

Weekly Legal Current Affairs

21–27 September 2026

This week at a glance

- Released after the police broke Article 22(1) and 22(2)? The same police cannot simply re-arrest you, because re-arrest now needs a Magistrate's order.
- A mother's POCSO FIR filed after losing custody is quashed, and the Court now requires expert evaluation before arrest or summons in parental POCSO cases
- Framing all issues does not kill the preliminary-issue power under Order XIV Rule 2(2), but starting the trial on all of them does.
- Stepfather's rape-murder of a six-year-old stands proved on the mother's word, but death falls — the State never showed he was beyond reform.

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Judgments of the week

1. Jaskaran Jeet Singh Deol v. State of Punjab Constitution

2026 INSC 1022 · Ujjal Bhuyan, Atul S. Chandurkar · 21 September 2026

Facts. The appellant, accused under Sections 64, 65(1) and 351 BNS read with Section 6 POCSO Act, was arrested at 07:54 am on 17.05.2026 and produced before the Magistrate only around noon on 18.05.2026, with no written grounds of arrest. The Magistrate released him but said the agency could still proceed in accordance with law, and the High Court refused to bar re-arrest, citing the gravity of the offence.

Issue. Can an accused released for breach of both clauses (1) and (2) of Article 22 be re-arrested for the same offence, and if so, under what circumstances and by what procedure?

Held. Following Mihir Rajesh Shah (para 65), the investigating agency must first furnish written grounds of arrest and then apply to the Magistrate for custody, stating the reasons and necessity for re-arrest and explaining why grounds were not supplied at the first instance; the application must carry the endorsement of the immediate superior authority, and the Magistrate should decide it preferably within a week. The superior authority must hand the investigation to another officer and order a departmental enquiry. The same procedure applies to a breach of Article 22(2), and the High Court may also award public-law compensation, following Bhim Singh, with the accused free to sue under private civil law. Sri Darshan and Sonam Raghuvanshi were treated as pre-Mihir Rajesh Shah, and default-bail re-arrest cases (Sanjay Dutt, Rakesh Kumar Paul) were distinguished because here the breaches came at the threshold of arrest.

Why it matters. Release for an Article 22 breach is not bail but release from unconstitutional detention, so no prejudice test applies and the gravity of the offence cannot excuse it (Prabhu Dayal Deorah)

Provisions: Constitution of India, Art. 22(1); Constitution of India, Art. 22(2); Constitution of India, Art. 21; Code of Criminal Procedure 1973, s.50; Code of Criminal Procedure 1973, s.57; Bharatiya Nagarik Suraksha Sanhita 2023, s.47; Bharatiya Nagarik Suraksha Sanhita 2023, s.58; Bharatiya Nagarik Suraksha Sanhita 2023, s.528

2. R v. E Criminal Procedure

2026 INSC 1049 · J.B. Pardiwala, K.V. Viswanathan · 24 September 2026

Facts. The father won custody of the child under s.25 of the Guardians and Wards Act, 1890, and the Supreme Court dismissed the mother's SLP in March 2023. While the father's appeal against modified visitation orders was pending, the mother lodged FIR No. 76/2024 accusing him and his family of offences under s.10 POCSO Act, s.75 JJ Act and IPC provisions. The Supreme Court transferred the probe to the CBI, whose committee (with NIMHANS experts) found the allegations unreliable and not fit for prosecution.

Issue. Should the POCSO FIR be quashed and custody restored to the father? What safeguards apply before arrest or summons when a parent is accused under POCSO against the backdrop of a matrimonial dispute?

Held. The Court quashed FIR No. 76/2024 as a gross abuse of process, holding that it was registered only to lay a foundation for taking custody back, and restored legal custody to the father under the welfare principle in *Rosy Jacob v. Jacob A. Chakramakkal* (1973) 1 SCC 840. Since s.22 POCSO Act acts only after the damage is done, the Court held that once the two threshold conditions are met, the IO or SJPU must engage an expert in child and adolescent psychiatry/clinical psychology (from the DCPU register under Rule 5 of the POCSO Rules, 2020) to help decide whether there is 'reason to believe' under s.35(1)(b) and (c) BNSS, citing *Joginder Kumar and Arnesh Kumar*. The report does not bind the IO and cannot be the sole basis for a chargesheet or closure report, and the IO may skip it only in exceptional cases where the material is palpable, recording reasons in writing. The Court also held that a Special Court acting on a s.33 POCSO complaint must obtain the same evaluation before issuing process, and that mere registration of a POCSO case cannot defeat a parent's custody claim (*Suhara v. Muhammed Jaleel*).

Why it matters. Read it as the POCSO counterpart to *Arnesh Kumar*: the safeguards apply prospectively, to pending investigations and to complaints where summons had not yet issued

Provisions: POCSO Act 2012, s.10; POCSO Act 2012, s.22; POCSO Act 2012, s.33; BNSS 2023, s.35; POCSO Rules 2020, r.5; Guardians and Wards Act 1890, s.25; JJ Act 2015, s.75

3. John Mathew v. Santha Paul Civil / CPC

2026 INSC 1020 · K.V. Viswanathan, Arun Palli · 21 September 2026

Facts. The plaintiff sued in 2013 to declare a 2005 sale deed, executed by his GPA holder, void and to recover possession; all issues, including limitation (Issue No. 5), were framed in 2015. After the plaintiff closed his evidence and the defendants had led evidence-in-chief, Defendant No. 2 moved I.A. No. 2647 of 2018 to try limitation as a preliminary issue, and the Trial Court dismissed the suit as barred under Article 59 of the Limitation Act. The First Appellate Court recast this as rejection of plaint under Order VII Rule 11(d), while the High Court held Article 65 applied and remanded.

Issue. Whether a court can direct that an issue be tried first under Order XIV Rule 2(2) CPC after all issues are framed, and whether it can do so once trial on the issues generally has begun.

Held. An issue may be tried first under Order XIV Rule 2(2) only if it is an issue of law relating to jurisdiction or a statutory bar that can dispose of the case without adjudicating disputed facts; the power to try it first is distinct from the optional discretion to postpone settlement of other issues, so prior framing of all issues does not exhaust it. The Court approved *Prithvi Raj Jhingta v. Gopal Singh* only insofar as issues already tried together cannot later be severed, rejected its wider view that Rule 2(2) needs the other issues to stay unframed, and clarified that *Sathyanath v. Sarojamani* reaffirms the general rule without extinguishing the exception. Since the plaintiff had closed his evidence and the defendants had entered theirs, the statutory occasion to try Issue No. 5 first had passed, and invoking Section 151 could not circumvent the limits of Order XIV Rule 2. All three orders below were set aside, the I.A. dismissed, the limitation question (Article 59 or 65) left open, and the Trial Court asked to decide the suit within three months.

Why it matters. Pair with *Nusli Neville Wadia v. Ivory Properties*: limitation goes as a preliminary issue only on admitted facts, and only before the composite trial starts.

Provisions: Code of Civil Procedure 1908, O.XIV R.2; Code of Civil Procedure 1908, O.XX R.5; Code of Civil Procedure 1908, O.XLI R.24-25; Code of Civil Procedure 1908, O.VII R.11(d); Code of Civil Procedure 1908, s.151; Limitation Act 1963, Art.59; Limitation Act 1963, Art.65

4. Waris v. State of Madhya Pradesh Criminal Law

2026 INSC 1050 · Vikram Nath, Sandeep Mehta, Vijay Bishnoi · 24 September 2026

Facts. The appellant was convicted under ss.376(2)(f), 376(2)(n), 376AB, 302 and 201 IPC and ss.5 and 6 POCSO Act for repeatedly sexually assaulting his six-year-old step-daughter and throttling her to death at home, with her mother (his wife) as the sole eyewitness; the Trial Court sentenced him to death and the High Court confirmed it. The mother had been cross-examined by a legal aid counsel appointed that very day, so the Supreme Court directed her further cross-examination under ss.391 and 367 CrPC, which took place on 14.06.2025. The Trial Court had also convicted and sentenced him to death on the same day.

Issue. Whether the same-day legal aid cross-examination was cured and the mother's solitary testimony could sustain the conviction; and whether the death sentence could stand when the State led no evidence that the convict could not be reformed.

Held. The Court held that a same-day legal aid cross-examination in a capital case fell short of the effective legal assistance Article 21 guarantees, but the defect was confined to one witness and was cured by the further cross-examination directed under ss.391 and 367 CrPC, a proportionate cure rather than a retrial. Relying on s.134 Evidence Act, *Vadivelu Thevar v. State of Madras* and *Dalip Singh v. State of Punjab*, it held that the mother is a related, not an interested, witness and her core account, corroborated by medical evidence, the dying declaration and the call records, proved every charge. On sentence, same-day conviction and sentencing breached s.235(2) CrPC (*Allaudin Mian v. State of Bihar*), and the High Court's scoring of the crime test at 100% and the criminal test at 0% disobeyed *Bachan Singh v. State of Punjab*. Instrumental silencing of the child made the crime exceptionally grave, but it did not establish that the offender was beyond reform, and the intermediate sentence recognised in *Union of India v. V. Sriharan* was adequate.

Why it matters. *Bachan Singh* requires weighing the criminal alongside the crime, and once *Sriharan's* whole-life-without-remission option is available, death is rarely the only adequate sentence.

Provisions: IPC 1860, s.302; IPC 1860, s.376AB; IPC 1860, s.376(2)(f); IPC 1860, s.376(2)(n); IPC 1860, s.201; POCSO Act 2012, s.5; POCSO Act 2012, s.6; POCSO Act 2012, s.42; CrPC 1973, s.235(2); CrPC 1973, s.367; CrPC 1973, s.391; Evidence Act 1872, s.134; Constitution of India, Art.21

In brief — also on the docket this week

5 Kusumavati Gowda v. The Government of Karnataka Criminal Procedure

2026 INSC 1030 · Sanjay Kumar, Sanjeev Sachdeva · 21 September 2026

Issue. Can a constitutional court direct a de novo investigation after a charge-sheet, a full trial and an acquittal, and does the likely loss of golden-hour evidence justify refusing it?

Held. Relying on *Neetu Kumar Nagaich v. State of Rajasthan* (2020) 16 SCC 777, the Court held that although only further investigation under Section 173(8) CrPC is normally permissible after a police report under Section 173(2), a constitutional court satisfied that the investigation was not proper and objective may order fresh investigation by an independent agency, since fair investigation is part of Article 21. The High Court's 'no useful purpose' reasoning was clearly erroneous because PW-18 deposed that hair of other persons found on Material Object No. 15 could still be DNA-matched with blood samples of suspects, and material witnesses had been traced within three weeks. The Court set aside the order dated 30.08.2024 and directed Karnataka to constitute an SIT excluding every officer of the Belthangady Police, CID and CBI teams, to finish within three months. Santhosh Rao, having been tried and acquitted, cannot be investigated or prosecuted again under Article 20(2) and Section 300 CrPC.

6 State of Maharashtra v. Momin Moiuddin Gulam Hasan @ Moin Mistri Criminal Procedure

2026 INSC 1021 · Prashant Kumar Mishra, Shree Chandrashekhar · 21 September 2026

Issue. Can a court read one sentence in an extension application under s.43D(2)(b) UAPA as proof that investigation was complete, and so declare the extension void and default bail accrued?

Held. The Court held that a document must be read as a whole, and a solitary statement in the extension application cannot be used to hold the investigation complete or to curtail the power of the ATS to investigate. Investigation is the exclusive domain of the police (*King Emperor v. Khawaja Nazir Ahmad*; *State of Bihar v. J.A.C. Saldanha*), and analysing forensic data and money trails is part of investigation that cannot follow the charge sheet. It accepted that sanction under s.45 UAPA is needed only at cognizance (*Judgebir Singh*; *Suresh Kumar Bhikamchand Jain*) but said the High Court's discussion of sanction was off-route, and relied on *State of NCT of Delhi v. Raj Kumar @ Lovepreet @ Lovely*. The Special Judge's order of 18 January 2023 was held valid, the default bail application was dismissed, and respondent No. 1 was told to surrender within 30 days, free to seek regular bail.

7 Naval Kishore v. State of Punjab Criminal Law

2026 INSC 1048 · Aravind Kumar, Vipul M. Pancholi · 24 September 2026

Issue. Whether a Trial Court, while imposing life imprisonment under Section 302 IPC, can direct that the convict remain in prison for the rest of his life; if not, what sentence should follow.

Held. Under Section 53 read with Section 45 IPC, life imprisonment means the remainder of natural life, but it stays subject to remission and commutation under Sections 432 to 435 CrPC and Articles 72 and 161 of the Constitution. Following *Swamy Shraddhananda (2) v. State of Karnataka*, *Union of India v. V. Sriharan* and *Kiran v. State of Karnataka*, the Court held that only the High Court and Supreme Court can impose a special category sentence curtailing remission. It added that Parliament used express "remainder of that person's natural life" language in Sections 376AB, 376DA and 376DB through the Criminal Law (Amendment) Act, 2018, but left Section 302 untouched, so a Sessions Court cannot read that punishment into it. Applying the Navas factors, including three victims, two of them children, about 11-12 years already served and satisfactory jail conduct, the Court substituted rigorous imprisonment for 25 years without statutory remission.

8 Dr. Jaya Thakur v. Union of India Constitution

2026 INSC 1040 · Dipankar Datta, Satish Chandra Sharma · 23 September 2026

Issue. Does a challenge to the 2023 Act raise a substantial question of law as to the interpretation of the Constitution that must go to a Constitution Bench under Article 145(3) read with Order XXXVIII of the Supreme Court Rules, 2013, or is it mere application of Anoop Baranwal?

Held. Datta J held that the test under Article 145(3) is whether a substantial question of constitutional interpretation remains unsettled; since precedents hold that free and fair elections are a basic feature and that the ECI must be insulated from exclusive executive control in appointments, testing the 2023 Act is only application of settled principles (relying on *State of J&K v. Thakur Ganga Singh*), so he rejected the reference. Sharma J disagreed: *Anoop Baranwal v. Union of India* (2023) 6 SCC 161 only laid down an interim arrangement, no decision has yet pronounced on the Act's validity, and whether Parliament could omit a neutral selector is a question arising for the first time, which Article 145(3) read with Order 38 bars a smaller Bench from deciding. In a joint order, both Judges held that a 3-Judge reference to resolve the difference would be of little worth and only delay adjudication, directed the papers to the CJI, and requested the CJI to explore a permanent 5-Judge Bench for pure constitutional issues.

9 Mihir Prakash Bajoria v. Vidushi Jain Bajoria Civil / CPC

2026 INSC 1034 · S.V.N. Bhatti, N.V. Anjaria · 22 September 2026

Issue. Can an Indian court restrain a party from prosecuting pending foreign divorce proceedings on the ground that the foreign decree, being based on irretrievable breakdown, would not be conclusive under s.13 CPC?

Held. Applying *Modi Entertainment Network v. W.S.G. Cricket Pte. Ltd.* (2003) 4 SCC 341, the Court held that anti-suit injunctions are governed by equity and must be granted sparingly, with oppressive or vexatious proceedings and irreparable harm as the twin prime considerations; the burden of proving that the foreign forum is inconvenient lies on the party alleging it. Following *Dinesh Singh Thakur v. Sonal Thakur* (2018) 17 SCC 12 "by reverse logic", it held that filing on a ground unavailable under the Hindu Marriage Act does not mean the wife will get a decree, and projecting that ground at a premature stage was an error. On *forum non conveniens* (*Arif Azim Co. Ltd. v. Micromax Informatics FZE; Spiliada Maritime Corporation v. Cansulex Ltd.*), the UK was the convenient forum given the London matrimonial home, prolonged residence and financial arrangements there. Granting the injunction while the UK proceedings had not concluded was a patent error, and the High Court's order was upheld.

10 Union of India v. Ramdhani Prasad Service / Admin

2026 INSC 1047 · Aravind Kumar, Vipul M. Pancholi · 24 September 2026

Issue. Was the respondent appointed by the Commandant through the call letter or by the Assistant Commandant through the Battalion Order, and was his removal by the Adjutant hit by Article 311(1)? Did the ex-parte enquiry violate natural justice?

Held. The Court held that the appointing authority under Article 311(1) must be found from the order of appointment and the governing statutory framework; the call letter only made appointment conditional on training ('accept the offer', 'candidature for the post'), while the Battalion Order actually appointed the recruits, and one order can operate as both appointment and posting (*Ramanand Singh v. State of Bihar*). Reading Sections 6 and 9 of the Railway Protection Force Act, 1957 with Rules 20 and 43 and Schedules I and II, and following *Union of India v. Chandra Pal Pandey*, the Assistant Security Officer may both appoint and remove Rakshaks, and the Chief Security Officer's power under Section 6 is not exclusive. *Krishna Kumar v. Divisional Assistant Electrical Engineer* was applied to confirm that the test is the hierarchical rank of the removing authority, and since the Adjutant was not lower in rank, Article 311(1) was not attracted. The enquiry was not vitiated merely for proceeding ex-parte, as the respondent had acknowledged the charge-sheet, replied to it, was notified of the enquiry date and did not answer the show cause notice; the removal order was restored.

11 Micky Traders v. L.R.Y. Labour Contractor Service / Admin

2026 INSC 1025 · K.V. Viswanathan, Alok Aradhe · 21 September 2026

Issue. Can a writ court interfere with a tendering authority's interpretation of its own eligibility clause, and does cattle-fair experience satisfy a requirement of experience in collecting user charges for public bodies?

Held. Relying on *Tata Cellular*, *Jagdish Mandal*, *Afcons Infrastructure* and *Agmatel India*, the Court held that the author's reading of a tender is ordinarily final, but only if the words can reasonably bear it; *Kimberley Club (P) Ltd.* permits interference where a decision is dehors the NIT or patently arbitrary. A cattle-fair organiser under the Punjab Cattle Fairs (Regulation) Rules, 1968 is a lessee paying rent under Rule 6(1), not an agent collecting and remitting charges for a public body, and certificates of third-party firms with no partnership deed or proof of nexus cannot establish the bidder's experience. Having accepted disqualification at Patiala and Rajpura under an identical clause, the bidder could not approbate and reprobate on its meaning. Revenue considerations cannot cure ineligibility, and a condition cannot be mandatory in the abstract and directory only for a favoured bidder, so the appeals were dismissed.

12 New India Assurance Company Ltd. v. Hemkund Duplex and Board Pvt. Ltd. General

2026 INSC 1023 · Sanjay Kumar, Sanjeev Sachdeva · 21 September 2026

Issue. Was the insurer justified in repudiating the fire claim at the threshold, and could the NCDRC ignore the surveyors' reports when the insured pointed out no specific deficiency in them?

Held. Under Section 64UM(2) of the Insurance Act, 1938, a surveyor's report is not conclusive (*New India Assurance v. Pradeep Kumar; Khatema Fibres*), but following *United India Insurance v. Roshan Lal Oil Mills*, the NCDRC could not brush it aside when the insured showed no specific deficiency in it. Workers' statements that only unusable scrap lay in the tin shed exposed as false the management's claim that usable raw material was stored there, and arbitrary stock records compounded the breach of Policy Condition No. 6 (full disclosure) and No. 8 (no false declaration). Canara Bank and Orion Conmerx protect an insured only where there is no fraud or reasonable suspicion that it instigated the fire. The repudiation was upheld, the insurer's appeal allowed and the insured's cross-appeal dismissed.

Statutes, appointments & policy

NEW LAWS, AMENDMENTS & KEY BILLS

- **Income-tax (Fifth Amendment) Rules 2026 notified for property-transfer TDS.** CBDT notified the Income-tax (Fifth Amendment) Rules, 2026 (Notification No. 121/2026, G.S.R. 830(E)) on 22 September 2026 under the Income-tax Act, 2025. The Rules amend Rules 215, 218 and 219 of the Income-tax Rules, 2026 and Forms 132 and 141 to prescribe TDS compliance on specified immovable property transfers under Section 393(2), adding a new Schedule E to Form 141. Resident individuals and HUFs buying property from a non-resident can deduct and report TDS without first obtaining a separate TAN. The Rules come into force on 1 October 2026. — [22 September 2026 · taxheal.com](#)

APPOINTMENTS & INSTITUTIONS

- **High Court Judges (Article 217) - Permanent Judges:** 12 Additional Judges of Andhra Pradesh, Kerala, Uttarakhand and Gauhati High Courts — The Supreme Court Collegium of CJI Surya Kant, Justice Vikram Nath and Justice B.V. Nagarathna, at its meeting on 23 September 2026, approved proposals to appoint 12 Additional Judges as Permanent Judges. Five each are from the Andhra Pradesh and Kerala High Courts, with Justice Subhash Upadhyay (Uttarakhand) and Justice Kaushik Goswami (Gauhati). Additional Judges are appointed under Article 224 for up to two years and must be made permanent under Article 217 through the Collegium process. — [23 September 2026 · freepressjournal.in](#)

POLICY & JUSTICE ADMINISTRATION

- **CJI inaugurates India's first Victim Rights Centre at BSLSA Patna.** CJI Surya Kant inaugurated the Victim Rights Centre at the Bihar State Legal Services Authority, Patna on 26 September 2026, described as the first such centre in the country. It works as a victim-centric case management system offering legal aid, counselling and coordination for crime victims at each stage of their case. A Transgender Helpline and multi-utility legal aid vehicles were launched on the same occasion. State Legal Services Authorities function under the Legal Services Authorities Act, 1987, which gives effect to Article 39A. — [26 September 2026 · newsonair.gov.in](#)

Clear Concepts — textbook revision of two core concepts**Framing of Issues and Preliminary Issues: Order XIV CPC**

Civil Procedure

Code of Civil Procedure 1908, Order XIV Rules 1–5; Order XV

Issues fix what a civil trial decides. The 1976 amendment made judgment on all issues the rule, allowing preliminary trial only of pure law on jurisdiction or statutory bar. This week, *John Mathew v. Santha Paul* (2026 INSC 1020) held that this power survives framing of all issues but ends once trial generally begins.

How issues arise and are framed.

- Rule 1(1): an issue arises when one party affirms, and the other denies, a material proposition of fact or law.
- Material propositions are what a plaintiff must allege to sue or a defendant to defend; each forms a distinct issue.
- At the first hearing the court reads pleadings, examines parties, and frames issues from sworn allegations, pleadings, interrogatory answers and documents.
- Rule 1(6) needs no issues where the defendant makes no defence; Order XV then permits judgment at the first hearing.

Rule 2(2): the preliminary-issue exception.

- Rule 2(1) commands judgment on all issues, even where the case could be disposed of on a preliminary issue.
- Rule 2(2) lets an issue of law go first only if it concerns jurisdiction or a statutory bar to the suit.
- The issue must be pure law; limitation or jurisdiction resting on disputed facts cannot go first.
- *John Mathew*: the power survives framing of all issues but ends once trial generally begins; Section 151 cannot revive it.

Amendment, omission and effect of a wrong issue.

- Rule 4 lets the court adjourn framing to examine an absent person or unproduced document before settling the issues.
- Rule 5 permits amending issues, framing additional ones or striking out wrongly framed issues at any time before decree.
- Omission to frame an issue is not fatal where parties knew the real controversy and led evidence on it.
- A suit decided on a preliminary point and reversed in appeal returns on remand under Order XLI Rule 23.

Leading cases.

- *Nagubai Ammal v. B. Shama Rao* (1956) — a missing issue is not fatal where parties knowingly led evidence.
- *Ramesh B. Desai v. Bipin Vadilal Mehta* (2006) — limitation as a mixed question is no preliminary issue.
- *Nusli Neville Wadia v. Ivory Properties* (2020) — only pure questions of law qualify.
- *Sathyanath v. Sarojamani* (2022) — decide all issues together; preliminary trial is a narrow exception.
- *John Mathew v. Santha Paul* (2026) — Rule 2(2) power ends once trial begins; s.151 cannot revive it.

Exam tip. Examiners dress up limitation as a preliminary issue: it qualifies only on admitted facts, and only before trial starts.

Default Bail: s.167(2) CrPC / s.187(3) BNSS and Special-Statute Extensions

Criminal Procedure

CrPC 1973, s.167(2) / BNSS 2023, s.187(2)–(3); UAPA 1967, s.43D(2); NDPS 1985, s.36A(4)

Default bail is Art 21's check on slow investigation: no charge sheet within 60 or 90 days, and bail follows by law, whatever the merits. Special statutes extend the clock only on a prosecutor's report. This week, Momin Moiuddin (2026 INSC 1021) upheld a UAPA extension and denied default bail.

The time limits and how the right accrues.

- s.167(2) CrPC → s.187(3) BNSS: 90 days for offences punishable with death, life or ten years minimum; 60 days otherwise.
- Rakesh Kumar Paul: an offence punishable "up to ten years" lacks the ten-year minimum, so only 60 days apply.
- On expiry the accused "shall be released on bail if he is prepared to and does furnish bail".
- New in BNSS s.187(2): 15-day police custody may be split into parts within the first 40 or 60 days.

When the right is lost or defeated.

- Uday Mohanlal Acharya: the right is availed by applying and offering bail before the charge sheet is filed.
- M. Ravindran: a later charge sheet cannot defeat a pending application, but refusing to furnish bail forfeits it.
- Judgebir Singh: sanction is not part of the charge sheet, so its absence gives no default bail.
- A later charge sheet does not cancel default bail; that needs s.437(5)/439(2) CrPC → s.480(5)/483(3) BNSS grounds.

Special statutes and extensions.

- UAPA s.43D(2): 90 days, extendable to 180 on the Public Prosecutor's report showing progress and specific reasons.
- NDPS s.36A(4): 180 days for ss.19, 24, 27A or commercial quantity, extendable to one year likewise.
- Hitendra Vishnu Thakur needs the prosecutor's independent report; Sanjay Dutt requires the accused be told extension is sought.
- Momin Moiuddin: claiming enough material for a charge sheet does not end investigation, so the s.43D extension stood.

Leading cases.

- Hitendra Vishnu Thakur v. State of Maharashtra (1994) 4 SCC 602 — extension needs the prosecutor's independent report.
- Uday Mohanlal Acharya v. State of Maharashtra (2001) 5 SCC 453 — apply before the charge sheet to avail the right.
- Rakesh Kumar Paul v. State of Assam (2017) 15 SCC 67 — 90 days only where the minimum is ten years.
- Bikramjit Singh v. State of Punjab (2020) 10 SCC 616 — only the Special Court can extend under UAPA.
- M. Ravindran v. Intelligence Officer, DRI (2021) 2 SCC 485 — a pending application survives a later charge sheet.

Exam tip. Examiners file the charge sheet hours after the bail application: the accused still wins, having availed the right first.

Revision capsule — one-line recap of every ruling

- **Jaskaran Jeet Singh Deol:** Re-arrest after release for breach of Article 22(1) or 22(2) is not barred, but it needs judicial sanction on a custody application endorsed by the superior officer, filed after written grounds are served and explaining the earlier lapse.
- **R:** Where a parent or same-roof family member is accused under POCSO and the parents are in a matrimonial dispute, the police or Special Court must ordinarily obtain a child-psychiatry or clinical-psychology expert's evaluation before deciding on arrest or summons.
- **John Mathew:** The power under Order XIV Rule 2(2) to try a qualifying issue first survives the framing of all issues but is exhausted once the court embarks upon trial of the issues generally; Section 151 cannot revive it.
- **Waris:** Conviction affirmed, but the death sentence is commuted to imprisonment for the remainder of natural life without remission because the State, on whom the burden lay, never excluded the possibility of reformation.
- **Kusumavati Gowda:** Where an investigation is tainted or conducted so as to help the real culprits escape, a constitutional court may order de novo investigation even after trial and acquittal; the acquitted accused, however, stays protected by Article 20(2) and Section 300 CrPC.
- **State of Maharashtra:** A statement that there is sufficient material to file a charge sheet does not mean investigation is complete; courts cannot curtail police investigation by lifting one sentence out of context, so the s.43D UAPA extension stands and default bail fails.
- **Naval Kishore:** A Sessions Court may impose life imprisonment under Section 302 IPC but cannot add a direction excluding remission for the rest of the convict's life; that special category sentence lies only with Constitutional Courts.
- **Dr. Jaya Thakur:** The Bench split on the Article 145(3) question, and instead of a 3-Judge tiebreak it placed the papers before the CJI to consider constituting a Constitution Bench on the vires of Section 7 and other provisions of the 2023 Act.

- **Mihir Prakash Bajoria:** An anti-suit injunction cannot rest on the speculative fear that a pending foreign divorce petition on irretrievable breakdown will be decreed and later refused recognition under s.13 CPC; where the foreign forum is the forum conveniens and its proceedings are still inchoate, the injunction must go.
- **Union of India:** The Battalion Order dated 04.12.1979 was the operative appointment-cum-posting order, so removal by an Adjutant of the same rank as the appointing Assistant Commandant did not breach Article 311(1).
- **Micky Traders:** Deference to a tendering authority's reading of its own tender applies only where that reading is manifestly consistent with the clause's language and purpose; treating cattle-fair lease experience as user-charge collection experience was patently arbitrary and dehors the DNIT.
- **New India Assurance Company Ltd.:** An insured who makes false declarations to bolster its claim breaches the policy conditions, and the insurer may reject the claim on that ground without further ado.

Prelims Q&A — real past questions, with old→new code mapping

Q1. Consider the following statements regarding Article 22 of the Constitution of India: 1. A person arrested must be informed of the grounds of arrest as soon as may be and cannot be denied the right to consult and be defended by a legal practitioner of his choice. 2. An arrested person must be produced before the nearest Magistrate within 24 hours, excluding the time necessary for the journey from the place of arrest to the court of the Magistrate. 3. Clauses (1) and (2) of Article 22 do not apply to an enemy alien or to a person arrested or detained under a law providing for preventive detention. 4. Custody beyond 24 hours may be authorised by a police officer not below the rank of Superintendent of Police for reasons recorded in writing. Which of the statements given above are correct?

- A. 1 and 2 only
- B. 1, 2 and 3 only
- C. 2, 3 and 4 only
- D. 1, 3 and 4 only

Ans: B. Statements 1 and 2 restate Article 22(1) and 22(2), and statement 3 restates the exclusion in Article 22(3); statement 4 is wrong because only a Magistrate's authority can extend custody beyond 24 hours. The statutory counterparts are s.50 CrPC → s.47 BNSS (grounds of arrest and right to bail) and s.57 CrPC → s.58 BNSS (no detention beyond 24 hours). This week the Supreme Court applied both clauses where an accused was produced about 28 hours after arrest without written grounds. **[This week's ruling: Jaskaran Jeet Singh Deol v. State of Punjab (2026 INSC 1022)]**

Q2. An accused arrested for a serious offence is set free by the Magistrate because the police did not furnish written grounds of arrest. The investigating officer now wishes to arrest him again for the same offence. Which of the following correctly states the legal position?

- A. Re-arrest is completely barred, since the constitutional breach vitiates all future custody for that offence
- B. The officer may re-arrest at once, provided written grounds are handed over at the moment of re-arrest
- C. Re-arrest is allowed only if the accused cannot show actual prejudice from the earlier non-supply of grounds
- D. Re-arrest needs a Magistrate's order on a custody plea filed after serving written grounds and explaining the lapse

Ans: D. Release for breach of Article 22(1) is release from unconstitutional detention, not bail, so no prejudice test applies and the gravity of the offence cannot excuse the breach. Re-arrest is not barred, but the agency must first serve written grounds and then seek custody from the Magistrate, explaining the necessity and the earlier lapse, with the superior officer's endorsement. The duty to inform grounds sits in s.50 CrPC → s.47 BNSS, and the 24-hour limit in s.57 CrPC → s.58 BNSS. This week's ruling laid down this procedure, following Mihir Rajesh Shah. **[This week's ruling: Jaskaran Jeet Singh Deol v. State of Punjab (2026 INSC 1022)]**

Q3. Which of the following correctly reflects the sentencing framework laid down in Bachan Singh v. State of Punjab for offences punishable with death?

- A. The crime's aggravating factors must be weighed with the criminal's mitigating factors, and the State must show reform is impossible
- B. Death may be imposed once the crime is found exceptionally brutal, without separate inquiry into the offender's circumstances or background
- C. Death is the normal sentence for murder, and the court must record special reasons only when choosing life imprisonment instead
- D. The probability of reformation is a relevant factor only where the offender was below twenty-one years of age at the time

Ans: A. Bachan Singh upheld the death penalty only for the 'rarest of rare' case, requiring a balance of the crime test and the criminal test; life imprisonment is the rule and death the exception, with special reasons under s.354(3) CrPC → s.393(3) BNSS. The accused must get a real hearing on sentence under s.235(2) CrPC → s.258(2) BNSS, and the murder charge under s.302 IPC now falls under s.103 BNS. This week the Supreme Court commuted a death sentence because the courts below scored the criminal test at zero and the State never excluded reformation. **[This week's ruling: Waris v. State of Madhya Pradesh (2026 INSC 1050)]**

Q4. In a murder trial, the only eyewitness is the victim's mother, who is also the wife of the accused. Her account is consistent and supported by medical evidence. The defence argues that her evidence alone cannot sustain a conviction. Which statement is correct?

- A. A related witness is by definition an interested witness, so her evidence must be excluded unless independently corroborated
- B. The law of evidence requires at least two eyewitnesses before an accused can be convicted of an offence punishable with death
- C. A related witness is not necessarily interested, and the testimony of a single wholly reliable witness can sustain a conviction
- D. The spouse of an accused is not a competent witness for the prosecution in a criminal trial against the accused

Ans: C. No particular number of witnesses is required to prove any fact (s.134 IEA → s.139 BSA), and under *Vadivelu Thevar* a court can convict on the sole testimony of a wholly reliable witness. Following *Dalip Singh*, a relative is 'interested' only if there is a motive to falsely implicate the accused; relationship alone calls for careful scrutiny, not rejection. This week the Supreme Court upheld the conviction on the mother's testimony, treating her as a related but not interested witness. **[This week's ruling: *Waris v. State of Madhya Pradesh* (2026 INSC 1050)]**

Q5. A father is accused under Section 10 of the POCSO Act (punishable with imprisonment of five to seven years). Under Section 35(1)(b) BNSS, when may the police arrest him without a warrant?

- A. Whenever a complaint discloses a cognizable offence, since arrest follows automatically once an FIR is lodged
- B. Only after the Special Court has taken cognizance and issued a warrant of arrest on the complainant's request
- C. Whenever the complainant parent expressly requests arrest, as the child's guardian, in the written complaint
- D. When he has reason to believe the offence was committed and finds arrest necessary for a listed purpose

Ans: D. For offences punishable with imprisonment up to seven years, s.35(1)(b) BNSS (earlier s.41(1)(b) CrPC) allows warrantless arrest only where the officer has 'reason to believe' and is also satisfied that arrest is necessary, for example to prevent further offences, tampering or intimidation, and records his reasons in writing (*Joginder Kumar, Arnesh Kumar*). Arrest is never automatic on registration of an FIR. This week, in *R v. E*, the Supreme Court held that where a parent is accused under POCSO amid a matrimonial dispute, an expert evaluation should ordinarily inform this 'reason to believe' before arrest. **[This week's ruling: *R v. E* (2026 INSC 1049)]**

Q6. Which of the following correctly states the governing principle in deciding custody of a minor under the Guardians and Wards Act, 1890?

- A. The welfare of the minor is the paramount consideration, and the legal rights of parents give way to it
- B. The father, as natural guardian, has an overriding right to custody that the court cannot displace
- C. Registration of a criminal case against a parent automatically disentitles that parent from custody
- D. An order of custody once made under the Act cannot be revisited even if circumstances later change

Ans: A. Under ss.17 and 25 of the Guardians and Wards Act, the court is guided by what is for the welfare of the minor, and *Rosy Jacob v. Jacob A. Chakramakkal* holds that welfare overrides the parents' legal rights; custody orders are interlocutory in nature and can be modified when circumstances change. No CrPC/IPC/IEA provision is involved here. This week, in *R v. E*, the Supreme Court restored custody to the father on the welfare principle, holding that a mere POCSO case cannot defeat a parent's custody claim. **[This week's ruling: *R v. E* (2026 INSC 1049)]**

Q7. Under Order XIV Rule 2(2) of the Code of Civil Procedure, 1908, a court may try an issue first, before the other issues, only if:

- A. The issue, whether of fact or of law, is likely to shorten the trial and save the time of the court
- B. Both parties consent in writing to the issue being tried first and waive their right to lead evidence
- C. It is an issue of law on jurisdiction or a statutory bar to the suit, and the case can be decided on it
- D. It is a mixed question of fact and law that needs oral evidence from both parties for its decision

Ans: C. Order XIV Rule 2(1) requires the court to decide all issues together, and Rule 2(2) is an exception limited to issues of law relating to (a) the jurisdiction of the court or (b) a bar to the suit created by any law for the time being in force, where the case or part of it can be disposed of on that issue. Mixed questions needing disputed facts, such as limitation that turns on evidence, do not qualify. This week the Supreme Court reaffirmed these limits, adding that framing all issues does not by itself end the power. **[This week's ruling: *John Mathew v. Santha Paul* (2026 INSC 1020)]**

Q8. In a civil suit, all issues including limitation were framed years ago. After the plaintiff closes his evidence and the defendants lead their evidence-in-chief, a defendant applies to have limitation tried as a preliminary issue. Which is correct?

- A. The court may allow it under its inherent power in Section 151, even where Order XIV Rule 2 does not permit it
- B. The court cannot try it first now, as the power to try an issue first ends once trial on all issues has begun
- C. The court must allow it, because limitation goes to the root of the suit and can be raised at any stage
- D. The court must convert the application into rejection of the plaint under Order VII Rule 11(d) of the CPC

Ans: B. The power under Order XIV Rule 2(2) to try a jurisdiction or statutory-bar issue first survives the framing of all issues but is exhausted once the court embarks on trial of the issues generally. Section 151 cannot be used to get around an express provision of the Code. Limitation can still be decided, but in the final judgment on all issues under Order XIV Rule 2(1) and Order XX Rule 5. This week the Supreme Court set aside a preliminary-issue dismissal made at exactly this stage. **[This week's ruling: *John Mathew v. Santha Paul* (2026 INSC 1020)]**

Q9. A court convicts an accused of murder and wishes to direct that he shall not be released on remission for the rest of his life, or for a fixed term beyond fourteen years. Which court can pass such a special category sentence?

- A. Any Sessions Court trying the offence, if it records special reasons in writing
- B. A Sessions Court, provided the sentence is later confirmed by the High Court
- C. Only the High Court or the Supreme Court, as constitutional courts
- D. The appropriate Government, while deciding on remission of the sentence

Ans: C. Life imprisonment under s.302 IPC (now s.103 BNS) means imprisonment for the rest of natural life, but it stays subject to remission and commutation under ss.432-433 CrPC → ss.473-474 BNSS (and the 14-year bar in s.433A CrPC → s.475 BNSS). Swamy Shraddananda (2) and Union of India v. V. Sriharan hold that only the High Court and the Supreme Court can impose the special category sentence that curtails remission. This week the Supreme Court struck down a Sessions Court direction that murder convicts remain in prison for the rest of their lives. **[This week's ruling: Naval Kishore v. State of Punjab (2026 INSC 1048)]**

Q10. Which of the following correctly distinguishes 'further investigation' from 'de novo investigation' under Indian criminal procedure?

- A. Further investigation adds to the earlier probe, while a fresh probe by another agency is a constitutional-court power
- B. After filing a police report, the police may on their own start a fresh probe that wipes out the earlier report
- C. A Magistrate may order a de novo investigation after acquittal, including a fresh prosecution of the accused who was acquitted
- D. Once the trial has commenced, no court has power to direct either further investigation or any fresh investigation in the case

Ans: A. Section 173(8) CrPC → s.193(9) BNSS permits only further investigation, which supplements the earlier report; a de novo investigation by an independent agency is a constitutional-court power (Babubhai, Pooja Pal) resting on the Article 21 right to fair investigation, and the start of trial does not bar it (Dharam Pal). A person already tried and acquitted stays protected by s.300 CrPC → s.337 BNSS, read with Article 20(2). This week the Supreme Court ordered a de novo SIT probe after an acquittal while shielding the acquitted accused. **[This week's ruling: Kusumavati Gowda v. The Government of Karnataka (2026 INSC 1030)]**

Mains Q&A — real state mains questions, with model answers

Mains Q1. — Uttar Pradesh Judicial Service (Civil Judge) Mains, 2018 · Constitution — Article 21 and the rights of an arrested person under Article 22

"No person shall be deprived of his life and personal liberty except according to procedure established by law." Discuss with the help of decided cases. [15 Marks]

Article 21 began life as a narrow guarantee. In *A.K. Gopalan v. State of Madras* (1950) the Supreme Court read "procedure established by law" as any procedure a competent legislature chose to enact, and treated Articles 19, 21 and 22 as separate compartments. *Maneka Gandhi v. Union of India* (1978) 1 SCC 248 discarded that reading: the procedure must be right, just and fair, not arbitrary, fanciful or oppressive, and a law taking away personal liberty must also survive Articles 14 and 19. Its core remains protection against unlawful loss of liberty, tested most sharply at arrest.

Article 22 supplies the minimum procedure Article 21 demands when the State arrests. Clause (1) requires that the arrested person be informed of the grounds as soon as may be and not be denied the right to consult and be defended by a legal practitioner of his choice. Clause (2) requires production before the nearest Magistrate within 24 hours, excluding journey time, and bars further detention without the Magistrate's authority. Clause (3) excludes an enemy alien and a preventive detenu, who is governed instead by clauses (4) to (7). The BNSS mirrors the scheme: section 47 (formerly s.50 CrPC) on grounds and the right to bail, section 48 (s.50A) on informing a nominated person, section 58 (s.57) on the 24-hour limit, and section 35 (s.41) on arrest without warrant.

The courts then asked whether a lawful arrest is also a fair one. *Joginder Kumar v. State of U.P.* (1994) 4 SCC 260 held that an arrest must be justified by reasonable belief in complicity and the need to arrest, not made merely because the power exists. *D.K. Basu v. State of West Bengal* (1997) 1 SCC 416 laid down binding requirements, among them an attested arrest memo, intimation to a relative or friend, medical examination and access to a lawyer during interrogation. *Arnesh Kumar v. State of Bihar* (2014) 8 SCC 273 made police record reasons under section 41 for offences punishable up to seven years, and made Magistrates scrutinise them before authorising detention. Clause (1) has recently acquired teeth. *Pankaj Bansal v. Union of India* (2023) required PMLA grounds to be furnished in writing, *Prabir Purkayastha v. State (NCT of Delhi)* (2024) applied the rule to the UAPA and held that non-supply vitiates arrest and remand, and *Vihaan Kumar v. State of Haryana* (2025) held that failure to communicate grounds violates Article 22(1) and renders the arrest illegal.

A right without a remedy is only a promise. *Rudul Sah v. State of Bihar* (1983) 4 SCC 141, where a man stayed in jail for over fourteen years after acquittal, recognised compensation as a public-law remedy for violation of Article 21, and *Bhim Singh v. State of J&K* (1985) 4 SCC 677 compensated a legislator who was arrested and not produced before a Magistrate in time. This week, in *Jaskaran Jeet Singh Deol v. State of Punjab* (2026 INSC 1022), the Supreme Court held that an accused released for breach of Article 22(1) or 22(2) may be re-arrested only with a Magistrate's sanction, on a custody application endorsed by the superior officer and filed after written grounds are served, and that the High Court may award public-law compensation following *Bhim Singh*.

After *Maneka Gandhi*, "procedure established by law" means fair procedure at every stage, and Article 22 fixes the floor of that fairness for arrest. Release for breach of these guarantees is not a concession to the accused but the end of an unconstitutional detention, and the gravity of the offence cannot excuse it.

Mains Q2. — Madhya Pradesh Civil Judge (Junior Division) Mains, 2018 · Criminal Law — Death sentence, the rarest-of-rare test and whole-life sentences

Describe the right to life and personal liberty, whether the death sentence is violative of Article 21. How the right to life and personal liberty, guaranteed by Article 21, may be curtailed?

Article 21 guarantees that no person shall be deprived of life or personal liberty except according to procedure established by law. After *Maneka Gandhi v. Union of India* (1978) that procedure must be fair, just and reasonable, not arbitrary or oppressive, and the right itself has been read to include dignity, speedy trial, legal aid and humane conditions of custody. It does not bar the State from taking life; it bars doing so except through a fair law and a fair process.

On that footing the death sentence is not per se violative of Article 21. *Jagmohan Singh v. State of U.P.* (1973) upheld it, and the Constitution Bench in *Bachan Singh v. State of Punjab* (1980) 2 SCC 684 sustained s.302 IPC (now s.103 BNS) read with s.354(3) CrPC (now s.393(3) BNSS), which makes life imprisonment the rule and demands "special reasons" for death. The price of validity was a narrow gateway: death only in the rarest of rare cases, when the alternative option is unquestionably foreclosed, after weighing aggravating and mitigating circumstances of both the crime and the criminal. *Machhi Singh v. State of Punjab* (1983) 3 SCC 470 offered categories of crime; *Santosh Kumar Satishbhushan Bariyar v. State of Maharashtra* (2009) 6 SCC 498 insisted that the criminal-centric inquiry cannot be skipped. Where the law removed that discretion altogether, as with the mandatory death penalty in s.303 IPC, *Mithu v. State of Punjab* (1983) struck it down.

Life may thus be curtailed only through safeguards that give Article 21 content. The accused must get a genuine hearing on sentence under s.235(2) CrPC (now s.258 BNSS); *Allauddin Mian v. State of Bihar* (1989) 3 SCC 5 treats it as a real opportunity to place mitigating material, not a formality. *Manoj v. State of M.P.* (2023) 2 SCC 353 goes further and requires the trial court to call for a mitigation investigation, a psychological evaluation and jail conduct reports before it sentences. A death sentence passed by a Sessions Court must then be confirmed by the High Court under s.366 CrPC (now s.407 BNSS).

The alternative is not lenient. Life imprisonment means imprisonment for the whole of natural life (*Gopal Vinayak Godse v. State of Maharashtra* AIR 1961 SC 600), subject to remission and commutation under ss.432–433 CrPC (now ss.473–474 BNSS) and to clemency under Articles 72 and 161, with s.433A CrPC (now s.475 BNSS) fixing fourteen years as the minimum actually served for a capital offence. *Swamy Shraddhananda (2) v. State of Karnataka* (2008) 13 SCC 767 and *Union of India v. V. Sriharan* (2016) 7 SCC 1 recognised a special category sentence, a fixed term beyond fourteen years or whole life without remission, which only the High Court and Supreme Court may impose.

This week's rulings apply that architecture. In *Waris v. State of M.P.* (2026 INSC 1050) a three-judge Bench commuted death to imprisonment for the remainder of natural life without remission because the State, on whom the burden lay, never excluded the possibility of reformation; same-day conviction and sentencing breached s.235(2) CrPC, and scoring the crime at 100% and the criminal at 0% disobeyed *Bachan Singh*. In *Naval Kishore v. State of Punjab* (2026 INSC 1048) the Court held that a Sessions Court cannot direct a murder convict to stay in prison for the rest of his life, since that special category sentence lies only with constitutional courts. The death penalty therefore survives Article 21, but only as a sentence of last resort, reached through a fair procedure and after the whole-life option is shown to be inadequate.

Mains Q3. — Kerala Judicial Service (Munsiff-Magistrate) Mains, 2022 · Criminal Procedure — Further investigation (s.173(8) CrPC / s.193(9) BNSS) and re-investigation

What are the circumstances under which the police can conduct further investigation after laying the final report? Is the investigating officer required to take formal permission from any authority?

On completing investigation, the officer in charge of the police station forwards a police report to the Magistrate under s.173(2) CrPC, now s.193(3) BNSS. That report does not exhaust police power. Section 173(8) CrPC, re-enacted as s.193(9) BNSS, provides that nothing in the section precludes further investigation in respect of an offence after the report has been forwarded, and that where the officer obtains further evidence, oral or documentary, he shall forward a further report or reports to the Magistrate. Further investigation is therefore justified when fresh material emerges or facts left unexplored need probing. In *Ram Lal Narang v. State (Delhi Admn.)* (1979) 2 SCC 322 the Supreme Court held that the police retain this right even after the Magistrate has taken cognizance on the original report.

Further investigation is a continuation of the earlier investigation, not a fresh start. Its product is a supplementary report read together with the original. *Vinay Tyagi v. Irshad Ali* (2013) 5 SCC 762 classified investigations into three kinds: the initial investigation, further investigation, and fresh, de novo or re-investigation. The third kind wipes out the earlier investigation, and the Court held that a Magistrate has no power to order it. The Magistrate may, however, direct further investigation, and *Vinubhai Haribhai Malaviya v. State of Gujarat* (2019) 17 SCC 1 held that the power under s.156(3) CrPC (now s.175(3) BNSS), read with s.173(8), extends to ordering further investigation even after cognizance, at every stage before the trial actually commences.

On the second limb, the CrPC names no authority whose permission the investigating officer must obtain. *Ram Lal Narang* nonetheless laid down that it would ordinarily be desirable for the police to inform the court and seek formal permission before investigating further, and *Hasanbhai Valibhai Qureshi v. State of Gujarat* (2004) 5 SCC 347 reiterated that course. Under the old Code, seeking leave was a rule of propriety owed to the court seized of the case, not a statutory condition. The BNSS changes this for one stage. The new proviso to s.193(9) now says that further investigation during the trial may be conducted only with the permission of the Court trying the case, and must be completed within ninety days, extendable with that Court's permission. Before the trial, intimation remains the correct practice; once the trial has begun, the trial court's permission is mandatory.

Re-investigation stands apart. Only a constitutional court, under Article 32 or 226, may order it, and only in exceptional cases of tainted or unfair investigation, since fair investigation is part of Article 21. *Pooja Pal v. Union of India* (2016) 3 SCC 135 directed a fresh CBI investigation even after a charge-sheet had been filed, and *Neetu Kumar Nagaich v. State of Rajasthan* (2020) 16 SCC 777 permitted transfer to an independent agency where the original probe was not proper and objective. This week, in *Kusumavati Gowda v. Government of Karnataka*, 2026 INSC 1030, the Supreme Court relied on *Nagaich* to order a de novo SIT investigation into the Dharmasthala rape-murder even after the trial had ended in acquittal. It held that the acquitted accused cannot be investigated or prosecuted again, being protected by Article 20(2) and s.300 CrPC, now s.337 BNSS.

In short, the police may investigate further after the final report whenever fresh evidence surfaces, and the result supplements the earlier report. The CrPC required no formal permission, though propriety demanded approaching the court; the BNSS makes the trial court's permission mandatory once trial begins. Anything that replaces rather than supplements the earlier investigation lies outside s.173(8) and belongs to the constitutional courts alone.

Mains Q4. — Karnataka Civil Judge Mains, 2021 · Civil Procedure — Temporary & anti-suit injunctions (Order XXXIX, s.94 CPC; s.41 SRA; s.13 CPC)

What are the principles governing the grant of temporary injunction? What procedures are to be followed while granting the ex parte temporary injunction order?

A temporary injunction rests on s.94(c) and Order XXXIX Rules 1 and 2 CPC, with s.151 filling gaps the Rules do not cover. Rule 1 reaches suit property in danger of being wasted, damaged or alienated, disposal of property to defraud creditors, and threatened dispossession or injury; Rule 2 restrains a threatened breach of contract or other injury. The relief is discretionary and exists to hold the status quo so the final decree is not rendered futile. Because it anticipates a right not yet proved, it is never granted as of course.

The governing test is threefold, restated in *Dalpat Kumar v. Prahlad Singh* (1992) 1 SCC 719. The applicant must show a prima facie case, a serious question to be tried rather than proof of title; the balance of convenience must favour him on a comparison of the mischief each side would suffer; and refusal must cause irreparable injury that money cannot adequately repair. All three must coexist. Equity then adds its own filters: delay, suppression of material facts and unclean conduct defeat the application. The court must also respect the bars in s.41 of the Specific Relief Act, which govern interim relief as much as perpetual relief (*Cotton Corporation of India v. United Industrial Bank* (1983) 4 SCC 625).

Ex parte relief is the exception. Rule 3 makes prior notice to the opposite party mandatory unless the object of the injunction would be defeated by delay. Dispensing with notice, the court must record reasons and require the applicant to deliver or post, immediately after the order, copies of the application, affidavit, plaint and documents, and to file an affidavit of compliance that day or the next. Rule 3A directs the court to endeavour to dispose of the application within thirty days, recording reasons if it cannot. *Shiv Kumar Chadha v. MCD* (1993) 3 SCC 161 treats the recording of reasons as mandatory, and *Morgan Stanley Mutual Fund v. Kartick Das* (1994) 4 SCC 225 asks whether serious mischief would otherwise ensue, when the applicant first learnt of the act, whether he acquiesced, and whether he came in good faith. The aggrieved party may seek vacation under Rule 4 or appeal under Order XLIII Rule 1(r).

An anti-suit injunction is simply this jurisdiction pointed at proceedings elsewhere, operating in personam. *Modi Entertainment Network v. W.S.G. Cricket Pte. Ltd.* (2003) 4 SCC 341 requires that the defendant be amenable to the court, that refusal would defeat the ends of justice, that comity be respected and forum conveniens weighed, and that the power be used sparingly. Section 13 CPC makes a foreign judgment conclusive unless one of its six exceptions applies, and *Y. Narasimha Rao v. Y. Venkata Lakshmi* (1991) 3 SCC 451 refuses recognition to a matrimonial decree whose ground and forum do not accord with the law under which the parties married. Those exceptions are a shield at the recognition stage, not a licence to halt a foreign trial.

This week the Supreme Court applied that line in *Mihir Prakash Bajoria v. Vidushi Jain Bajoria*, 2026 INSC 1034, upholding the setting aside of an ex parte ad interim anti-suit injunction granted under Order XXXIX Rules 1 and 2 read with s.151 against a wife's UK divorce petition on irretrievable breakdown; a speculative fear that the decree would later be refused recognition under s.13 was no ground, and the UK was the forum conveniens. Measured against the triple test, the injunction failed every limb: no prima facie oppression, convenience lying with the forum where the couple lived, and a purely hypothetical injury.

Prelims answer key: 1-B 2-D 3-A 4-C 5-D 6-A 7-C 8-B 9-C 10-A

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