

## CLARIFYING THE SCOPE OF ANTICIPATORY BAIL: INSIGHTS FROM SUSHILA AGGARWAL V. STATE (NCT OF DELHI)

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The case of Sushila Aggarwal v. State (NCT of Delhi) 2020 5 SCC 1 presented a pivotal juncture in Indian jurisprudence by addressing the contentious issues surrounding the interpretation and application of Section 438 of the Criminal Procedure Code (Cr.P.C.), pertaining to anticipatory bail. This abstract encapsulates the key findings and implications derived from the landmark judgment.

The case arose from conflicting judicial opinions on the temporal limitations of anticipatory bail, juxtaposing the need for personal liberty against the imperatives of fair investigation and trial proceedings. Notable precedents, including *Gurbaksh Singh Sibbia v. State of Punjab*<sup>259</sup> and *Salauddin Abdulsamad Shaikh v. State of Maharashtra*<sup>260</sup>, formed the backdrop against which the Supreme Court deliberated. In a unanimous ruling, the five-judge bench unequivocally asserted that anticipatory bail should not be fettered by temporal constraints and may persist until the conclusion of the trial, subject to the court's discretion. This seminal decision overturned previous judgments, notably *Shaikh and Siddharam Satlingappa Mhetre v. State Of Maharashtra And Ors*<sup>261</sup>, and underscored the primacy of personal liberty in 3 the criminal justice framework.

The judgment reaffirmed the judiciary's commitment to safeguarding individual rights while balancing the imperatives of justice. By adopting a flexible approach and prioritizing personal liberty, the court's decision in Sushila Aggarwal case marked a significant stride towards upholding constitutional values and ensuring the fair administration of justice in India's criminal justice system.

The case stemmed from conflicting viewpoints within the judiciary regarding the parameters of anticipatory bail. Notable precedents, including *Gurbaksh Singh Sibbia v. State of Punjab*, *Salauddin Abdulsamad Shaikh v. State of Maharashtra*<sup>262</sup>, and *Siddharam Satlingappa Mhetre v. State Of Maharashtra And Ors*<sup>263</sup>, framed the discourse. While Sibbia emphasized the discretionary power of courts in granting anticipatory bail without strict temporal constraints, Shaikh advocated for a limited duration until the conclusion of investigations. Conversely, Mhetre underscored personal liberty and advocated for a more liberal interpretation of anticipatory bail.

### Issues

The primary issues addressed in Sushila Aggarwal case revolved around the following questions:

1. Whether anticipatory bail should be time-bound or endure until the conclusion of the trial.
2. Whether anticipatory bail ceases upon the summoning of the accused by the court.

### Analysis and Decision:

The five judge bench of the Supreme Court in the Sushila Aggarwal and others Vs. State (NCT of Delhi) and another unanimously held that- anticipatory bail should not be time bound and

<sup>259</sup> (1980) 2 SCC 565

<sup>260</sup> (1996) 1 SCC 667

<sup>261</sup> (2011) 1 SCC 694

<sup>262</sup> (1996) 1 SCC 667

<sup>263</sup> (2011) 1 SCC 694

can be granted to an accused till the conclusion of the trial subject to the discretion of the court. The judgments, rendered in *Salauddin Abdulsamad Shaikh*, *Siddharam Satlingappa Mhetre*, *K.L. Verma*, *Sunita Devi*, *HDFC Bank Limited*, including other decisions that followed these decisions, were expressly overruled. Application for anticipatory bail could be filed by a person before the FIR as soon as the facts make clear there is a substantial reason for the arrest. The court has to evaluate the threat or apprehension, its gravity or seriousness and the appropriateness of any condition imposed on the basis of the material facts and circumstances of the act. Anticipatory bail granted can, depending on the conduct and behaviour of the accused, and can continue after filing of the charge sheet or even till the end of trial. In the case of any violation of any terms by the accused the police can move to move the court concerned, which grants anticipatory bail, to arrest the accused.

#### **Key Takeaways:**

The judgment in *Sushila Aggarwal* case elucidated several crucial principles regarding anticipatory bail:

1. Anticipatory bail is not bound by temporal restrictions and can extend until the trial concludes.
2. The court retains discretion in imposing conditions on anticipatory bail based on the gravity of the offense and the circumstances of the case.
3. Anticipatory bail can be sought before the filing of an FIR if substantial reasons warrant such relief.

#### **Conclusion:**

The *Sushila Aggarwal* case serves as a landmark pronouncement in delineating the contours of anticipatory bail. By affirming the enduring nature of anticipatory bail until the trial's conclusion, the judgment reiterates the judiciary's commitment to safeguarding personal liberty while ensuring the fair administration of justice. This decision heralds a

progressive interpretation of anticipatory bail laws, marking a significant stride towards upholding constitutional values and protecting individual rights in the criminal justice system.