first-time and minor offenders; financial capacity must not be allowed to determine pre-trial liberty. Third, the quality of legal aid must be substantially reformed: panel advocates under NALSA and DLSA schemes must be adequately compensated, trained in criminal procedure, and subject to performance

³³ Malcolm M. Feeley, *The Process is the Punishment: Handling Cases in a Lower Criminal Court* (Russell Sage Foundation, 1979): seminal socio-legal work establishing that the burdens of criminal procedure itself cost, time, social disruption constitute punishment independent of conviction.

³⁴ *Arnab Manoranjan Goswami v. State of Maharashtra*, (2021) 2 SCC 427 (Supreme Court of India): personal liberty is paramount; courts at all levels must exercise independent judgment in bail matters without deference to prosecution.

³⁵ *In Re: Inhuman Conditions in 1382 Prisons*, Writ Petition (Civil) No. 406 of 2013 (Supreme Court of India, 2016–ongoing): suo motu directions on prison decongestion, UTRC activation, undertrial rights enforcement, and video-conferencing of remand hearings; see also Upendra Baxi, *The Crisis of the Indian Legal System* (Vikas Publishing House, 1982): foundational socio-legal analysis of how criminal law and process reproduce structural inequalities in Indian society.

³⁶ Bail Act 1976 (c. 63) (United Kingdom), s. 4: statutory presumption in favour of bail; Ministry of Justice (UK), *Offender Management Statistics Bulletin* (2022): pre-trial detainees constitute approximately 10–12% of total prison population; New Jersey Criminal Justice Reform Act, P.L. 2014, c. 31 (effective 1 January 2017): evidence-based risk assessment replacing monetary bail; 44% reduction in pre-trial detention documented within two years of implementation.

³⁷ *Satender Kumar Antil v. Central Bureau of Investigation*, (2022) 10 SCC 51 (Supreme Court of India): comprehensive bail guidelines issued; courts directed to consider bail applications promptly; offences categorized for bail purposes; monitoring mechanism directed.

evaluation.³⁸ Fourth, UTRCs must be rendered mandatory and enforceable through quarterly reporting obligations supervised by High Court-appointed monitoring committees. Fifth, fast-track courts for undertrial cases particularly those involving accused from marginalized communities must be operationalized with dedicated and insulated budgetary allocations. Sixth, non-custodial alternatives including community service orders, electronic monitoring, and supervised probation should be actively incentivized through amendment of the Probation of Offenders Act, 1958.³⁹ Finally, a real-time, publicly accessible national undertrial monitoring dashboard, building on the ePrisonsMIS framework, must be mandated and adequately resourced.⁴⁰

12. CONCLUSION

The undertrial prisoner is the most visible casualty of India's strained criminal justice architecture. Constituting over 75% of the total prison population, these individuals predominantly poor, socially marginalized, and legally innocent endure incarceration that the law neither authorizes as punishment nor effectively prevents in practice. The judiciary, through decades of progressive pronouncements from *Hussainara Khatoon* to *Satender Kumar Antil*, has unequivocally affirmed that prolonged undertrial detention violates the fundamental rights to life, liberty, and dignity.⁴¹ Yet judicial intervention alone cannot cure a systemic pathology rooted in poverty, caste hierarchy, institutional inadequacy, and structural inequality. The BNSS, 2023 offers incremental relief;⁴² transformative change demands legislative boldness, executive accountability, and a reorientation of criminal justice institutions toward decarceration and rehabilitation. The undertrial crisis is ultimately a mirror held to the constitutional State: it reflects not merely systemic inefficiency, but the structural reproduction of injustice. India's commitment to constitutional democracy, rule of law, and equal protection under Article 14 demands nothing less than its full and resolution.

³⁸ National Legal Services Authority (NALSA), *Annual Report 2022–23* (NALSA, Government of India, 2023): data on panel advocate vacancies, caseload statistics, and quality concerns in district legal aid delivery.

³⁹ Legal Services Authorities Act, 1987 (Act No. 39 of 1987), ss. 12–13: entitlement to free legal services for persons in custody and those unable to afford representation on account of poverty.

⁴⁰ Code of Criminal Procedure, 1973, s. 436A (bail after half the maximum sentence); Bharatiya Nagarik Suraksha Sanhita, 2023, s. 479 (enhanced provision for first-time offenders: one-third of maximum sentence).

⁴¹ *Hussainara Khatoon v. State of Bihar*, (1980) 1 SCC 81, *supra* note 5: speedy trial constitutionalized as component of Art. 21; direction for immediate release of undertrials having served beyond maximum sentence.

⁴² Bharatiya Nagarik Suraksha Sanhita, 2023 (Act No. 46 of 2023), s. 187 (remand provision); s. 479 (bail after serving one-third of maximum sentence).