



INDIAN JOURNAL OF  
LEGAL REVIEW

VOLUME 6 AND ISSUE 5 OF 2026

INSTITUTE OF LEGAL EDUCATION



## INDIAN JOURNAL OF LEGAL REVIEW

APIS – 3920 – 0001 | ISSN – 2583-2344

(Open Access Journal)

Journal's Home Page – <https://ijlr.iledu.in/>

Journal's Editorial Page – <https://ijlr.iledu.in/editorial-board/>

Volume 6 and Issue 5 of 2026 (Access Full Issue on – <https://ijlr.iledu.in/volume-6-and-issue-5-of-2026/>)

### Publisher

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Chairman of Institute of Legal Education

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## DELAY IN INVESTIGATION AND ITS IMPACT ON BAIL DECISIONS IN INDIA: A STRUCTURAL ANALYSIS

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**BEST CITATION** – AARTI, DELAY IN INVESTIGATION AND ITS IMPACT ON BAIL DECISIONS IN INDIA: A  
STRUCTURAL ANALYSIS, *INDIAN JOURNAL OF LEGAL REVIEW (IJLR)*, 6 (5) OF 2026, PG. 403-419, APIS – 3920  
– 0001 & ISSN – 2583-2344.

### Abstract

Criminal investigations in India don't just lag—they crawl, and the cost is steep. The law promises timely, fair investigations to protect everyone's rights, but that ideal rarely shows up in practice. The system groans under mountains of paperwork.<sup>596</sup> Cases linger for years—sometimes entire decades pass—and that's not a quirk of bureaucracy. Every delay chips away at lives. People accused of crimes spend years in limbo, not knowing their fate. The right to bail, meant as a safeguard, starts to feel like a useless formality.

Prisons grow crowded, mostly with people who haven't been convicted of anything. They're stuck, caught between slow-moving investigations and even slower bail hearings.<sup>597</sup> So pretrial detention, which the law treats as a last resort, quietly becomes punishment by another name. That's justice turned on its head.

This paper digs into how delay twists the bail process.<sup>598</sup> It unpacks the rules—like default bail under Section 187(2) of the *Bhartiya Nagarik Suraksha Sanhita, 2023*—and looks at the big ideas behind them. But the roots of delay run deeper. Overstretched cops, clumsy procedures, a culture of finger-pointing with no one held responsible, and the daily crush faced by the poor and marginalized—these drive the system's slow decay. Delay doesn't hit everyone equally; it crushes those already on the margins.

Judges have to balance freedom against public safety, but their calls swing wildly. Some use delay to free people on bail; others point to "security" and keep them locked up. Often, it feels like they're just patching holes while the roof keeps leaking.

One thing's certain: delay isn't an accident. It's everywhere—feeding inequality and shredding people's faith in justice. Courts are beginning to call out the problem and let delay shape their decisions, but that's just scratching the surface. What's needed is bolder—rethinking how the system runs, putting real resources in place, and making people answer for breakdowns. Real reform has waited too long. Until then, bail remains more promise than protection, and the daily struggle for liberty grinds on. The task isn't tweaking rules at the edges; it's rebuilding the whole system so it finally lives up to its own promises.

<sup>596</sup> National Crime Records Bureau, *Prison Statistics India 2022*, Ministry of Home Affairs (2023), <https://ncrb.gov.in>.

<sup>597</sup> PRS Legislative Research, *Judicial Pendency in India (2023)*, <https://prsindia.org>.

<sup>598</sup> Marc Galanter, *Law and society in Modern India*, 37 *J. Legal Educ.* 519 (1987).

Key Words: Delay in Investigation; Bail Decisions; Article 21; Personal Liberty; Right to Speedy Trial; Undertrial Detention; Default Bail; Criminal Justice System; Structural Inefficiencies; Judicial Discretion; Procedural Delays; Access to Justice

## I. Introduction

India's criminal justice system claims to stand for fairness, efficiency, and respect for individual rights, but that's often just a promise on paper. There's a stark disconnect between what the law promises and what actually happens. One big issue that keeps cropping up is the sluggish pace of criminal investigations. This isn't just a bureaucratic headache—it has consequences that ripple through the entire process, especially when it comes to bail. Investigation kicks off every criminal case. It's where evidence piles up, suspects get identified, and charges take shape. If this process drags, the prosecution struggles to build a solid case, and the accused face another kind of harm: their rights start slipping through the cracks.

Now, bail isn't some technical jargon tucked away in the law books; it ties directly to the idea that everyone is innocent until proven guilty<sup>599</sup> and has a right to personal freedom. Bail stops the system from locking people up without reason while they wait for their day in court. But when investigations lag, accused individuals can end up behind bars for months, even years, before anyone decides if they're guilty. Suddenly, bail matters a lot more—it's not just procedural; it's about preventing people from being punished before a verdict. Courts then face a tough call: Can extended delay alone justify granting bail, especially if the charges are serious?

Delays aren't just a result of slow paperwork—they're built into the system.<sup>600</sup> Understaffed police forces, creaky infrastructure, too few skilled investigators, slow-moving forensic labs, and a judiciary overwhelmed by caseloads all work together to slow things down. Socio-economic factors make things worse. Poor and marginalized groups bear the brunt—many

spend long stretches in custody just because they can't afford experienced lawyers or navigate the bail process.

This research won't settle for surface-level analysis. It digs into the structural roots of these delays and asks hard questions: Do current laws and court decisions actually protect accused individuals when investigations drag on? Are the legal tools we have enough to deal with real-world delays, or do they fall short? To answer these, the paper looks at statutes, examines how judges have addressed delay, and exposes the deeper system flaws. The goal is to unravel the complex relationship between investigation delays and bail decisions, highlighting how foundational principles often collapse under the weight of structural dysfunction. If the justice system claims to safeguard personal liberty, then it's time to measure how well it lives up to that promise—especially for those society forgets most.

## II. Conceptual Framework: Bail, Liberty, and Delay

Bail isn't just a technicality in criminal law—it's a powerful statement about the values we uphold. At its core, bail grows from the belief that freedom is the natural state, and imprisonment should be rare. A government operating under the rule of law needs to tread carefully when it decides to restrain someone's liberty, acting only when the law explicitly allows it. That's where bail comes in, striking a fine balance between two competing concerns: the need to ensure the accused shows up for trial and the imperative to avoid locking people up needlessly.

But this delicate balance falls apart when investigations drag on without a clear end in sight. The presumption of innocence is much more than a legal formality—it puts the brakes on treating someone as a criminal before

<sup>599</sup> Woolmington v. Director of Public Prosecutions, (1935) AC 462 (HI).

<sup>600</sup> Gudikanti Narasimhulu v. Public Prosecutor, (1978) 1 SCC 240 (India).

they're convicted. Pre-trial detention can be justified, yes, if there's a credible risk that the accused might run, mess with evidence, or intimidate witnesses. Yet, when months pass and the investigation barely moves, those justifications start looking flimsy. It's hard not to see continued detention as punishment, chipping away at the principle that no one should be treated as guilty until the court says so.

Delays don't just frustrate the accused—they raise thorny questions about constitutional rights, especially under Article 21 of the Indian Constitution<sup>601</sup>. Article 21 isn't just empty words about life and personal liberty; the Supreme Court has opened it up to include a speedy trial as a fundamental right. When criminal proceedings drag, that right gets hammered. This stronger reading of Article 21 casts delays in a new light: they don't just make the process slower; they're a violation of basic rights. So, when courts look at bail, long delays tip the scales in favor of granting it. Trouble is, judges interpret these principles differently each time, leading to unpredictable bail decisions.

On top of that, Section 187(2) of the BNSS, 2023<sup>602</sup> tries to tackle the crisis of endless detention by offering "default bail." The section sets deadlines for investigators, pushing them to act quickly. The law's clear: you can't hold someone forever while you figure things out. But real life gets messy. Authorities sometimes sidestep these rules, filing incomplete charge sheets, seeking repeated extensions, or using other tricks to stretch things out. The law tries to protect the accused, but loopholes and delays mean they still sit in jail longer than the system intends.

If you step back and look at the relationship between bail, liberty, and delays, it's glaringly obvious that our current approach isn't enough. Delays aren't just a nuisance for the system—they strike at the heart of individual rights. Treating them as minor irregularities misses the

mark. The criminal justice system needs not just procedural fixes but a shift in attitude, recognizing that every day spent waiting—in custody and in limbo—shapes lives and erodes the values it claims to defend. Only then can bail be more than a temporary reprieve, embodying the principle that liberty should always come first, and detention must always demand strong justification.

### III. Legal Framework Governing Bail and Investigative Delay

#### a. Section 187(2) BNSS – Default Bail

Section 187(2) of the *Bhartiya Nagarik Suraksha Sanhita, 2023*<sup>603</sup> isn't just another procedural rule—it's a critical shield against endless pre-trial detention. The law tells investigative agencies to wrap up their work within 60 or 90 days, depending on how serious the charges are. If they don't, the accused wins the right to bail—assuming they can provide the required sureties. The deep logic behind this rule is straightforward: keeping someone locked up for months while the police drag their feet isn't justice. It's the legal system recognizing that people shouldn't sit in limbo while authorities linger over paperwork.

Judges have gone so far as to call this the accused's "indefeasible right"—the moment that deadline passes, it kicks in. No judge gets to say "not today" or "maybe next week" just because they feel like it. The right stands firm. That's the theory, anyway. But reality tends to look messier. Too often, police file incomplete or perfunctory charge sheets to stay within the letter of the law, even though the investigation drags on behind the scenes. This technical compliance keeps the accused waiting, despite the law's clear promise.

What's worse, some courts have tightened the interpretation of Section 187(2), refusing bail for reasons like a late application or tiny errors in paperwork. It's as if the process matters more than the principle. This approach throws the

<sup>601</sup> *Id.* at 3"

<sup>602</sup> *Bhartiya Nagarik Suraksha Sanhita, 2023*, § 187, cl. 2.

<sup>603</sup> *Id.* at 5"

burden back on the accused, many of whom may not have the money, legal know-how, or access to timely advice to fight back. The effect is a hollowing-out of the safeguard—a right in name, not in practice.

In response, the law needs a reset. Courts should read Section 187(2) with its protective purpose in mind, not hide behind procedural technicalities. At its core, this section aims to keep the machinery of investigation honest, efficient, and accountable—not to provide a loophole for delay or a trap for the unwary. The promise of liberty can't rest on how well someone fills out a form or whether they manage to submit it before some arbitrary deadline. The law's spirit is clear: protect people from indefinite detention, and don't let technicalities chip away at that fundamental right.

#### **b. Section 479 BNSS – Maximum Period of Detention**

Section 479 of the *Bhartiya Nagarik Suraksha Sanhita, 2023*<sup>604</sup> wasn't just dropped in as a formality—it's a direct response to a very real and troubling issue: countless undertrial prisoners spending years behind bars while their cases crawl through the system. Basically, if someone's been locked up long enough that their detention equals half the maximum sentence for their alleged crime, the law says they should get bail—provided they meet a few conditions. This rule exposes the ugly truth about delays in the criminal justice process, where people often stay incarcerated far longer than seems fair, especially when nobody's even finished deciding if they're guilty.

The idea behind Section 479<sup>605</sup> is rooted in simple concepts—proportionality and fairness. Why should someone sit in a cell for years, waiting for their trial, when the sentence for their crime might be the same or even less than the time they've already spent inside? Detaining someone this long isn't just harsh; it's unreasonable. As trials drag on—sometimes

due to overloaded courts, procedural hiccups, or lack of resources—the law's correctional approach becomes crucial. Instead of letting individuals languish in prison, Section 479 tries to tip the scales back toward basic justice and prevent the system's delays from becoming punishment in themselves.

Yet, on the ground, things are far from ideal. A lot of undertrial prisoners don't even know they're entitled to bail under this rule. Prison authorities and even courts don't always push for its implementation. Sometimes judges refuse bail—even when all the conditions are met—pointing to the seriousness of the alleged crime or worries about the accused running away. These concerns matter, but they shouldn't outweigh the person's right to liberty or the law's clear intent to limit prolonged pre-trial detention. There needs to be a balance, and right now, it's shaky.

The Supreme Court has spoken out more than once, telling lower courts to actually enforce Section 479 and regularly review cases of undertrial prisoners. But despite these orders, the gap between what the law promises and what actually happens is wide. This isn't just a matter of legal interpretation; it's a structural problem rooted in the criminal justice system itself. The fact that Section 479 isn't working as intended points directly to institutional inertia—a kind of built-in resistance to change. If authorities genuinely want to reduce excessive pre-trial detention, they need to acknowledge and address these deeper flaws, not simply rely on legislative tweaks. Real progress depends on accountability, better awareness among prisoners, and a commitment from both courts and prisons to actually put the law into action. Otherwise, Section 479 risks becoming another well-intentioned reform that never fully escapes from paperwork into real life.

#### **c. Special Laws and the Problem of Delay**

Dealing with delays in cases governed by special legislations like the Unlawful Activities

<sup>604</sup> *Bhartiya Nagarik Suraksha Sanhita, 2023*, § 479.

<sup>605</sup> *Id.* at 6"

(Prevention) Act (UAPA)<sup>606</sup>, the Narcotic Drugs and Psychotropic Substances Act (NDPS)<sup>607</sup>, and the Prevention of Money Laundering Act (PMLA)<sup>608</sup> introduces layers of complexity not seen in ordinary criminal matters. These laws don't just complicate the proceedings—they change the rules. Bail becomes a much tougher prospect because these statutes flip the presumption of innocence, requiring the accused to prove their entitlement to bail. The judiciary's hands are tied, with far less room for discretion than usual. Even when an accused person languishes in jail for months or years, securing bail remains an uphill battle.

A particularly thorny issue is the statutory extension of investigation periods. Under Section 187(2) of the Bhartiya Nagarik Suraksha Sanhita, 2023<sup>609</sup> the standard time is usually sixty or ninety days, but these special laws stretch it to 180 days or more in some cases. The argument is that these offences are complex and serious—requiring more time to unravel. Yet in reality, this extension serves as a double-edged sword. While it may be justified for genuine investigative needs, it also opens the door for misuse. The accused aren't just waiting; they're subjected to prolonged detention, sometimes without enough oversight from the courts.

Despite the harshness of these statutes, there's been a shift in the judiciary's perspective. More and more, courts acknowledge that such delays cannot be brushed aside, even in cases involving terrorism or financial crimes. When the investigation drags on with no substantial progress, or when the trial itself seems stalled indefinitely, judges have begun to grant bail, recognizing that endless incarceration strips the accused of their fundamental rights. This marks an evolving commitment by the judiciary to protect liberty and fairness, seeking a balance

between the strict mandates of the special laws and the basic guarantees of the Constitution.

Still, this balancing act hasn't produced clear-cut, uniform results. Courts remain cautious—sometimes overly so—especially when national security or major economic offences are in play. The inconsistency is hard to miss. It often leaves both lawyers and accused navigating uncertain terrain, unsure whether delay will be enough to tip the scales in Favor of bail. Ultimately, this reveals a fundamental tension: On one hand, special laws are designed to deal firmly with grave threats. On the other, there's an unyielding legal tradition rooted in personal liberty and due process. The question lingers—how far should delay push bail decisions in such cases, and who gets to decide where to draw that line? The debate isn't anywhere close to settled, and it continues to shape the contours of bail jurisprudence in India.

#### IV. Judicial Approach to Delay in Investigation

The role of the judiciary in shaping how delays in investigation affect bail decisions can't be overstated. Indian courts, over time, have built a solid framework of jurisprudence, acknowledging that delays matter—especially when those delays mean an accused person spends months, sometimes years, in jail with little movement in their case. Yes, delay is a factor, but it's never the only factor, and judges constantly weigh it against a bunch of others. There's no cookie-cutter rule; every situation demands careful balancing.

Take the Supreme Court's stance on the right to a speedy trial. It's rooted firmly in Article 21 of the Constitution<sup>610</sup>. The Court has said, again and again, that if investigation or trial drags on without good reason, it isn't just a procedural hiccup—it's a violation of fundamental rights. You see this belief trickling into bail decisions, especially when someone remains locked up for years with barely any progress. In these cases, courts often lean toward granting bail, asserting

<sup>606</sup> The Unlawful Activities (Prevention) Act, 1967, No. 37, Acts of Parliament, 1967 (India).

<sup>607</sup> The Narcotic Drugs and Psychotropic Substances Act, 1985, No. 61, Acts of Parliament, 1985 (India).

<sup>608</sup> The Prevention of Money Laundering Act, 2002, No. 15, Acts of Parliament, 2003 (India).

<sup>609</sup> *Id.* at 5"

<sup>610</sup> *Id.* at 3"

that the State can't use its own sloppiness as an excuse to keep someone behind bars.

But it's never as simple as "delay equals bail." Courts make it clear: delay is not a free ticket out. They look hard at the seriousness of the offence, the evidence, whether the accused might run, and the risk of tampering. Judges wrestle with these layers, aiming to protect justice but, in practice, this juggling act adds a level of subjectivity. That's why you sometimes see entirely different outcomes in similar cases—because every judge has to balance these factors without a fixed formula.

And here's another wrinkle: not all delays weigh equally. Courts distinguish between hold-ups caused by the prosecution and those caused by the defence. If the prosecution drags its feet or there's systemic inefficiency, bail becomes more likely. But if the accused or their lawyer keeps kicking the can down the road with tactical delays, courts are less sympathetic. This distinction signals an underlying push for fairness and accountability—a recognition that the criminal justice process can only work if everyone plays by the rules.

Looking at the big picture, the judiciary has been inching toward a philosophy that prizes timely justice and vigorously guards the rights of the accused. But even with this evolution, there's a lingering messiness: no clear guidelines, no standardized approach. Judges grapple with the same sets of facts, but the outcomes sometimes swing wildly. Consistency in applying these principles remains elusive, leaving room for ambiguity, debate, and, frankly, frustration among those caught in the system.

## V. Structural Causes of Delay in Investigation

### a. Institutional Constraints

A big reason investigation drags on in India is the fundamental problem of inadequate institutional capacity in law enforcement. Take a look at most police departments—they're understaffed and overworked, juggling

everything from keeping the peace to preventing crime and handling complex investigations. It's a heavy workload, and often there just aren't enough hands or hours in the day to go around. That means cases pile up, and officers can barely scratch the surface, let alone dig deep with the level of attention a proper investigation demands.

This isn't just about not having enough staff. The shortage of specialized training makes the problem worse. Investigative work today demands expertise—think forensic science, cybercrime, financial sleuthing. Yet, many officers aren't well-versed in these fields. New types of crime keep emerging, but training hasn't kept pace. So, evidence gets stuck in limbo, analysis crawls, documentation drags on, and these bottlenecks ripple out. Cases stall, and accused individuals can spend extended periods in custody, waiting for a process that already moves at a snail's pace.

Another major hurdle: technology and infrastructure are lagging behind. Police still rely too much on outdated methods, and getting forensic reports often turns into a waiting game. They're strapped for digital tools and equipment, and the basic systems they depend on just can't support the demands of contemporary crime fighting. Investigations get bogged down in these technical gaps, making everything slower and less effective.

All these challenges make it clear—structural reforms aren't optional. They're desperately needed if law enforcement is to catch up with the complexities of modern crime. Building institutional capacity, investing in professional training, and upgrading infrastructure are the real keys to tightening up investigations. Without these changes, delays become the norm, and justice slips further out of reach.

### b. Procedural Complexities

India's criminal investigation process really isn't straightforward. It unfolds in several stages, and delays can creep in anywhere—setting off a chain reaction that bogs down the entire

system. Let's start at the beginning: the police register the First Information Report (FIR). Even at this point, you need vigilant coordination between departments. Then comes evidence collection and the charge sheet—each step depends on everyone doing their part, whether it's the police, medical authorities, forensic labs, or judicial officers.

When witnesses aren't available or statements aren't recorded promptly, everything slows down. Collecting documentary evidence? The process drags, sometimes for months, because the authorities move at different speeds or seem to operate on isolated islands. Forensic analysis is a notorious bottleneck. India's labs tend to be overloaded, and the wait time is painfully long. That backlog doesn't just hold up one case; it gums up the works for dozens, stalling the official filing of charge sheets and keeping suspects and victims hanging.

Bureaucratic hurdles make matters worse. Agencies don't always talk to each other effectively. Red tape and procedural inertia leave investigations stuck in limbo—and justice delayed often becomes justice denied.

Modern crime only complicates things. Cases dealing with financial fraud, cybercrime, or those with transnational footprints require investigators to have specialized training and tools. They must cooperate with authorities in other legal jurisdictions, both within and outside India. This cross-border complexity slows things down even more. In these situations, the investigation confronts legal, technical, and logistical challenges that the current framework isn't always equipped to handle.

All these issues highlight an urgent need for reform. India's investigative system must modernize to keep pace with evolving crime. That means building forensic capacity, reducing bureaucratic obstacles, and developing specialized expertise. More than just efficiency, timely investigations are critical for upholding the principles of justice, maintaining

public trust, and protecting the rights of everyone involved in the process.

### **c. Judicial Backlog and Systemic Delay**

You can't really separate investigation delays from the broader crisis of judicial backlog in India. When investigators finally submit their reports, the hurdles are far from over—cases tend to get stuck in the system, bogged down by an exhausted judiciary struggling to keep up with the volume. For many accused individuals, this means months or even years in custody while everyone waits for a trial date. Judges hold back on granting bail, guessing—often rightly—that a trial could stretch on indefinitely.

This persistent backlog actually ends up shaping the behaviour of the investigators too. If they know that a trial is likely to drag on for years, there's little urgency to wrap up investigations swiftly. Why race through their work when the courts move at a glacial pace anyway? It becomes a vicious circle: inefficiency during the investigation reinforces courtroom delays, and vice versa.

The causes are everywhere—endless adjournments, a severe shortage of judges, and tangled procedures that make simple cases last longer than they should. You see these problems compounding, eating away at whatever faith the public has left in the system. People lose trust when justice gets kicked down the road for years at a time.

Tackling this mess isn't about fixing one link in the chain. You need a strategy that recognizes how investigation and adjudication feed into each other. It takes serious reform—speeding up court hearings, adding enough judges, reviewing procedural labyrinths, and demanding higher standards from investigative agencies—to give people hope that the justice system can actually serve justice, not just stall it.

### **d. Socio-Economic Factors and Inequality in Delay**

Delays in criminal investigations don't hit everyone the same way—they land hardest on

the people already pushed to the margins of society. If you look at India's undertrial population, there's a clear pattern: most of them come from economically weaker backgrounds. These are people who struggle to pay for good legal help or even scrape together enough for bail. Many of them don't even realize what rights they have under the law. This isn't just bad luck—it's a built-in disadvantage. So, when you have legal protections like default bail or Section 479 BNSS, 2023<sup>611</sup> you'd expect these to offer some relief. But in reality, people remain in jail simply because they don't know what to ask for, or they can't meet the basic requirements to get out.

Legal aid was supposed to bridge some of these gaps—after all, the Constitution promises that everyone gets legal help, no matter their financial status. But when you look closer, the safety net is full of holes. Legal aid lawyers tend to be overwhelmed with too many cases and can't spend enough time understanding each client's situation. Communication falters. Systemic red tape slows everything down. Often, bail applications are filed late, or not at all. Rights that exist on paper get lost in the shuffle. For someone without money or connections, this means their freedom isn't about what the law says—it's about whether they can beat the odds stacked against them.

This problem only grows worse for those already singled out by the system—marginalized communities, who face a higher risk of being picked up for petty offenses or on shaky evidence. Once arrested, delayed investigations mean they sit in jail for months, sometimes even years, not because the case against them is strong, but because they can't cut through the bureaucracy. Each extra day spent waiting for an investigation to wrap up just deepens the divide between those with resources and those without.

Ultimately, this calls into question the very idea of fairness in our criminal justice system. When

liberty gets tied to money, awareness, or social status, legal rights lose their meaning. The need for thoughtful, dedicated reform is obvious—without it, justice stays out of reach for those who need it most. We have to focus on fixing these disparities, or the promise of equal justice under the law will continue to ring hollow.

## VI. Comprehensive Impact of Delay on Bail Decisions

### a. Erosion of Presumption of Innocence

Let's face it: prolonged delays in criminal investigations do more than slow down the wheels of justice. They chip away at one of the bedrock principles of criminal law—the presumption of innocence. When someone sits in custody for months, or even years, waiting for their case to move forward, it's hard for anyone—judges, prosecutors, or the public—to keep seeing that detention as just a temporary measure. The lines start to blur. Pre-trial detention begins to feel like punishment itself, and it's almost as if the system expects the accused to prove their innocence, rather than the prosecution having to prove guilt.

This shift isn't just a procedural hiccup. It has real consequences. People in custody face stigma, stress, and sometimes lose jobs, relationships, and reputations long before any guilty verdict. The assumption of innocence, in practice, gets worn down the longer the case drags on. Public opinion is quick to forget the distinction too; for many, being locked up seems tantamount to being guilty. This undermines trust in the legal system and puts the accused in a difficult position, with their rights overshadowed and the burden unfairly tipped against them. It's a problem that reveals how procedural delays are anything but harmless—they reshape the very meaning of justice.

### b. Judicial Shift Towards Liberty-Oriented Interpretation

Courts have responded to chronic delays by leaning more toward protecting individual freedoms when it comes to bail. Judges are

<sup>611</sup> *Id.* at 6"

starting to see that keeping people locked up for long stretches—especially when the case seems to be going nowhere—is not just unfair, but also violates their basic rights. Nowadays, delay isn't just a side note; it stands front and centre in bail decisions, especially when prosecutors can't explain why someone should stay behind bars any longer.

But this change hasn't spread evenly across the board. Sometimes, delay pushes judges to grant bail quickly, while in other cases, it hardly makes a difference. It all depends on what the case looks like, how serious the charges are, and what the judge thinks is best. This patchwork approach creates real uncertainty, leaving defendants and lawyers guessing about outcomes. It's clear that courts need more precise rules—ones that spell out exactly when delays tip the balance in favour of bail. Only then can justice move from a vague principle to a consistently applied practice, ensuring people aren't locked away without good reason.

### c. Disparity in Bail Outcomes

Delays in court proceedings fuel glaring inconsistencies and inequality when it comes to bail decisions. It's striking how some courts are quick to offer bail simply because of prolonged detention, giving weight to the hardship of waiting months or years behind bars before trial. Yet, other courts still cling to a stricter mindset—they refuse to let the length of custody overshadow the seriousness of the alleged crime. In practice, this means two people, both accused of the same offence and held for similar lengths of time, can end up with wildly different bail outcomes depending on the jurisdiction or even the particular judge presiding over their case.

It's not just about legal procedures—this patchwork approach chips away at the foundational principle of equality before the law. People lose faith in the fairness of the system when justice becomes unpredictable and depends on geographic location or judicial philosophy rather than consistent standards. As a result, the meaning of justice starts to blur,

and our courts struggle to maintain the legitimacy they need to serve society. Delays shouldn't tip the scales only in some cases; reform demands that courts recognize the burden of detention and uphold the principle that all accused persons deserve equal treatment, no matter where their case is heard.

### d. Psychological and Social Consequences

When investigations drag on and people remain behind bars for months or even years, the cost goes far beyond the wait for justice. The psychological toll can be brutal—anxiety, depression, insomnia, sometimes even the beginnings of more serious mental illness. You see people unravel, becoming shadows of themselves. But it doesn't stop inside the jail. Outside, life doesn't freeze in sympathy. Jobs disappear quickly. Employers seldom keep a position open for someone caught up in the system, so income evaporates. For families, the absence creates a vacuum. Spouses feel abandoned, children grow up confused or angry, relationships dissolve under the strain.

There's also no erasing the stain of social stigma. Word spreads. Friends and neighbour's gossip, and the community starts to avoid the accused, treating them like they're already guilty. Even after acquittal, people remember the accusation more than the verdict, and damaged reputations rarely heal. So, while the justice system often calls delay an unfortunate necessity, for those trapped within it, the consequences aren't just inconvenient—they follow you for life. They can ruin you, regardless of guilt or innocence. This is the real human cost of a system that too often moves at a crawl.

## VII. Important Judicial Precedents

### a. Hussainara Khatoon v. State of Bihar (1979)

This landmark case<sup>612</sup> didn't just capture national attention—it forced the country to confront how badly undertrial prisoners suffer

<sup>612</sup>

Hussainara Khatoon & Ors. v. Home Secretary, State of Bihar, AIR 1979 SC 1369 I(India).

when they're trapped in jail for years, their cases dragging on with no clear end in sight. When the Supreme Court stepped in, it went beyond just settling a legal debate. The judges made it unmistakably clear: having a trial within a reasonable time isn't just a good idea—it's an unquestionable right embedded in Article 21 of the Constitution<sup>613</sup>.

The case did more than highlight individual stories of injustice. It brought the overwhelming flaws in the criminal justice system out into the open. The endless wait for justice, the backlog of cases, and the system's inability to guarantee timely hearings—all of this became impossible to ignore. The Court linked these delays directly to the erosion of basic personal liberty and the principles governing bail, charting a new course in legal thinking.

The ruling didn't mince words. It called out prolonged, indefinite detention without trial as fundamentally unconstitutional—a direct attack on the core rights every citizen should enjoy. The judges ordered that many of these undertrial prisoners be released, not just as an act of compassion, but because legal and moral principles demanded it. This judgment didn't just change lives; it set a precedent. From that point on, the system had to recognize that dragging out a trial is more than an administrative hiccup—it's a violation of fundamental rights, and the courts would have to treat it with the seriousness it deserves.

#### **b. K.A. Najeeb v. Union of India (2021)**

The Supreme Court<sup>614</sup>, in this instance, ruled that keeping someone in jail for an extended period while their trial drags on can be a strong enough reason to grant them bail, even when strict laws like the UAPA<sup>615</sup> apply. The justices pointed out that constitutional courts don't lose their authority just because a law sets high barriers for bail. When the legal process stalls

and a person's fundamental rights are on the line, these courts can—and should—step in.

This ruling stands out for more than one reason. It draws a firm line: the right to a speedy trial and protection from unnecessary detention are not simply technicalities but core aspects of justice. Even when statutes like the UAPA try to make bail exceptionally difficult, lengthy delays tip the scales in favour of personal liberty. The decision reinforces the idea that constitutional safeguards aren't theoretical—they have teeth, and courts must actively defend them, even against tough statutory frameworks designed to keep people behind bars. In short, the judgment underscores the courts' responsibility to balance the demands of tough laws against the basic rights promised to every individual.

#### **c. Satender Kumar Antil v. CBI (2022)**

The Supreme Court took a clear stance in this case<sup>616</sup>, laying out detailed guidelines aimed at making bail procedures more efficient and preventing unwarranted arrests and detention. The justices didn't simply focus on legal formalities; they homed in on practical issues, specifically the misuse of arrest powers by investigative agencies. This concern isn't hypothetical—far too often, people find themselves swept up in the system for minor infractions, or simply because early investigations drag on without clarity.

One of the central points the Court made is that bail shouldn't feel inaccessible or rare. Instead, bail should be granted by default, with jail as the rare exception—especially when investigations stall or cases show obvious delays. It's a shift away from the old habit of keeping people locked up simply because their cases haven't moved forward, or because authorities want to appear tough on crime.

The judgment signals a broader, more systemic change. It doesn't just tweak rules—it digs into the roots of why bail gets delayed and what happens when the system doesn't move

<sup>613</sup> *Id.* at 3”

<sup>614</sup> K.A. Najeeb v. Union of India, AIR 2021 SC 712 (India).

<sup>615</sup> *Id.* at 7”

<sup>616</sup> Satender Kumar Antil v. CBI, AIR 2022 SC 3386 (India).

quickly. By highlighting how these delays lead to unnecessary hardship, the Court acknowledges the tangible impact on people's lives: jobs lost, families stressed, futures put on hold. The guidelines aim to refocus law enforcement and the criminal justice system, making them more accountable and responsive, with the ultimate goal of ensuring justice isn't compromised by red tape or avoidable procedural delays.

#### **d. Union of India v. K.A. Najeeb (Reaffirmation)**

The Supreme Court took a clear stance in this case, laying out detailed guidelines aimed at making bail procedures more efficient and preventing unwarranted arrests and detention<sup>617</sup>. The justices didn't simply focus on legal formalities; they homed in on practical issues, specifically the misuse of arrest powers by investigative agencies. This concern isn't hypothetical—far too often, people find themselves swept up in the system for minor infractions, or simply because early investigations drag on without clarity.

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goal of ensuring justice isn't compromised by red tape or avoidable procedural delays.

#### **e. Arnab Manoranjan Goswami v. State of Maharashtra (2020)**

The case isn't solely focused on the issue of delay, yet its significance runs deeper than its immediate facts<sup>618</sup>. The Supreme Court used this case as a platform to spotlight the value of personal liberty, insisting that courts should not stand idly by when someone's freedom is at risk, especially if the process drags on unnecessarily. The Court stressed that safeguarding liberty isn't a peripheral duty—it's central. When procedural delays start infringing on fundamental rights, judges have an obligation to step in without hesitation. The ruling serves as a reminder that the justice system's credibility rests on its ability to act swiftly and decisively, rather than getting bogged down by red tape or bureaucratic inertia. Ultimately, the judgment pushes the legal community to put human rights at the forefront, making a firm case that your freedom cannot be sacrificed at the altar of procedural formalities.

### **VIII. Comparative Analysis: India and Other Jurisdictions**

#### **a. India: A System Marked by Structural Delay**

The Indian criminal justice system sits at the crossroads of well-intentioned statutory safeguards and deep-seated inefficiencies. On paper, there's no shortage of protection: statutory provisions like Section 187(2) and Section 479 of the *Bhartiya Nagarik Suraksha Sanhita, 2023*<sup>619</sup> draw clear lines on how long someone should linger in custody before trial—courts are meant to keep investigations on a tight schedule and ensure no one spends more time behind bars than the law permits. But reality tells another story. In practice, these rules often fail to bite. Investigative agencies, facing little in the way of actual accountability, routinely overshoot deadlines. Delays morph from being rare exceptions into the

<sup>617</sup> *Id.* at 14<sup>7</sup>

<sup>618</sup> Arnab Manoranjan Goswami v. State of Maharashtra, AIR 2021 SC 1 (India).

<sup>619</sup> *Bhartiya Nagarik Suraksha Sanhita, 2023*, § 187, cl. 2, 479.

unremarkable norm, eroding the purpose of these legal limits.

Bail, too, is marked by paradox. Judges hold wide discretionary powers when deciding bail applications. Ideally, this flexibility allows courts to respond to the nuances of each case. Yet, in reality, these broad judicial powers sometimes push the system towards unpredictability. One judge might treat a lengthy delay as a compelling reason to grant bail, especially if the accused has languished in jail for months or years without trial. Another judge, faced with similar facts but a more serious charge, might brush delay aside, arguing that public interest outweighs an individual's right to liberty. This lack of a governing standard leaves both lawyers and accused persons playing a guessing game every time they approach the bench.

Wider structural problems compound the mess. Police forces are understaffed and sometimes poorly trained. Forensic science labs and other investigative resources often can't keep pace with the case volume. Most glaringly, courts are drowning in backlogs—judges are weighed down by thousands of pending cases, sometimes juggling years' worth of unresolved hearings. These realities make swift investigations and speedy trials the exception rather than the rule. While many developed countries enforce regular and meaningful judicial review over pre-trial detention, India has lagged behind. There's no strong system in place to routinely check if someone's being held unjustly due to delay, so many prisoners simply slip through the cracks.

The situation gets even starker when you zoom in on India's poor and marginalized. People from less privileged backgrounds face the brunt of these delays. Without money for skilled lawyers or enough assets to post bail, they often remain stuck in jail for months—sometimes years. Marginalized individuals, denied the tools to secure their own freedom, end up overrepresented among those suffering from this flawed, sluggish system.

In short, while India's legal code recognizes the principle of speedy justice and sets down promising guidelines on paper, implementation doesn't measure up. Systemic logjams, inconsistent judicial approaches, and glaring socio-economic inequalities combine to render these safeguards hollow for many who need them most. The result? A criminal justice system that too often punishes not on the basis of guilt, but by the accident of delay.

#### **b. United Kingdom: Strict Timelines and Institutional Accountability**

The criminal justice system in the United Kingdom operates within a highly organized and tightly regulated framework when it comes to investigations and the period leading up to trial. One of the most notable features is the statutory custody time limits—clear deadlines that dictate how long authorities have to complete investigations and bring a case to trial. These aren't just guidelines. They're enforced seriously, and extending these limits isn't easy. Investigators must convince a judge there's a genuinely compelling reason to need more time. This keeps police and prosecutors on their toes, pushing them to gather evidence and build their case quickly, rather than letting things drag on.

Bail in the UK is also handled quite differently than in many other jurisdictions. The law—specifically the Bail Act of 1976<sup>620</sup>—starts from the assumption that people deserve bail. It's essentially a right, not an exception. If the prosecution wants to keep someone behind bars before their trial, they have to prove it's absolutely necessary. The courts pay special attention to any delays during investigation or trial, seeing unnecessary or prolonged detention as fundamentally unfair. When cases aren't moving forward, judges often respond by releasing the accused. There's real weight behind the principle that justice delayed is justice denied.

<sup>620</sup> Bail Act 1976, (U.K.).

Accountability sits at the heart of the system too. Agencies responsible for investigation and prosecution know that missing deadlines isn't a minor slip. Oversight mechanisms are robust. If they can't stick to the timelines, there's a real risk that the whole case could fall apart, or that the individual in custody will walk free. Delay isn't routine; it's a breach that calls for real answers. This culture creates steady pressure to keep cases moving, and ensures that the rights of the accused remain protected even before a verdict is reached.

Another layer of scrutiny comes through regular judicial review of detention. The courts don't just make a one-time decision on whether someone should stay in custody. Instead, they periodically revisit the question, looking closely at the progress of the investigation and the trial. This built-in review process means unnecessary detention doesn't just go unnoticed. Judges step in to reassess, and if authorities haven't made enough headway, release becomes a real possibility. It's a stark contrast with how things often unfold in places like India, where people can sit in jail for months or even years without much formal review of their situation.

All of these elements—the statutory deadlines, the reversed burden on bail, institutional checks, and continual court evaluations—come together to form a system that takes delays seriously. By putting real time constraints on investigations and demanding accountability from everyone involved, the UK model shows how structural safeguards can keep the pre-trial process just, efficient, and focused on protecting individual rights.

### **c. United States: Constitutional Protection and the Balancing Test**

In the United States, the right to a speedy trial stand as a core promise under the Constitution, specifically the Sixth Amendment<sup>621</sup>. It's not like India, where courts have carved out the right from broader notions of personal liberty in

Article 21<sup>622</sup>. In America, the guarantee is explicit and unmistakable, setting a firmer constitutional standard. When courts interpret and enforce this right, they turn to *Barker v. Wingo*<sup>623</sup>, the Supreme Court case that outlined a practical way to decide if a delay violates what the Constitution protects.

The Barker test isn't rigid; it's more like a toolkit. Judges weigh four main things: how long the delay lasted, why it happened, whether the defendant demanded a speedy trial, and what kind of harm the delay caused. This adds real depth to the process. Courts look beyond routine excuses or blanket arguments. They dig into the specifics—what the system did or didn't do, and how the defendant's own circumstances fit in. What's crucial here is that responsibility for showing harm doesn't fall entirely on the accused. Judges themselves try to figure out how the delay impacts fairness, which shifts some of the burden off the defendant.

When it comes to bail, the American system pushes toward releasing people before trial unless there's a clear risk—someone might run or pose a danger. The Bail Reform Act spells out how courts should assess these risks. Delay matters here, too. If a defendant sits in jail for too long awaiting trial, courts usually see that as a due process issue. It's not just a technical violation; it's a signal that something in the process isn't working, and release becomes the sensible remedy.

There's another powerful tool in the US: remedies for violations of the speedy trial right. If prosecutors drag their feet without good reason, courts can throw out the charges. This isn't some idle threat—it's a real deterrent. Prosecutors know that if they don't move fast enough, the entire case might collapse. In India, the approach is softer. Dismissal for delay is rare, and the risk for prosecutors is much lower, so systemic delays persist far more often.

<sup>621</sup> India Const., amended by The Constitution (Sixth Amendment) Act, 1951.

<sup>622</sup> “*Id* at 3”

<sup>623</sup> *Barker v. Wingo*, 407 U.S. 514 (1972) U.S.

Of course, America faces its own challenges. When federal cases pile up or courts get overcrowded, delays still strike. The system isn't perfect, but the clarity of the constitutional framework and the structured approach from cases like *Barker* help ensure that justice isn't just a matter of luck or timing. These mechanisms provide judges with consistency, and for defendants, they offer a predictable path for protecting their rights—even in an imperfect system.

#### d. Comparative Evaluation and Key Differences

Comparing how India, the UK, and the US handle delays in criminal investigations and their effects on bail decisions opens up a clear window into broader differences in legal culture, enforcement, and access to justice. For one thing, strict timelines set the tone in the UK and US. British law pins down investigation windows with precise statutory rules; if investigators breach them, courts step in fast. In the US, the right to a speedy trial comes with teeth—courts apply sharp constitutional tests to make sure no one sits in limbo for long. India, on the other hand, sets out procedural safeguards on paper, but their enforcement often falls apart in practice. Much rides on the whims of individual officers or judges, weakening the system's ability to guarantee timely investigations.

Beyond timelines, there's the question of who holds investigative agencies accountable. Both the UK and US subject police and prosecutors to real scrutiny, through independent bodies and judicial oversight. Ignoring deadlines in those countries isn't just a bureaucratic hiccup; it can mean a case collapses or a defendant walks free. That threat keeps most agencies in check. India lags here. Although it has internal processes, external oversight is limited, and officers often dodge consequences for dragging out cases. As a result, delays pile up with almost no real pushback from above.

Judicial discretion—especially in bail decisions—tells another chapter of this story. While no system operates in a straightjacket, British and

American judges work within frameworks laid down by statute and prior high-court rulings. This keeps discretion somewhat predictable and consistent, at least in theory. In India, the situation is messier. With few hard rules and vague guidelines, different judges handle delays in wildly different ways. Someone denied bail in one court might get released quickly in another, simply because the judges have different instincts, not because the law sets a clear course.

Socio-economic factors deepen these divides. The cost of delay falls heaviest on India's poor. Here, legal aid is thin on the ground and navigating the system takes resources most defendants don't have. So, those with money or social clout find ways to speed up or work around the process, while others are stuck waiting, sometimes for years, in pretrial detention. Meanwhile, in the UK and the US, while inequalities still exist, stronger legal aid networks and procedural protections cushion the worst blows. There's at least some framework to prevent the poorest from being left entirely behind.

All things considered, these differences shape not just individual outcomes but also public trust in the system. When delays are tolerated and accountability is weak, as often happens in India, people lose faith that justice will be done—especially those who lack the resources to push their cases forward. In places like the UK and US, stricter enforcement and clearer rules foster greater confidence, even if the systems there are far from perfect. This comparative perspective highlights how fundamental procedural details—timelines, accountability, judicial guidance, and access to aid—shape the real administration of justice on the ground.

#### e. Lessons for Reform in India

A close look at other legal systems offers several clear lessons for improving the Indian criminal justice process. To start with, India urgently needs to tighten and enforce deadlines during criminal investigations. It's not enough to rely on vague guidelines or unofficial

practices—laws should spell out the timelines, and judges need to actively oversee compliance. Without these mechanisms, delays creep in and justice slows to a crawl.

Institutional accountability is another weak link. Far too often, delays in the system are brushed off as business as usual. That mindset has to change. When police or prosecution agencies let deadlines slip, those lapses should trigger real consequences, not just paperwork. Only then will efficiency become part of the culture, rather than an afterthought.

When it comes to bail decisions—especially in cases held up by sluggish investigations—the process could use more predictability. The United States uses the Barker test<sup>624</sup>; a structured framework courts consult to assess the impact of delays on an accused's rights. India should seriously consider developing its own version of such standardized guidelines. Clear, step-by-step tests make it easier for courts to weigh the seriousness of each delay, which brings consistency and transparency to decisions that can otherwise seem random or arbitrary.

There's another critical piece to this puzzle: socio-economic inequality. Delays don't hit everyone equally. Poor defendants and those from marginalized backgrounds usually suffer the longest in pretrial detention because they can't afford good lawyers or expensive bail. Addressing this imbalance requires more than good intentions. India must expand legal aid programs, streamline bail procedures so they're not confusing or costly, and run outreach that explains the rules in plain language to those awaiting trial. These practical steps ensure legal protections aren't just for the privileged few.

India has recognized—at least in principle—that speedy justice matters. But progress won't mean much without deeper, systemic reforms that match the pace and clarity seen in other countries. By taking these comparative lessons to heart, India can build a legal system where

efficiency, fairness, and respect for rights aren't lofty ideals, but everyday realities.

## IX. Reforms and Suggestions

### a. Strengthening Investigative Infrastructure

Police infrastructure in many parts of the country is outdated and stretched thin. Stations often lack basic equipment, and personnel face overwhelming caseloads without sufficient backup. Boosting manpower isn't just about hiring more officers; it means ensuring they're well-equipped and skilled. Specialized training must focus on modern investigative techniques, including cybercrime and forensic analysis. When authorities invest in forensic labs and digital tools—like case tracking systems and data analytics—they speed up investigations and make evidence processing more reliable, cutting down on delays that frustrate both victims and accused.

### b. Strict Enforcement of Statutory Timelines

Provisions such as Section 187(2) and Section 479<sup>625</sup> aren't just bureaucratic details—they exist to protect rights and prevent indefinite detention. Accountability needs to be built in, so when law enforcement or other actors miss these deadlines, people are held responsible. Courts must stop being passive. When timelines are breached, they should step in immediately, granting bail as a rule rather than an exception. This approach pushes the entire justice system to respect timeframes and prioritizes the liberty of individuals.

### c. Judicial Reforms and Case Management

Effective case management isn't only about scheduling hearings; it's about tracking progress, ensuring evidence is ready, and minimizing unnecessary adjournments. Courts need more judges and support staff, so the system isn't perpetually overloaded. When trials move faster, judges can make informed bail decisions without the risk of someone

<sup>624</sup> “*Id* at 18”

<sup>625</sup> “*Id* at 26”

linguishing in jail because their case is stuck in limbo.

#### d. Legal Aid and Awareness

Legal aid and awareness often get overlooked, yet they're foundational to justice. Undertrial prisoners frequently don't know the full extent of their rights, and many can't even access basic legal counsel. Strengthening legal aid means recruiting experienced advocates, simplifying paperwork, and actively educating detainees. When people understand their options, fewer end up detained simply because they couldn't navigate the system.

#### e. Bail Reform Policy

What's really missing is a comprehensive bail reform policy. Right now, bail decisions can feel arbitrary—too reliant on individual judges. Standardizing the reasons for granting bail, especially recognizing delay as a legitimate ground, would make things fairer. Clear guidelines for discretion, published for public scrutiny, promote transparency. When delay consistently prompts bail, it motivates police, prosecutors, and courts to avoid stalling, ensuring fairness and respect for fundamental rights across the board.

### X. Conclusion

Delays in investigation within the Indian criminal justice system aren't just minor procedural hiccups—they're symptomatic of deeper structural flaws that threaten the very idea of justice, fairness, and the constitutional values that supposedly govern our courts. The research here traces a direct line between slow investigations and unjust bail outcomes. People stuck in this web often face extended pre-trial detention, as if merely being an accused converts the process itself into punishment. When the state fails to move cases along quickly, it not only violates Article 21's<sup>626</sup> promise of personal liberty, but also exposes a gulf between constitutional ideals and messy reality.

Bail jurisprudence in India rests on the presumption of innocence and the belief that

liberty trumps detention, at least until guilt is established. Yet in practice, these lofty ideals frequently get tangled in inefficiency, bureaucratic inertia, and erratic decisions by judges. The outcome? People—legally still innocent—end up spending months, even years in jail, sometimes longer than the maximum punishment for their alleged offence. This kind of injustice isn't just technical; it undermines public faith in the entire system and makes mockery of constitutional guarantees.

Statutory safeguards like Section 187(2) and Section 479 of the *Bhartiya Nagarik Suraksha Sanhita, 2023*<sup>627</sup> try to protect against prolonged detention. The idea, "default bail," should act like a pressure valve, compelling investigators to work efficiently or let the accused go free. But courts and police often circumvent these protections, filing incomplete charge sheets or requesting endless extensions. Section 436A, meant to reduce unnecessary jail time, remains underused, especially among those without resources or legal savvy—pointing to yet another divide between what's promised and what's delivered.

Judicial intervention sometimes steps in to remedy these failures. Courts have grown more sensitive to the argument that prolonged pre-trial detention is itself a form of injustice. Landmark rulings affirm that constitutional courts must defend personal liberty, even when the law seems rigid. But inconsistency abounds—some courts lean toward a more humane approach; others remain fixated on the gravity of alleged offences. This lack of agreed standards leads to a patchwork approach, where outcomes hinge on luck or locality instead of clear principles.

Digging deeper, the delays stem from inadequate police infrastructure, a shortage of trained personnel, convoluted procedures, and massive judicial backlog. These issues feed off each other, creating a stubborn cycle of inefficiency that's hard to break. It isn't just an

<sup>626</sup> "Id at 3"

<sup>627</sup> "Id at 16"

administrative problem—it's one of social justice. Poor defendants, lacking money or influence, are hit hardest, trapped in a system that demands resources they don't have. In this way, delay reflects and reinforces broader social inequalities.

Looking beyond India's borders, comparisons with criminal justice systems in the United Kingdom and United States show that strict timelines, ongoing judicial review, and real consequences for delays create more accountability. India recognizes the need for speedy justice on paper, but real change remains elusive due to weak enforcement and lack of practical mechanisms.

What comes next is clear: India needs a broad overhaul, targeting both legal rules and how the system actually operates day-to-day. Upgrading police infrastructure, setting and enforcing stricter timelines, hiring more judges, and offering more robust legal support for the underprivileged would go a long way. At the same time, courts need clearer, unified guidelines that treat delay as central to bail decisions—not as an afterthought—reducing arbitrary outcomes and reinforcing fairness.

Bail, in this context, isn't just about following procedure—it's central to the promise of personal liberty itself. When delays in investigation result in extended detention, the justice system transforms from protector to perpetrator. For India to fulfil its larger promise of justice—swift, fair, and equal—it must shift toward efficiency, accountability, and respect for human dignity. Only then will constitutional rights move from aspiration to reality.