

A
BILL

further to amend the Code of Criminal Procedure, 1898

WHEREAS it is expedient further to amend the Code of Criminal Procedure, 1898 (Act V of 1898), for the purposes hereinafter appearing:

It is hereby enacted as follows:-

1. **Short title and commencement,-** (1) This Act may be called the Code of Criminal Procedure (Amendment) Act, 2008.

(2) It shall come into force at once.

2. **Amendment of section 426, Act V of 1898,-** In the Code of Criminal Procedure, 1898 (Act V of 1898), hereinafter referred to as the said Code, in section 426, after sub-section (1), the following new sub-section shall be inserted, namely:-

“(1A) An Appellate Court shall, **except where it is of opinion that the delay in the decision of appeal has been occasioned by an act or omission of the appellant or any other person acting on his behalf**, order a convicted person to be released on bail who has been sentenced-

- (a) to imprisonment for a period not exceeding three years and whose appeal has not been decided within a period of six months of his conviction;
- (b) to imprisonment for a period exceeding three years but not exceeding seven years and whose appeal has not been decided within a period of one year of his conviction; or
- (c) to imprisonment for life or imprisonment exceeding seven years and whose appeal has not been decided within a period of two years of his conviction:

Provided that the provisions of the foregoing paragraphs shall not apply to a previously convicted offender for an offence punishable with death or imprisonment for life or to a person who, in the opinion of the Appellate Court, is a

hardened, desperate or dangerous criminal or is accused of an act of terrorism punishable with death or imprisonment for life.

3. **Amendment of section 497, Act V of 1898.**— In the said Code, in section 497, sub-section (1),—

- (i) in the first proviso, after the word “years” the words “or any woman” shall be inserted;
- (ii) the second, third and fourth provisos shall be omitted; and
- (iii) in the fifth proviso, for the full stop at the end a colon shall be substituted and thereafter the following provisos shall be added, namely:—

“Provided further that the Court shall, except where it is of opinion that the delay in the trial of the accused has been occasioned by an act or omission of the accused or any other person acting on his behalf, direct that any person shall be released on bail—

- (a) who, being accused of any offence not punishable with death, has been detained for such offence for a continuous period exceeding one year or in case of a woman exceeding six months and whose trial for such offence has not concluded; or
- (b) who, being accused of an offence punishable with death, has been detained for such offence for a continuous period exceeding two years and in case of a woman exceeding one year and whose trial for such offence has not concluded:

Provided further that the provisions of the foregoing proviso shall not apply to a previously convicted offender for an offence punishable with death or imprisonment for life or to a person who, in the opinion of the Court, is a hardened, desperate or dangerous criminal or is accused of an act of terrorism punishable with death or imprisonment for life.”

4. **Repeal:-** The Code of Criminal Procedure (Amendment) Ordinance, 2010 (V of 2010), if not already repealed shall stand repealed on the day the Code of Criminal Procedure (Amendment) Bill, 2010, receives assent of the President."

STATEMENT OF OBJECT AND REASONS

The trails of accused persons get delayed due to various causes including the pendency and huge backlog in the courts. With the result that the accused persons languish in jails for indefinite period whose trails are not concluded. The object of the proposed Bill is to provide relief to them and grant them bail after two years in case of offence punishable with death and after one year in case of offence not punishable with death. This period is further being reduced to one year and six months, respectively, in case of women accused. Similar amendment is being proposed in section 426 of the Cr.Pc. if case gets delayed at appellat stage.

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