

Interim bail and Anticipatory Bail

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The **Orissa High Court** (HC) has recently observed that a person is **not** entitled to **anticipatory bail** when he or she is summoned by a **trial court** for additional accusation in a case.



[ref- news mill]

About the Anticipatory Bail:

- Anticipatory bail is a legal provision in the **Indian criminal justice system** that allows an individual to seek bail in **anticipation of arrest** and aimed at protecting individuals from **arbitrary arrest and detention**.
- **Article 21** of the Indian Constitution grants the **right to life** and **personal liberty** to every individual, which includes the entitlement to seek bail when detained by any law enforcement agency.
- The primary objective of anticipatory bail is to prevent the **harassment** and arrest of **innocent individuals** by providing them with a **legal remedy** against false or frivolous charges.
- Anticipatory bail is generally granted for a **specific period**, after which the person must apply for regular bail if required.

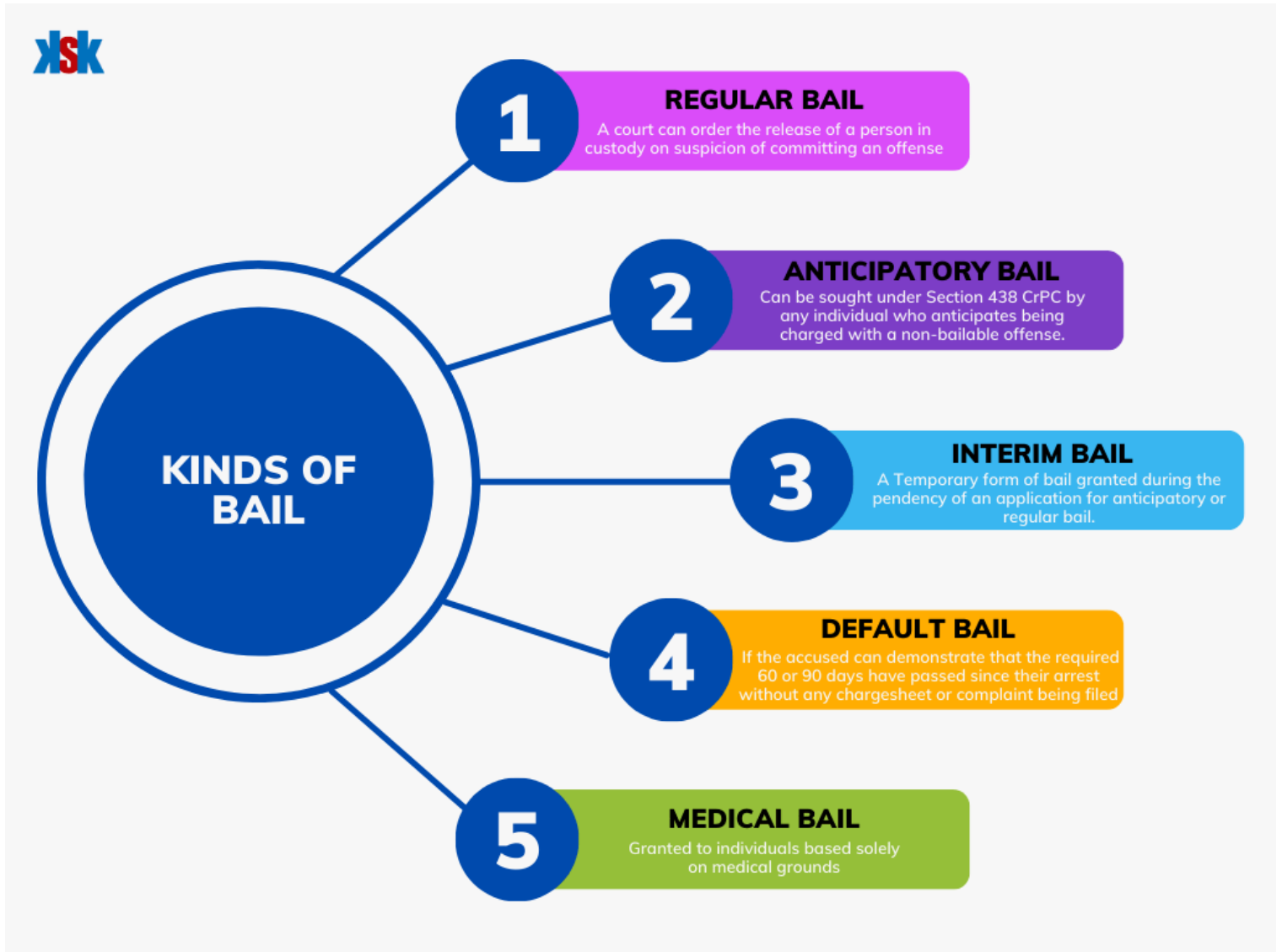
Conditions:

- The person must **apprehend arrest** in **connection** with a **non-bailable offense**.
 - **Non-bailable offences** are serious in nature and are punishable with imprisonment for 3 years or more.
 - A person accused of a **non-bailable offence** cannot claim bail as a **matter of right** and can only be given bail when granted by the **competent court**.

Role of court in Anticipatory Bail:

- The court may impose certain conditions while granting anticipatory bail, such as restrictions on travel, cooperation with the investigation, or attendance at the police station.

- The court has **discretionary powers** to grant or deny anticipatory bail based on the **facts** and **circumstances** of each case.
- The court considers factors like the **gravity** of the **offense**, the applicant's **criminal record**, and the **likelihood** of the person **fleeing** from justice.
- In **Sibbia v. State of Punjab case** (1980), Supreme Court have clarified the principles and conditions for granting anticipatory bail.



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About the Interim bail:

- The Interim bail serves as a **short-duration relief** before the **final disposal** of **regular** or **anticipatory bail** applications.
- It is vital when documents like **charge sheets** are required for **judicious decision-making**, but their acquisition takes time.
 - A **chargesheet** is the **final report** prepared by a police officer or investigative agency after completing their investigation of a case.
- It allows the accused to avoid jail until the court receives **necessary documents** for a final

decision.

- It can be extended under **special circumstances**, to safeguard an accused's reputation.

Conditions imposed while granting Interim Bail:

- Restrictions on **direct** or **indirect contact** with witnesses.
- Obligation to appear for **police interrogation**.
- Prohibition on **leaving** the country or **court jurisdiction** without court permission.
- **Marriage** and the **death** of near ones are considered special grounds for granting **interim bail**.
- In **Nikesh Tarachand Shah v. Union of India**, Supreme Court have stated that interim bail is **not** an entitlement or matter of right for prisoners.

Interim bail vs Regular Bail:

- **Regular bail** is sought after arrest, whereas **interim bail** is issued during the processing of **anticipatory** or **regular bail** applications.
- **Interim bail** is akin to **temporary relief provided** until the final adjudication on bail applications.

Other types of Bail:

- **Regular Bail:** A court can order the release of a person in custody on suspicion of **committing** an offense.
- **Default Bail:** If the accused can demonstrate that the required 60 or 90 days have passed since their arrest without any chargesheet or complaint being filed.
- **Medical Bail:** Granted to individuals based solely on medical grounds.