

USHA VATS
& ASSOCIATES

PRACTICE GUIDE HOW TO
**SEARCH &
USE
JUDGEMENT
FOR BAIL APPLICATION**

PREPARED BY:

ADV USHA VATS & ADV MANOJ PARASHAR

1. Understand the Type of Bail

BEFORE SEARCHING CASE LAWS, BE CLEAR ABOUT WHICH PROVISION APPLIES:

- **REGULAR BAIL → SEC. 439 CRPC / BNSS 482**
- **ANTICIPATORY BAIL → SEC. 438 CRPC / BNSS 482**
- **DEFAULT BAIL → SEC. 167(2) CRPC / BNSS EQUIVALENT**
- **INTERIM BAIL → COURT'S DISCRETION**

Knowing the bail type helps narrow down judgments relevant to your case.

**ADV USHA VATS &
ADV MANOJ
PARASHAR**

2.FRAME THE KEY LEGAL ISSUES

ASK YOURSELF:

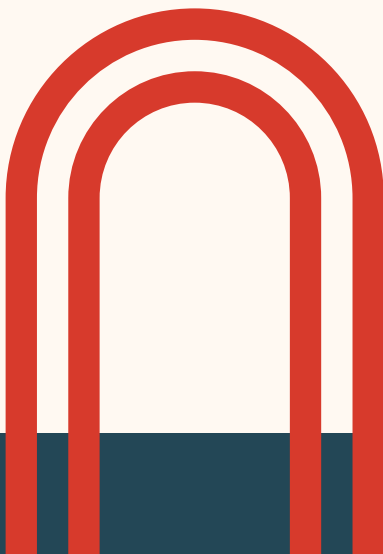
- Is it about **gravity of offence**?
- Is it about **parity with co-accused**?
- Is it about **delay in trial/investigation**?
- Is it about **personal liberty / presumption of innocence**?
- Is it about **special circumstances** (woman, child, illness, old age)?

Each issue has landmark judgments you can cite.

3.SOURCES TO SEARCH FOR JUDGMENTS

- **Free Sources:**
 - Indian Kanoon (keyword + section + "bail")
 - Judis.nic.in (Supreme Court & HC judgments)
 - High Court websites
- **Paid / Professional Sources:**
 - SCC Online
 - Manupatra
 - LiveLaw / Bar & Bench for latest judgments

👉 Search tips: Use **Boolean search** (e.g., "*Section 439 bail AND parity*").



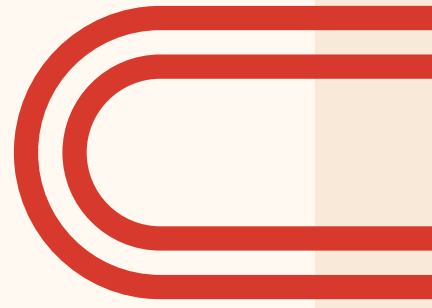
4. SHORTLIST & FILTER JUDGMENTS

While reading a judgment, check for:

- **Ratio decidendi** (actual rule/principle applied)
- **Court level** (SC > HC; HC binding within its jurisdiction)
- **Date** (recent precedents are stronger, unless Constitution Bench)
- **Relevance** (facts must match closely with your client's case)

Example: For anticipatory bail in dowry harassment (Sec. 498A IPC), cite **Arnesh Kumar v. State of Bihar (2014)** on misuse of arrest powers.

5. DRAFTING YOUR BAIL APPLICATION



Structure with **legal + factual arguments** supported by judgments:

1. **Intro & Facts** – show clean antecedents, cooperation, weak prosecution case.
2. **Legal Grounds** –
 - Parity (if co-accused got bail)
 - Delay in trial (cite *Hussainara Khatoon*)
 - Right to liberty (cite *Gudikanti Narasimhulu, Sanjay Chandra*)
 - No need for custodial interrogation (cite *Dataram Singh*)
3. **Judicial Precedents** –
 - Quote 1–2 lines (not long paras) from judgments.
 - Example: “*Bail is the rule and jail is the exception*” – SC in **Dataram Singh v. State of UP (2018)**.
4. **Prayer** – request for bail on conditions court deems fit.

6. ARGUING BAIL IN COURT



- Start with **liberty principle** (Art. 21).
- Cite **binding precedents first (SC)**, then HCs (especially of your state).
- Highlight **distinguishing facts** (why custody is not required).
- Be ready with **latest judgment printouts** to hand over to judge.

Example Structure in Argument:

- “My Lord, as held in *Sanjay Chandra v. CBI (2012)*, the object of bail is not punitive but to secure presence at trial. Similarly, in *Dataram Singh (2018)*, the Hon’ble SC emphasized bail as the rule. In the present case, the investigation is complete, charge-sheet filed, and no custodial interrogation is required. Therefore, my client deserves bail.”

7. JUDGMENT CATEGORIES COMMONLY CITED IN BAIL

- **General Principles:** *Dataram Singh (2018)*, *Gudikanti Narasimhulu (1978)*, *Sanjay Chandra (2012)*.
- **Anticipatory Bail:** *Sushila Aggarwal v. State (2020)*, *Arnesh Kumar v. State of Bihar (2014)*.
- **Default Bail:** *Rakesh Kumar Paul v. State of Assam (2017)*.
- **Delay in Trial:** *Hussainara Khatoon (1979)*, *Supreme Court Legal Aid Committee (1994)*.
- **Parity & Equality:** *Kalyan Chandra Sarkar v. Rajesh Ranjan (2004)*.
- **Special Protection (Women/Old Age/Illness):** *P. Chidambaram v. ED (2019)*.

8. FINAL PRACTICAL TIPS

- ALWAYS CARRY 2–3 STRONG PRECEDENTS INSTEAD OF CITING 20 CASUALLY.
- MATCH THE FACTS WITH PRECEDENT — JUDGES APPRECIATE RELEVANCE, NOT VOLUME.
- KEEP A READY ONE-PAGER BAIL PRECEDENT CHART WITH SECTIONS + LEADING CASES FOR QUICK REFERENCE.

Disclaimer :

The information shared in this post is for general informational purposes only and does not constitute legal advice. Viewing, sharing, or commenting on this content does not create an attorney–client relationship with Usha Vats & Associates.