

SEXUAL OFFENCES AGAINST WOMEN, THEIR PREVENTION AND CORRECTIVE MEASURES

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Abstract:

Sexual offences occur in every culture, regardless of geographic location. Some of the more violent sexual offences are sexual assault, which may inflict long-term physical and emotional harm to victims. People who suffer physical injuries have a greater chance of suffering a range of sexual and reproductive health issues. As devastating as physical injuries, the mental health consequence might be of significance. Crimes such as sexual assault often result in murder, suicide, and other dire circumstances for victims. Because of the resulting loss of position within their relations & among their neighbors, the victims' well-being is badly affected by the social consequences of stigmatization. The focus of this article is to examine sex crimes in terms of the factors involved in their creation, their scope, and their prevention and treatment options.

Keywords: *Sexual Offence, Women, Prevention.*

Introduction

In the current environment, violence and growing crimes against women are being observed in some way or another by everyone worldwide. It shows the vastness and thoughtfulness of the horror done against women in recent years. This is seen by the worldwide cruise to decimate violence against women. Changes in livelihoods, lifestyles, and lopsidedness in financial development, social ethos and absence of good standards lead to an abominable standpoint for ladies, as wrongdoings against ladies increment. Such occasions are likewise a subject of genuine concern and their design is exceptionally vital for empower ladies in India to live in an air liberated from abominations, denigration and barbarities, with deference, honor, respect, opportunity and harmony.¹

Women's sex crimes are a global disturbance. A vast range of sex offences are committed under diverse conditions and societal contexts. Sexual violence (without or without intercourse), rape, sexual abuse of persons with mental or physical

disabilities, sexual violence against children including statutory rape (sexual intercourse of children with or without consent), adultery, sex, constrained marriage and dwelling together, including kids' marriage, savage demonstrations against sexual respectability or sexuality are among the most conspicuous.²

The enormous scope of sex-related offenses happens in various areas and conditions. Notwithstanding the more customary violations like assault and rape, offenses like sexual maltreatment of the intellectually or truly crippled; youngster sexual maltreatment (legally defined sexual assault), infidelity, homosexuality, sex, and constraining somebody into marriage or dwelling together are largely on the rundown. Moreover, fierce assaults on the sexual trustworthiness of ladies, including female genital mutilation and constrained virginity tests, are among the much maltreatment to which ladies are oppressed.³

Pornography is printed or is visual content that expressly describes or displays sexual organs or sexual behavior, aimed at stimulating sexual

¹Available at: <https://blog.ipleaders.in/offences-against-women/> (last visited on September 8, 2021).

² Harold J. Vetter and Ira J. Silverman, *The Nature of Crime* 89 (W. B. Saunders Company, Philadelphia, 1978).

³*Ibid.*

excitement or seems to be louder from the perspective of a responsible reader. Pornography is a depiction of sexual subjects for sexual excitement.⁴ A range of media may include pornography in books, periodicals, postcards, pictures, sculptures, drawings, paintings, animations, sound recording, motion pictures, video and computer games, sites. Expanded utilization of IT, for example, the web and specialized gadgets have brought about the spread of unlawful locales conveying vulgar and explicit materials. Vulgar and porn were not characterized explicitly by any Indian demonstration yet by The IPC, 1860, The IT Act, 2000 and The Indecent Representation of Women (Prohibition Act), 1986, Obscenity and Pornography were tended to and distributed or sent, foulness and explicit materials were viewed as culpable offense. There are a few laws that punish the culprits of wrongdoings against ladies. Be that as it may, the Indian Penal Code accommodates ladies as survivors of a wide scope of violations, like homicide, taking, burglary, and so on; yet specific wrongdoing describes ladies drastically, known as 'Offenses against ladies.' With the need of great importance, various new financial offenses have been founded with various changes of the current enactment with the point of adequately battling these violations.⁵

Legal Provisions Related to Sexual Offences against Women/Prevention and Corrective Measures

Rape

Rape is any non-consensual act of penetration with a body part or object involving any portion of another person's body, whether that be vaginal, anal, or oral. People of every identity, from strangers to loved ones, can be perpetrators in any area of life, including relationships and war.⁶ In plain words, the assault offense is the ravishment of a lady, forcibly, trickiness or fear, without her authorization. In different terms, it

is the fornication (littlest degree infiltration of the male conceptive arrangement) of any lady forcibly against her decision. It is a nauseating behavior of the greatest kind and disregards a lady's more right than wrong to protection and sacredness. As well as being a disparaging and corruption, it likewise addresses an illicit obstruction in a lady's very own life, a genuine hit to a lady's pride, notoriety and confidence. This shocking wrongdoing doesn't just truly harm the person in question yet in addition embarrasses, debases and leaves a scar on a lady's most important jewel, specifically her person and pride.⁷

Section 375 of the IPC,⁸ Infiltration of a man's sexual organ (penis) into a woman's mouth, vagina, urethra, or butt, or obliging her to do as such with him or another; or Inserting something other than the penis into a woman's vagina, urethra, or backside, or convincing her to do as such with him or another; or Manipulation of a woman's body part to cause entrance into her vagina, urethra, backside, or some other body part, or driving her to do as such with him or someone else; or Applying his mouth to a woman's vagina, urethra, or backside, or compelling her to do as such with him or someone else.

Without wanting to; deprived of her permission; with her consent, if such assent is procured through ingraining apprehension of death or mischief in her or somebody she knows; With her authorization, on the off chance that she accepts the person she is having sexual relations with is her mate; With her consent, if the lady can't completely understand the nature and ramifications of the direct she agrees to attributable to instability of psyche or inebriation; With or without the consent of a woman younger than 18; When the woman can't communicate her assent.

Section 376 of the Indian Penal Code indicates the discipline for assault. Besides in the circumstances indicated in subsection 2 of a similar segment, the discipline will be brutal

⁴ Jatin Anand, "Only 19% Conviction in Rape Cases in 3 Years : Police Data", *Hindustan Times*, March 6, 2014.

⁵ Available at: <http://www.womenlawsindia.com/legal-awareness/crimes-against-women/> (last visited on September 06, 2021).

⁶ Available at: <https://www.safecity.in/sexual-violence-laws-under-the-indian-penal-code/> (last visited on September 05, 2021).

⁷ Kumar S, Jeyaseelan L, "Domestic violence and its mental health correlates in Indian women" *Br J Psychiatry*. (2005)

⁸ Indian Penal Code, 1860, s. 375.

detainment for something like 7 years, which might be reached out to life detainment, and a fine.⁹ In April 2018, it became lawful to utilize capital punishment for anybody indicted for assaulting a child younger than 12.

Gang Rape (Section 376D)

The sentence for group rape is provided for under section 376D. If a woman is raped by more than one person acting in a hopeless manner, everyone is accountable for the offence of rape and is punishable by a severe imprisonment for a period not less than 20 years, which may exceed to life imprisonment and fines.¹⁰

In *Tukaramv. State of Maharashtra*,¹¹ Mathura, a young lady from Harijan, got physically involved with a person, Ashoka. Her sibling detailed with regards to Ashok's snatching of Mathura at the police headquarters. Mathura was brought to the police headquarters a few hours after the fact and an assertion was recorded. Since it was late around evening time, two constables (appellants) were around then in the police headquarters. The appellants mentioned Mathura to remain at the police headquarters and stand by outside. One of the appellants maneuvered her into the latrine and lit a light that zeroed in on her genitals and afterward hauled her and assaulted her in spite of her shows. Then, at that point came the other litigant to abuse her, yet couldn't since he was exceptionally noxious. The colleagues of Mathura named her name and presently Mathura came from the police headquarters and said that one of the constables had assaulted her, however the lights were all off the police headquarters, and nothing was clear. The horde developed rough consequently their FIR was submitted for their affirmation. The report of the specialist said that there was no damage to Mathura's body. Her hymen showed antiquated cracks. The petitioners struggled that while there was no immediate proof of the idea of the young lady's agree to the supposed sexual lead, it could be derived from the conditions that she did as such with her aloof assertion.¹²

Outrage its Modesty

The legislation (Section 354 IPC), when intended to "outrage its modesty," makes it a specific offence to use force against a woman or even to threaten to use force. It considers this more severely than regular and criminal force by permitting the police to make arrests without a warrant for such offences. The legislation does not clarify the meaning of 'outrageous modesty.' Court determinations are generally made by examining all the circumstances surrounding the occurrence. "Modesty" was described by the Supreme Court as feminine decency and a virtue that women hold due to sex.¹³

In *RupanDeol Bajaj v. K.P.S. Gill*,¹⁴ The applicant was an IAS official and DGP, Punjab, was charged. The applicant was welcome to a social occasion in which the blamed was there also. The respondent mentioned the applicant to come and sit close to him and, when she came to plunk down, he drew up the seat and the solicitor was stunned by this, and pulled his seat back to its unique area, and again he shut the seat. The solicitor beseeched him to go, yet he mentioned the candidate to follow him with a voice of power. She felt scared and apprehensive and moved her seat back in a flash and went to go out. The blamed smacked the candidate's butt right now before every one of the guests which was very humiliating to her. She recorded him with a FIR.

The High Court toppled the First Information Report & presumed that the wrongdoing was secured by Sec. 95, Indian Penal Code. The Supreme Court decided that subduing FIR was unlawful and Section 95 was totally immaterial to the IPC. The court additionally noticed that if an offense identifies with ladies' unobtrusiveness, it can't regardless be minor. The guilty party was accordingly announced dependable under Section 354 of the IPC.¹⁵

Sexual Harassment

Inappropriate behavior is one more sort of sexual double-dealing of women that happens under explicit conditions in the working environment or in an informative location. One individual exacts unwanted sexual tension on another. Such conduct is unlawful in the event

⁹Indian Penal Code, s. 376.

¹⁰Indian Penal Code, 1860, s. 376D.

¹¹ AIR 1979 SC 185.

¹²*Ibid.*

¹³Indian Penal Code, 1860, s. 354.

¹⁴ 2005(6) SCC 161.

¹⁵*Ibid.*

that it makes an unfriendly or undermining environment, in the event that it meddles with an individual's work or school execution, or on the other hand if response of the harasser's conduct is made a state of corporate or academic achievement. Various individuals have various thoughts regarding what acts comprise inappropriate behavior. Physically situated motions, jokes, or articulations that are undesired; persevering and undesirable sexual methodologies; contacting or other unseemly body contact; and actual terrorizing are normal kinds of inappropriate behavior. Lewd behavior happens when one individual uses control over another and capitalizes on that leverage to urge the other individual into tolerating unwanted sexual consideration. It might likewise occur among peers, for example, when representatives utter sexual jokes, transfer obscene pictures, or make undesirable sexual allusions to another associate.¹⁶

Non-consensual physical contact, such as grasping, squeezing, slapping, or rubbing against another person in a sexual way, is considered sexual harassment. Catcalls, sexual remarks about a person's physique or looks, demands for sexual favors, sexually suggestive gazing, stalking, and displaying one's sex organs are additional examples of non-physical manifestations.¹⁷

Section 354A: Unwelcome or other physical contact, Request or demand sex or any other sexual action, make observations of a sexual character, displaying sexual content, including films, publications, novels, etc.¹⁸

In *Raju Pandurang Mahalev. State of Maharashtra*,¹⁹ The charged welcomed the casualty to the home on misrepresentation affectation to the co-denounced. They limited her to the house and gave alcohol that she needed to devour. The casualty was then taken and her exposed pictures taken. As per sec 354 IPC, the Supreme Court concluded that the blamed was blameworthy, on the grounds that

their activities were annoyed by the typical feeling of ladies' conventionality.²⁰

In *Visakhav. State of Rajasthan*²¹ The Supreme Court decided that the dread of inappropriate behavior denied a lady who was completing her work comprised a break of her opportunity to work in any field secured by Art. 19(1)(g) of the Constitution. Since India acknowledged the Convention on the Elimination of All Forms of Discrimination against Women in 1981, it has now turned into the enactment of India. The Apex Court recognized the right of ladies to the piety of their bodies, and this right is important for common liberties. The circumstance of ladies isn't distinctive in practically all cutting edge developments, unfair and biased.²²

Disrobing a Woman

Segment 354B: Sanctions for the offense of attack or the utilization of criminal power on a lady or to empower any such direct with intend to undress or constrain her nude, with a punishment at the very least three years, stretching out to 7 years with a fine. This is a sex offense, which implies that under this condition just a male might be punished.²³

Voyeurism

Section 354C: It's a felony to gaze at or to catch a lady going through her private actions (say by means of a photo or a video) while she thinks nobody is observing her. Including a woman: Use a toilet or a person who is naked or underwear, or engaged in sexual activity.²⁴

Stalking

Section 354D: There are two offenses under this part. To begin with, when, notwithstanding evident signs of detachment, a man follows or contacts or looks for over and over to contact the lady, and also, when a man watches the use by a lady of the web, messages and some other sort of electronic correspondence. For the main conviction, the sentence forced is prison for a term of as long as three years. The punishment

¹⁶V. Rao, "Wife-beating in rural south India: A qualitative and econometric analysis" *Soc Sci Med.* (1997).

¹⁷Available at: <https://www.unwomen.org/en/what-we-do/ending-violence-against-women/faqs/types-of-violence> (last visited on September 05, 2021).

¹⁸Indian Penal Code, 1860, s. 354A.

¹⁹ 2004(2) SCR 287.

²⁰ *Ibid.*

²¹ (1997) 6 SCC 241.

²² *Ibid.*

²³ Indian Penal Code, 1860, s. 354B.

²⁴ Indian Penal Code, 1860, s. 354C.

for second conviction might increment to as long as five years with a fine.²⁵

Insulting the Modesty of Women

An act to offend the diffidence of a lady who may not unavoidably entail some corporeal strength is subjected to this clause under section 509. This part aims to prevent any type of violence against the modesty of a woman by any speech, act or act or by interfering with her private. This section is sometimes called the 'Section of Eve Teasing'.²⁶

Criminal Law Amendment Act, 2013

In 2012, Delhi's national capital experienced the most horrendous gang rape that is still often referred to as the Nirbhaya rape case, which rocked the awareness of the whole nation and resulted in stronger laws being introduced as a Criminal Law (amendment) Act, 2013. In accordance with the new amending Act, the minimum penalty for rape was changed from seven to 10 years. In addition, the minimum punishment was accordingly raised to 20 years in cases that resulted in the passing of the target or the target being left in a asexual condition. But in this case, as one of the accused was still a child, he was thereafter to be tried as a youth, and thus, although being 17 years old and just a few months ahead of adult, this particular accused dodged the full weight of the law.²⁷

In order to avoid similar situations in future, the adult age was rightly changed from 18 to 16 to be prosecuted for violent crimes like as rape and killing. The law also confirmed that when youngsters from 16 to 18 years are engaged in actions involving horrendous and brutal murders and rapes, they ought to be prosecuted and punished like adults.

Legal Aspects under Special Local Laws for Sexual Offence against Women

While not all laws are gender-specific, legal regulations on sexual assault against women have been examined on a regular basis and modifications implemented to keep pace with

developing requirements. The gender laws across the country are as follows:

- **Immoral Traffic (Prevention) Act, 1956:** In India the law on sexual activity is established through the Immoral Trafficking (Prevention) Act of 1956 (ITPA). ITPA does not prohibit sex work on its own, but penalizes particular commercial sex acts. It also ensures that people are rescued and rehabilitated throughout sex work.
- **Indecent Representation of Women (Prohibition) Act, 1986:** This Act prohibited the obscene portrayal of ladies through ads or writings, pictures, facts or publications or in any other way and for such issues. Definitions of terminology such as advertising, distribution, label, indeterminate representation of women, package, and prescribed are defined in sec. 2 of the Act. According to sec. 3, any announcement in which an obscene portrayal of women by any person publishing, arranging or participating in publications or exhibitions is criminal. Any paper, booklet, slide, film, written photographs, figures that contain indiscriminate representations of women cannot, but only with limited exceptions, be created, sold or hired by any person. It must not apply, exceptionally, to any book, paper, pamphlet, painting, writing, photograph or figure made for the welfare of the public or for the good of science, art and literature.
- **The Medical Termination of Pregnancy Act of 1971** protects women against needless and forced abortions.
- **Protection of Women from Domestic Violence Act, 2005:** This act defends females from any action, inaction, or misdeed that might cause injury or harm. It shields women against physical, sexual, emotional, verbal, psychological, and economic violence.
- **The Prohibition of Child Marriage Act, 2006:** An Act prohibiting the solemnization of underage marriages banning the Child Marriage Act in 2006 has been adopted by the Government of India. The Act was first introduced on 1 November 2007. The offence under the Act against child marriage is cognizable and cannot be leased.

criminal-and-labour/LARO/laws-against-rape-and-other-sexual-offences-in-india.html (last visited on September 01, 2021).

²⁵Indian Penal Code, 1860, s. 354D.

²⁶Indian Penal Code, 1860, s. 509.

²⁷Available at:

<https://www.helpinelaw.com/employment->

- **The Protection of Children from Sexual Offences Act, 2012 (POCSO):** The government has introduced a specific legislation in dealing with child sexual abuse cases, namely The POCSO Act, 2012. The Act came into power on 14 November 2012 along with the guidelines laid forward beneath. The Act is a complete represent shielding youngsters from rape, lewd behavior and sexual entertainment, while protecting the interests of the kid at all phases of the legal interaction through the consideration of kid agreeable detailing, recording of proof, examination and quick indictment systems in assigned extraordinary courts.

- **Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013:** Further, both the organized and unorganized sectors in India are covered under the Act on the Prevention of Workplace Sexual Harassment. The Statute shall, inter alia, apply to government bodies, private and public sector organizations, NGOs, business, professional, educational, entertainment, industrial, financial, hospital and health centers, educational institutes, sports institutions, and stadiums used for training people and houses.

- **Human trafficking:** People are exploited and acquired by tactics such as force, fraud, coercion, or deceit in human trafficking. Millions of women and girls throughout the world are caught up in this horrendous crime, which often results in sexual exploitation. India is a source, place and country of transit for people trafficked for forced labor & profitable voluptuous mistreatment by men, females & offspring. The most impoverished social economic strata in India are most prone to forced or bound labor and sexual trafficking. For commercial sexual exploitation and forced marriage, women and girls are transported inside the nation.

Sexual/Rape Cases

- **Delhi Gang Rape Case:** This case opened the basis for changes to infringement enactment to seriously punish violators. This

occasion of 2012 was respected to be the unprecedented event where a young lady gets assaulted in a private transport by five people while returning home in the evening. The occurrence prompted different organ disappointment, genuine harm to its genitals just as to their different pieces of the body and the inclusion of pole into the private pieces of the body of the casualty who endured assault just as a strange wrongdoing. This shook people in general since the abominable demonstration of the culprits that caused the casualty's passing was seen as a threat to society. The Nirbhaya Gang Rape case, also known as the Delhi Gang Rape case, is a well-known example of capital punishment. People's outpouring of rage and sadness in the aftermath of the rape & murder gave birth to aspirations for change in India. In this instance, the Supreme Court ruled that the severity with which the act was perpetrated cannot be overlooked, and there is no hope of repentance, thus the accused should be hanged to death. The Indian government enacted an ordinance that provides for the death sentence in cases of rape that results in death or leaves the victim in a "persistent vegetative condition." It is still debatable whether or not the accused of rape should face the death penalty.²⁸

In *Mukesh and Anrsv. State (NCT of Delhi) and Ors*,²⁹ The denounced who has been condemned by a preliminary court attested by the High Court for capital punishment, has engaged the Supreme Court. The Supreme Court analyzed current realities and conditions and based the casualty's pre-passing demise declarations on capital punishment.³⁰

- **Unnao Rape Case:** A 17-year-old girl was raped and murdered by a politician in 2017. When the victim contacted the UP CM for justice, her father was murdered in judicial detention, which caught the attention of many people. It was discovered raped by a BJP politician from the Unnao Constituency, Kuldeep Singh Sengar. A pre-planned automobile accident later attempted to kill the victim and her lawyer, coupled with the loss of two relatives, resulted to significant injuries.³¹

- **Kathua Rape Case:** In 2018, in Kathua, J&K, a 8-year-old adolescent assault case was

²⁸ Available at:

<https://www.legalserviceindia.com/legal/article-677-capital-punishment-for-rape.html> (last visited on September 03, 2021).

²⁹ (2017) 6 SCC 1.

³⁰ *Ibid.*

³¹ *Supra* note 27.

captured, assaulted and killed. She was found posse rapped and killed. The matter prompted inescapable clamor. The Act on the Protection of Children from Sexual Offenses (POCSO)' has been reexamined and seriously rebuffed. Three litigants were held for infringement and condemned to life and a fine of one lakh, three others for erasing proof and five years in prison. These were the two key examples prompting changes and alterations to the infringement enactment and to the POCSO Act. The youngsters too required extensive assurance and care, and thus the 2018 alteration incorporated the previously mentioned arrangements in the "sexual offenses" classification.³²

Conclusion

Despite the number of laws protecting and protecting women's rights and interests, the prevalence of wrongdoing against ladies and exploitation is burgeoning every day. Two are rightly said to take tango. It means that only the rules that govern and control the increase in violations against ladies in our general public are not accountable. Evil women's eyes removed and social ethics, moral values, respect and dignity of women in every human being is the necessity of the hour and can also help to the reduction in crime against women. There is, nevertheless, a requirement for more and stricter regulations to prevent a person intending to do such crimes from having the fortitude to act in favor of his goal. An analysis of the crimes shows that most women's offences cross all barriers to religion, caste and socioeconomic strata. Education and economic independence seldom improve the victim's moral bravery to resist crimes, in particular those which are connected with social shame. The reasons which lead to crime against women are gender bias, a patriarchal culture, a badly designed shelter, a lack of space, lack of knowledge, lack of time for loved ones, defects in government policies, capitalist kinds of society etc. Virtually all of those victims of sexual abuse who have seen law enforcement agencies as their guardian, or helpers and who, whenever they lodge a complaint with them, are condemned by a judiciary as well, the police interrogation and the trial are a second and emotionally traumatizing "public rape." The strong masculine prejudicial

ties of the police and the judges make it very hard to show that rape is a case.

This demonstrates the shortcoming of society to secure individuals who can't ensure themselves to the full for a few intrinsic reasons and the truth that we have folks among us that are more terrible than creatures. Slur on the great standards and foundations that society lauds so uproariously. Sexual wrongdoings are an attack against heavenly organizations of marriage, sisterhood and parenthood, yet in addition to humanity all in all. The casualty is harmed and left alive in assault each day to confront the repercussions of obliteration. Each and every hour, single moment, and single second of her reality she needs to experience her passing. The legitimate methodology is extensive, dreary and costly. Deferred preliminaries attributable to the genuine build-up of cases and the different late strategies of the criminal weaken the case, the proof vanishes, and the casualty's possibility of equity is diminished. Assault is an incredibly confounded issue, which itself includes a few factors during the time spent equity. To forestall and deal with this sickness, a joint, facilitated and composed exertion by the police, courts, NGOs and the overall population is required.

Suggestions

- **Restriction on use of Alcohol:** There must be a ban on drinking alcohol in public areas, including trains and buses, as well as on college campuses and other establishments. Alcohol stores must be scaled back. Drinking may be restricted to people who are at least 30 years old.
- **Control on Media:** Sexually explicit content should be restricted. As a means of promoting peace and empathy, worthwhile subjects should be promoted. Pornography should be prohibited absolutely. Perhaps the sites are blocked.
- **Marriages:** It is preferable to marry men and women while they are in their early 20s, as sexual gratification may be achieved in a socially acceptable way when they are young.
- **Law Enforcement:** A law enforcement system that is both efficient and responsible is needed at all levels (from administration to government, from police to court).

³²*Ibid.*

- The rape trial should be conducted by a lady judge, investigated by a lady's police officer and dealt with by lady lawyers, if feasible. In rape instances, only criminal women's cell should be charged on behalf of the police.
- Jury appointments from distinguished persons (not attorneys) should be explored to aid in the fast resolution of rape cases. Women should be given more representation on such a jury.
- Some external agencies, especially CID or CBI, should carry out investigations into the custodial rape. Investigation by an officer not below the DSP rank should be performed.
- The Central Film Certification Board is proposed to be further modified with regard to the screening of obscenity and the unfavorable picture of women like prostitutes, call girls, etc. There can already be greater restrictions on audacious and personal situations. In summary, an "A" certificate for films should not be a notion.
- Some time for doubtful individuals accused with sexual offences has received a bail from the court and then tries to influence the complainant and witness. It is thus suggested that the courts take this seriously, that bail should not at any cost be given to the offender or the accomplished person, charged with sexual offence. In this respect, too, there is a need to reform criminal legislation. Although the offence is categories that cannot be disseminated. Until final judgment of the case, Bail should not be given at any cost.