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Weekly Legal Current Affairs

28 September – 4 October 2026

This week at a glance

- Sambhal violence NSA detention quashed: a police confession alone cannot ground preventive detention, and detention cannot be used to get around bail
- Cheque-bounce notice received by the drawer's mother at his correct address is good service; SC declares M.D. Thomas per incuriam
- Sued for an injunction, skipped specific performance, then came back for it: the Supreme Court says Order II Rule 2 shuts that door.
- A child rape-murder conviction collapses because the bones recovered were male, the last-seen witnesses unsure and the recovery spot in plain view.

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Judgments of the week

1. Mulla Afroz v. Union of India Constitution

2026 INSC 1067 · Dipankar Datta, Sheel Nagu · 29 September 2026

Facts. After violence during a mosque survey at Sambhal killed four people, the appellant was arrested 54 days later and a confession allegedly extracted under torture was recorded. Although he had secured bail in one case, the District Magistrate detained him under Section 3(2) of the NSA on 13 October 2025, and the State confirmed it for 12 months. The Allahabad High Court dismissed his habeas corpus petition.

Issue. Can an extra-judicial confession made to the police form the basis of a preventive detention order? Did the grounds and material relied on by the detaining authority validly sustain the detention?

Held. Testing the confession on the twin anvil of Section 23 of the BSA and Article 20(3), the Court held that material the law treats as irrelevant for proving guilt cannot legitimately enter the subjective satisfaction; including such a ground impairs the Article 22(5) right to make an effective representation. Aruna Kumari and Senthamilselvi were read as obiter on this point, and the Madras Full Bench in Suman v. State of Tamil Nadu was overruled to that extent in light of Kartar Singh v. State of Punjab. The CCTV footage and the 'Boss' messages relied on were never supplied, and a chargesheet is not proof of guilt; relying on Vijay Narain Singh v. State of Bihar and Annu v. Union of India, the Court found the detention punitive because it rested on the same incident and material as the criminal case. The detention and confirmation orders were set aside, with costs of Rs.10 lakh payable by the State to the appellant.

> ***Why it matters.*** *Pair with Haradhan Saha: a pending prosecution does not bar detention, but where bail has been granted on the same facts, Vijay Narain Singh calls for great caution.*

Provisions: National Security Act 1980, s.3(2); National Security Act 1980, s.8; National Security Act 1980, s.12; Bharatiya Sakshya Adhiniyam 2023, s.23; Indian Evidence Act 1872, s.25; Constitution of India, Art.20(3); Constitution of India, Art.22(5); Constitution of India, Art.21

2. Sainaba v. State of Kerala Criminal Law

2026 INSC 1069 · Ahsanuddin Amanullah, Manmohan · 30 September 2026

Facts. The accused borrowed Rs.3,00,000 and issued a cheque that was dishonoured; the statutory demand notice sent by registered post to his correct address was received by his mother. The Trial Court convicted him under Section 138 of the Negotiable Instruments Act, 1881 and the Sessions Court affirmed, but the Kerala High Court in revision acquitted him on the ground that the notice was never served on him personally.

Issue. Whether a Section 138 demand notice sent by registered post to the drawer's correct address, but received by a family member residing there, satisfies proviso (b), and on whom the burden of proving knowledge lies.

Held. Following K. Bhaskaran v. Sankaran Vaidhyan Balan (1999) 7 SCC 510, D. Vinod Shivappa v. Nanda Belliappa (2006) 6 SCC 456 and the three-Judge Bench in C.C. Alavi Haji v. Palapetty Muhammed (2007) 6 SCC 555, the Court held that Section 27 of the General Clauses Act, 1897 and Section 114 of the Evidence Act, 1872 raise a rebuttable presumption of service once a notice is correctly addressed and sent by registered post, irrespective of the identity of the recipient. The drawer must then show the address was wrong, that he had no knowledge of the notice reaching his address, or that the postal endorsement was incorrect. M.D. Thomas v. P.S. Jaleel (2009) 14 SCC 398, which set aside a conviction because the wife received the notice, was declared per incuriam and not binding under Article 141, having ignored C.C. Alavi Haji. The High Court wrongly shifted the burden to the complainant to prove the accused's awareness, so the Trial Court's sentence of six months' simple imprisonment and Rs.3,00,000 fine was restored.

> ***Why it matters.*** *Remember the 'giving' vs 'receiving' of notice distinction from K. Bhaskaran; a correctly addressed notice puts the burden on the drawer, not the payee.*

Provisions: Negotiable Instruments Act 1881, s.138; General Clauses Act 1897, s.27; Indian Evidence Act 1872, s.114; Code of Criminal Procedure 1973, s.313; Code of Criminal Procedure 1973, s.397; Constitution of India, Art.141

3. Bombay Garage Ahmedabad Limited v. J P Iscon Private Ltd. Civil / CPC

2026 INSC 1066 · J.B. Pardiwala, K. Vinod Chandran · 29 September 2026

Facts. The plaintiff first sued only for a permanent injunction restraining alienation of land it claimed under an oral agreement of sale, even though the defendant had already refused performance on 08.05.2007; it withdrew that suit citing settlement talks and filed a fresh suit for specific performance. The Trial Court and the High Court decreed specific performance concurrently, relying on oral testimony, a letter forwarding property documents and the evasive answers of the defence witnesses.

Issue. Is a later suit for specific performance barred by Order II Rule 2 CPC where an earlier injunction suit on the same cause of action was withdrawn with liberty but without leave at institution? And was a concluded oral contract for sale proved?

Held. Following the Constitution Bench in Gurbux Singh v. Bhooralal, the Court held that the earlier plaint already pleaded a refusal on 08.05.2007, so specific performance was available then; since no leave was obtained when that suit was filed, liberty on withdrawal does not cure the defect, and Order XXIII Rule 1(3) permits a fresh suit only for the same subject-matter, not a new relief. It said Gurinderpal v. Jagmittar Singh rested on an impermissible inference that runs contrary to Gurbux Singh. On merits, relying on Brij Mohan v. Sugra Begum and K. Nanjappa v. R.A. Hameed, it held that an oral agreement of sale needs strict proof of consensus ad idem; inconsistent pleadings, an advance cheque of Rs.5 crores never presented, hearsay and the evidence of an unpleaded witness could not prove it, and evasive defence witnesses cannot supply the plaintiff's burden. The appeal was allowed and the suit dismissed.

> ***Why it matters.*** *Order II Rule 2 leave must be obtained when the first suit is filed, not on withdrawal; pair this with Virgo Industries v. Venturetech and Sucha Singh Sodhi v. Baldev Raj Walia.*

Provisions: Code of Civil Procedure 1908, O.II r.2; Code of Civil Procedure 1908, O.XXIII r.1(3)

4. Santosh Gurung v. State of Sikkim Evidence

2026 INSC 1073 · Ujjal Bhuyan, Atul S. Chandurkar · 1 October 2026

Facts. The appellant's minor niece went missing on 06.11.2013; a Missing Report was lodged on 12.11.2013, but the FIR came only on 13.05.2014 after the appellant, traced at Siliguri, allegedly confessed to raping and throttling her. No body was found, and the Sessions Court convicted him under Sections 376(2)(i), 302 and 201 IPC and Sections 4 and 6 POCSO purely on circumstantial evidence, which the High Court of Sikkim affirmed.

Issue. Whether last-seen evidence, a Section 27 recovery, DNA and FSL reports and the accused's Section 313 answers formed a complete chain of circumstances pointing only to the appellant's guilt.

Held. Applying Hanumant v. State of Madhya Pradesh, the Court tested each circumstance and found none proved: no witness saw the appellant take the victim, and under State of U.P. v. Satish the six-month gap before bones were found made the last-seen theory hazardous. The Section 27 recovery came from a spot 'ordinarily visible to others', which per State of Himachal Pradesh v. Jeet Singh calls for caution, while the DNA report showed the bones were of male origin and unrelated to the victim's mother and sister. Following Kashi Ram and Raj Kumar Singh v. State of Rajasthan, an accused's failure to explain under Section 313 CrPC can only be an additional link and never fills gaps in an incomplete chain or shifts the burden of proof.

> ***Why it matters.*** *Section 313 silence only completes a chain that is already proved; pair this with Hanumant's 'every hypothesis but guilt excluded' rule and Jeet Singh's 'ordinarily visible' rule for recoveries.*

Provisions: Indian Penal Code 1860, s.376(2)(i); Indian Penal Code 1860, s.302; Indian Penal Code 1860, s.201; Protection of Children from Sexual Offences Act 2012, s.4; Protection of Children from Sexual Offences Act 2012, s.6; Indian Evidence Act 1872, s.27; Code of Criminal Procedure 1973, s.313; Code of Criminal Procedure 1973, s.374

In brief — also on the docket this week

5 State of Maharashtra v. Ramesh Sukrya Mhatre — Criminal Procedure

2026 INSC 1075 · Vikram Nath, Sandeep Mehta · 28 September 2026

Issue. Whether the High Court, having stayed the bail orders on a prima facie finding of serious infirmity, could restore bail without recording any intervening change of circumstances, and while ignoring the accused's antecedents and the impact on the medical fraternity.

Held. The Court held that the orders of 18 July and 7 August 2026 rested on fundamentally conflicting principles, and the impugned order identified no intervening circumstance that displaced the earlier prima facie view. Relying on Ash Mohammad v. Shiv Raj Singh (2012) 9 SCC 446, it held that criminal antecedents, including cases under Sections 302 and 307 IPC, were a material circumstance that could not be brushed aside, despite 16 acquittals or discharges, and that the possible removal consequence under Section 13(1)(a) of the Maharashtra Municipal Corporations Act, 1949 was also relevant. Bail of co-accused granted on parity fell with the principal accused's bail, and the resignations of the victim doctors bore directly on the apprehension of intimidation. Exercising jurisdiction under Article 136, the Court cancelled bail, directed trial within six months and ordered witness protection under Section 9 of the Maharashtra Witness Protection and Security Act, 2017 and Mahender Chawla v. Union of India (2019) 14 SCC 615.

6 State of Karnataka v. Sadiq Pasha — Criminal Procedure

2026 INSC 1083 · J.B. Pardiwala, K. Vinod Chandran · 1 October 2026

Issue. Can the principle that a Section 67 confession or co-accused disclosure has no evidentiary value, laid down in cases of conviction and bail cancellation, be used to quash a pending NDPS prosecution?

Held. Tofan Singh v. State of Tamil Nadu, State (by NCB) Bengaluru v. Pallulabid Ahmad Arimutta, Balwinder Singh (Binda) v. Narcotics Control Bureau and Firdoskhan Khurshidkhan v. State of Gujarat dealt with convictions or cancellation of bail where the confession was the sole incriminating material, and they do not apply to a case pending trial before the Special Court. A confession under Section 67 or a disclosure under Section 53A of the NDPS Act has no evidentiary value at trial and cannot found a conviction, but a co-accused's disclosure of the name of the person who fled is material the Investigating Officer can use to gather further evidence. The High Court had not looked at the evidence or the chargesheet, so quashing on this ground alone was an improper use of inherent powers. The order was set aside and the case restored, with the respondent free to argue lack of other material at cognizance or by seeking discharge.

7 State of Himachal Pradesh v. Anchla @ Chanchla — Evidence

2026 INSC 1074 · Manoj Misra, Vijay Bishnoi · 1 October 2026

Issue. Could the Supreme Court reverse the acquittal, and did the proved circumstances, including a DNA match placing the accused's blood at the scene, form a complete chain pointing only to her guilt?

Held. Applying Rajesh Prasad v. State of Bihar (2022) 3 SCC 471, the Court held that an acquittal is not disturbed where the High Court's view is a possible one, and found the circumstances failed the Hanumant and Sharad Birdhichand Sarda tests. The last-seen witness had improved on his Section 161 CrPC statement, and the investigating officer could not say when or why he recorded the taxi driver's and hotel worker's statements, so they were treated as witnesses set up to create evidence. The lock produced in court was never shown to be the one on the door, which made the key recovery inconsequential, and the failure to collect tower locations and exhibit the deceased's CDR was a serious investigational lapse. The accused visited the house regularly and her blood was not on the clothes of the deceased or on any cloth used to strangle them, so the DNA match was not conclusive, and with the other links weak, the lack of motive weighed in her favour.

8 Orris Infrastructure Pvt. Ltd. v. Rakesh Kumar Gupta — Company / IBC

2026 INSC 1070 · Pamidighantam Sri Narasimha, Alok Aradhe · 30 September 2026

Issue. Can the Adjudicating Authority recall a CIRP admitted on a collusive Section 9 petition, and if so, must the CIRP necessarily end or can it continue without the original applicant?

Held. Existence of a debt is a jurisdictional fact; relying on Shrisht Dhawan v. Shaw Brothers and Carona Ltd. v. Parvathy Swaminathan, the Court held that those who invoke the IBC owe a public law duty not to deceive, so jurisdiction procured by fraud or collusion can be withdrawn at any point. Following GLAS Trust Company LLC v. Byju Raveendran, admission converts the proceeding from in personam to in rem, and Sections 14, 17, 18, 20, 21, 25, 30(2), 53 and 12A show the initiating creditor is only the triggering creditor, not the proprietor of the CIRP. On a finding of fraud the AA shall disallow the original applicant and may initiate proceedings under Section 65, but it may continue the CIRP if larger stakeholder interests so require. Both the AA and the NCLAT erred by not taking this consequential decision; the NCLAT order was set aside, CIRP No. IB-2721/ND/2019 restored, and the AA directed to decide on continuation, including the ownership of the Greenopolis project.

9 M/s Awadhesh Singh Gautam v. State of Chhattisgarh Contract

2026 INSC 1072 · Pamidighantam Sri Narasimha, Alok Aradhe · 30 September 2026

Issue. Whether the State could recover an alleged overpayment under one contract by deducting it from dues under other contracts, relying on the cross-contract recovery clauses of the bidding documents, and whether doing so without notice violated natural justice.

Held. Clause 44.1 GCC covers only liquidated damages for delay, and Clause 53.1(ii) applies only after termination for breach of Clause 32 defects-liability obligations; neither applied. Clause 7(iv) of the Integrity Pact presupposes a finding that the pact was violated, and Clause 38 requires breach to be ascertained and put to the contractor first, so neither could be invoked when the recovery order recorded no finding and was preceded by no notice. Clause 4.1 SCC, the only clause dealing with audit overpayment, permits recovery only from dues on the audited work, after giving the contractor an opportunity to explain and with the CEO, CGRRDA's orders; none of this was followed. Relying on Union of India v. Raman Iron Foundry, the Court held that until the overpayment is established in accordance with law it is a disputed claim for damages and not a debt presently due; the recovery order was quashed, with Rs.84,17,003 to be refunded at 6% interest, leaving the State free to take proper proceedings.

10 Sterling Holiday Resorts Limited v. M/s P.M. Associates General

2026 INSC 1071 · Pamidighantam Sri Narasimha, Alok Aradhe · 30 September 2026

Issue. Whether an auction under the SARFAESI Act and the Security Interest (Enforcement) Rules, 2002, conducted during a tribunal's restraint, before the 30-day period expired and in favour of a non-bidder nominee, was valid, and whether the finality of auction sales protects it.

Held. Rules 8 and 9 of the Security Interest (Enforcement) Rules, 2002 are mandatory because the thirty days' notice under Rules 8(6) and 9(1) gives the borrower a real and final chance to redeem under Section 13(8) of the SARFAESI Act, and the Court applied Taylor v. Taylor and Mardia Chemicals to hold that the safeguards are the very condition on which the power exists. Receiving a bid while the DRAT's restraint operated was itself a forbidden step that the later High Court judgment could not validate retrospectively (Surjit Singh; Skipper Construction), and on the maxim actus curiae neminem gravabit the restraint period from 07.04.2010 to 06.09.2011 had to be excluded, so the window closed only on 23.09.2011, after the 12.09.2011 sale. Rules 9(2) and 9(6) require the certificate to issue to the highest bidder himself, not to a nominee firm that did not exist when bids were invited, and IFCI never produced the records of any inter se bidding. Finality of auction sales (Valji Khimji; Celir LLP) presupposes a lawful auction, and a sale vitiated by non-compliance with mandatory procedure may be set aside even after confirmation (Divya Manufacturing; J. Rajiv Subramaniyan), so the High Court's judgment was set aside without deciding the questions of the AO's power to cancel or of registration.

11 Bihar State Ardh Sarkari Arajpati Karamchari Maha Sangh v. State of Bihar Service / Admin

2026 INSC 1061 · Vikram Nath, Sandeep Mehta · 28 September 2026

Issue. Whether the States must pay interest on delayed EPF and salary dues of employees of defunct State corporations despite their separate juristic personality, and whether a flat Rs.42.50 daily wage over decades is a fair measure of daily-wagers' dues.

Held. Section 7-Q of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 mandates simple interest at 12% per annum from the date the amount became due till actual payment; relying on Arcot Textile Mills Ltd. v. Regl. Provident Fund Commissioner (2013) 16 SCC 1, the Court held this is a statutory consequence of delay, not a discretionary award, and is not defeated because the principal was later paid. For non-EPF salary dues, where no statute fixes a rate, interest is compensation for deprivation of the use of money (Central Bank of India v. Ravindra (2002) 1 SCC 367), but it must stay compensatory and not punitive on the exchequer, so the Court fixed 6% instead of the Committee's 7.5%. Though the corporations were distinct juristic entities, Bihar and Jharkhand as welfare States could not let their separate personality render the workers' entitlements illusory. A flat Rs.42.50 per day from 1992 ignored decades of changing wages, so instead of remitting for refixation the Court directed a one-time Rs.1,00,000 to each daily-wager, and gave untraced claimants 12 months to approach the Nodal Officer.

12 Surinder Ahuja v. State of Punjab General

2026 INSC 1068 · Dipankar Datta, Sheel Nagu · 29 September 2026

Issue. Can contiguous land acquired for one project be valued by a distance-based step-down, and is severance under s.23(1) thirdly measured on the acquired or the unacquired land? Are solatium under s.23(2) and the additional amount under s.23(1A) payable on trees, tubewells and severance?

Held. Relying on Ali Mohammad Beigh v. State of J&K and Krishan Kumar v. State of Haryana, the Court held the radial step-down created an artificial disparity within a contiguous tract and restored Rs. 5,00,000 per acre; the 20% smallness cut was also wrong, given highway frontage and nearby institutions (Bhagwathula Samanna). Section 23(1) thirdly compensates the fall in value of the remaining land, so the 50% severance on unacquired land was restored (Tribeni Devi v. Collector of Ranchi) and Tehal Singh's 40% formula could not be applied mechanically. Following State of Punjab v. Amarjit Singh, solatium under s.23(2) and the s.23(1A) amount are not payable on damages under the second to sixth factors. Tree compensation stays at the 280 pleaded trees because the s.18 reference petition works as the plaint and evidence cannot go beyond pleadings (Bachhaj Nahar v. Nilima Mandal), and the Rs. 50,000 tubewell rate stands since an exhibit marked without examining its author does not prove its contents.

Statutes, appointments & policy

NEW LAWS, AMENDMENTS & KEY BILLS

- **Bankers' Books Evidence Act, 2026 comes into force, replacing 1891 law.** The Bankers' Books Evidence Act, 2026 (15 of 2026), which received Presidential assent on 13 August 2026, came into force on 1 October 2026 under a Finance Ministry notification (S.O. 5041(E)) issued under section 1(2). It repeals and replaces the Bankers' Books Evidence Act, 1891 and takes a technology-neutral approach, recognising banking records kept in physical, electronic, digital and cloud-based forms. Certified copies may be authenticated by manual, digital or electronic signature, and an electronic record of a banker's book is admissible in evidence. Relevant for Evidence law (BSA, 2023) questions on proof of banking records and certified copies. — 1 October 2026 · newsonair.gov.in
- **Births and Deaths Registration amendment in force; magistrate order for late entries.** The Registration of Births and Deaths (Amendment) Act, 2026 came into force on 1 October 2026, the date fixed by a Registrar General of India (Ministry of Home Affairs) gazette notification of 16 September 2026. It substitutes section 13(3) and inserts section 13(3A) of the Registration of Births and Deaths Act, 1969. A birth or death reported more than one year but within two years can be registered only with the approval of a District Magistrate, Sub-Divisional Magistrate or Executive Magistrate; one reported after more than two years needs an order of a Judicial Magistrate of the First Class. The authority must verify the authenticity of the event before permitting delayed registration. — 1 October 2026 · deccanchronicle.com

APPOINTMENTS & INSTITUTIONS

- **Judges of the Supreme Court (Article 124(2)):** Collegium recommends CJs Sunita Agarwal, Devendra Kumar Upadhyaya and Aparesh Kumar Singh — At its meeting on 28 September 2026, the Supreme Court Collegium headed by CJI Surya Kant recommended three High Court Chief Justices for elevation to the Supreme Court: Justice Sunita Agarwal (Gujarat HC; parent HC Allahabad), Justice Devendra Kumar Upadhyaya (Delhi HC; parent HC Allahabad) and Justice Aparesh Kumar Singh (Telangana HC; parent HC Jharkhand). Appointments to the Supreme Court are made by the President under Article 124(2) after consultation with the Chief Justice of India. — 28 September 2026 · livelaw.in
- **Permanent Judges, Gauhati & Uttarakhand High Courts (Article 217):** Justice Kaushik Goswami (Gauhati) and Justice Subhash Upadhyay (Uttarakhand) made permanent — On 1 October 2026 the Centre notified the appointment of Justice Kaushik Goswami, Additional Judge of the Gauhati High Court, and Justice Subhash Upadhyay, Additional Judge of the Uttarakhand High Court, as permanent judges of their respective High Courts. The notifications act on part of the Supreme Court Collegium's 23 September 2026 recommendation to make 12 Additional Judges permanent. Additional Judges are appointed under Article 224(1) for up to two years; permanent appointment is made by the President under Article 217. — 1 October 2026 · livelaw.in

POLICY & JUSTICE ADMINISTRATION

- **Law Ministry notifies National Tribunals Commission rules under Tribunals Reforms Act, 2026.** The Ministry of Law and Justice (Department of Legal Affairs) notified the National Tribunals Commission and Qualification, Selection, and Conditions of Service of Chairperson and Members of Tribunals Rules, 2026 by G.S.R. 856(E) dated 30 September 2026, made under section 20 of the Tribunals Reforms Act, 2026 (17 of 2026), effective on publication. The rules require the process to fill tribunal vacancies to begin at least six months in advance and provide a structured assessment of candidates, including an order-writing exercise where applicable. Complaints against office-holders are to be inquired into by a three-member committee of a Supreme Court judge nominated by the CJI, a retired High Court Chief Justice and an eminent person nominated by the Centre. The 2026 Act followed the Supreme Court's November 2025 ruling striking down key provisions of the Tribunals Reforms Act, 2021 in the Madras Bar Association litigation. — 30 September 2026 · staffnews.in

Clear Concepts — textbook revision of two core concepts

Preventive Detention: Article 22(3)-(7) and the National Security Act

Constitutional Law

Constitution of India, Art. 22(3)-(7); National Security Act 1980, ss.3, 8, 10-13

Preventive detention jails a person for what he might do, without trial. Article 22(3)-(7) offers only thin safeguards, so courts police procedure strictly. On 29 September 2026, Mulla Afroz v. Union of India struck down an NSA detention resting on a police confession and used to frustrate bail.

The constitutional safeguards.

- Art 22(3) withdraws the clause (1)-(2) arrest rights, including counsel and 24-hour production, from enemy aliens and preventive detenus.
- Art 22(4): no detention beyond three months unless an Advisory Board of persons qualified as High Court judges reports sufficient cause.
- Art 22(5): grounds must be communicated as soon as may be, with the earliest opportunity of making a representation.
- Art 22(6) shields facts against the public interest; Art 22(7) lets Parliament prescribe circumstances, maximum period and Board procedure.

The NSA framework and timelines.

- Section 3 targets acts prejudicial to defence, State security, public order, or supplies and services essential to the community.
- Section 8: grounds within five days ordinarily, and in exceptional cases, for reasons recorded in writing, within ten days.
- Sections 10-11: reference to the Advisory Board within three weeks; the Board reports within seven weeks of detention.
- Section 12 allows confirmation only on a Board finding of sufficient cause; section 13 caps detention at twelve months.

Grounds on which detention falls.

- Non-supply of documents relied on, or unexplained delay in deciding the representation, defeats Art 22(5) and vitiates detention.
- Vague, irrelevant or stale grounds, or mere 'law and order' conduct dressed as 'public order', expose non-application of mind.
- Detention cannot replace ordinary criminal law: once bail is granted, the State must seek cancellation or appeal, not detain.
- Mulla Afroz (2026): a police confession cannot alone ground NSA detention, as it impairs effective representation; Suman (Madras FB) overruled.

Leading cases.

- Ram Manohar Lohia v. State of Bihar (1966) — law and order, public order and State security are concentric circles.
- Haradhan Saha v. State of W.B. (1975) — detention is preventive, not punitive; a pending prosecution does not bar it.
- Rekha v. State of T.N. (2011) — detention is lawful only where ordinary criminal law cannot cope.
- Banka Sneha Sheela v. State of Telangana (2021) — apprehended law and order breach is not public order; seek bail cancellation instead.
- Mulla Afroz v. Union of India (2026) — detention aimed at frustrating bail is punitive; quashed with Rs.10 lakh costs.

Exam tip. The trap: a pending prosecution never bars detention (Haradhan Saha), yet detention fails where ordinary criminal law suffices (Rekha).

Order II Rule 2 CPC: Splitting of Claims and Reliefs

Civil Procedure

Code of Civil Procedure 1908, Order II Rules 1-3; Order XXIII Rule 1; s.11

Order II protects a defendant from being vexed twice on one cause of action. Rule 2 demands the whole claim, bars omitted or relinquished portions, and bars reliefs omitted without leave. This week, Bombay Garage v. J P Iscon (2026 INSC 1066) held that liberty granted on withdrawal cannot cure leave missing at institution.

The three limbs of Rule 2.

- Rule 2(1): every suit must include the whole of the claim the plaintiff can make on that cause of action.
- Rule 2(2): any portion of the claim omitted or intentionally relinquished cannot be sued for later.
- Rule 2(3): a plaintiff entitled to several reliefs may sue for some, but loses any relief omitted without leave.
- Explanation: an obligation and its collateral security, and successive claims under one obligation, are one cause of action.

Pleading and proving the bar.

- The bar bites only where the second suit rests on the same cause of action; a distinct one escapes.
- The defendant must plead the bar, prove the earlier plaint and establish identity of the causes of action.
- An issue must be framed on the plea; a court cannot apply Rule 2 on mere inference.
- Leave under Rule 2(3) must be obtained when the first suit is instituted, as Bombay Garage confirms.

Withdrawal, res judicata and other neighbours.

- Section 11 bars a matter heard and finally decided; Order II Rule 2 bars a claim or relief never brought.
- Order XXIII Rule 1(3) allows withdrawal with liberty for formal defect or sufficient grounds; withdrawal without liberty bars a fresh suit.
- Bombay Garage: Order XXIII Rule 1(3) permits a fresh suit only for the same subject-matter, not a new relief.
- Rule 3 merely permits joinder of causes of action against the same defendant; Rule 2 compels completeness.

Leading cases.

- Gurbux Singh v. Bhooralal (1964) — Constitution Bench: defendant must prove the earlier plaint and identity of cause of action.
- Virgo Industries v. Venturetech (2013) — specific performance omitted without leave from an earlier injunction suit is barred.
- Alka Gupta v. Narender Kumar Gupta (2010) — the bar must be pleaded and an issue framed.
- Sarguja Transport Service v. STAT (1987) — the principle of Order XXIII Rule 1 applies to writ petitions.
- Bombay Garage v. J P Iscon (2026) — withdrawal liberty cannot cure missing Rule 2(3) leave; Gurinderpal disapproved.

Exam tip. The trap: liberty to sue afresh on withdrawal does not revive an omitted relief, because Rule 2(3) leave must come at institution.

Revision capsule — one-line recap of every ruling

- **Mulla Afroz:** A confession made to a police officer cannot by itself, without independent supporting material, form the basis of the subjective satisfaction for preventive detention; a detention aimed at frustrating bail is punitive and must be quashed.
- **Sainaba:** Once the notice is dispatched by registered post to the drawer's correct address, proviso (b) to Section 138 is satisfied and service is presumed whoever receives it; the drawer must rebut that presumption.
- **Bombay Garage Ahmedabad Limited:** A plaintiff who could have sued for specific performance when filing an injunction suit, but sought no leave under Order II Rule 2(3) at institution, cannot cure the omission through liberty granted on withdrawal under Order XXIII Rule 1(3).
- **Santosh Gurung:** The chain of circumstances was broken at several places, so the conviction resting solely on circumstantial evidence was set aside and the appellant acquitted on benefit of doubt.
- **State of Maharashtra:** Once a court has itself stayed bail on a prima facie view, any later departure needs cogent and discernible reasons — custody of 27 days, progress in investigation or pending forensics alone do not suffice, so bail was cancelled.
- **State of Karnataka:** The bar on using confessional or disclosure statements at trial is no ground to quash a pending NDPS prosecution under the High Court's inherent powers; the absconding accused must raise it at cognizance or in a discharge application.
- **State of Himachal Pradesh:** The appeal against acquittal failed because no link was proved beyond reasonable doubt; a DNA match showing the accused was in the room at some point does not prove she was there when the murder happened.
- **Orris Infrastructure Pvt. Ltd.:** The AA can recall admission when the jurisdictional fact of debt is shown to be fraudulent or collusive, but because admitted CIRP is in rem it may instead exclude the colluding applicant and continue the process after hearing the RP, the CoC and other stakeholders.

- **M/s Awadhesh Singh Gautam:** None of the contract clauses permitted the cross-contract deduction, and an unadjudicated overpayment claim cannot be appropriated as if it were an ascertained debt without notice to the contractor.
- **Sterling Holiday Resorts Limited:** A SARFAESI sale built on a bid received in breach of a DRAT restraint, concluded before the 30-day notice period ran out (excluding the restraint period) and certified in favour of a non-bidder nominee is void, and the sanctity of auction sales cannot rescue it.
- **Bihar State Ardh Sarkari Arajpati Karamchari Maha Sangh:** Interest under s.7-Q of the EPF Act arises by operation of statute from the due date till actual payment, and the separate corporate personality of defunct State corporations cannot defeat workers' decades-old dues; States must pay 12% on EPF dues, 6% simple interest on salary arrears and Rs.1,00,000 extra to each daily-wager.
- **Surinder Ahuja:** Contiguous land acquired for one project must get a uniform rate and severance is computed on the unacquired land left behind; solatium and the s.23(1A) amount attach only to market value under the first factor of s.23(1).

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

Q1. A District Magistrate passes a preventive detention order whose grounds rest substantially on the detenu's confession recorded by a Sub-Inspector, with no independent supporting material. In a habeas corpus challenge, the order is best regarded as:

A. Valid, as rules of admissibility play no part in a detaining authority's subjective satisfaction
B. Vitiated, as a police confession irrelevant to proving guilt cannot alone found the satisfaction
C. Valid, provided the detenu does not retract the confession before the Advisory Board
D. Vitiated only if the confession was recorded after the detenu had been released on bail

> **Ans: B.** A confession made to a police officer cannot be proved against the accused under s.25 of the Indian Evidence Act (now s.23(1) of the Bharatiya Sakshya Adhiniyam, 2023), and Art.20(3) bars testimonial compulsion. Material the law treats as irrelevant for proving guilt cannot legitimately enter the subjective satisfaction, and relying on it impairs the detenu's Art.22(5) right to make an effective representation. This week the Supreme Court quashed an NSA detention on exactly this footing, testing the confession on the twin anvil of s.23 BSA and Art.20(3). **[This week's ruling: Mulla Afroz v. Union of India (2026 INSC 1067)]**

Q2. Which of the following statements regarding preventive detention is correct?

A. A pending prosecution on the same facts is an absolute bar to passing a detention order
B. Article 22(5) is satisfied once grounds are served, even if the documents relied on are withheld
C. A chargesheet filed in the related case is conclusive proof of the detenu's prejudicial activity
D. Detaining a person on bail on the same incident and material as the criminal case can be punitive

> **Ans: D.** A pending prosecution does not by itself bar detention (Haradhan Saha), but where bail has been granted on the same facts, Vijay Narain Singh v. State of Bihar calls for great caution, because detention is preventive and cannot be used as a substitute for punishment or to defeat a bail order. Article 22(5) also requires supply of the material relied on, without which an effective representation is impossible, and a chargesheet is only an allegation, not proof of guilt. This week's ruling held a detention resting on the same incident and material as the criminal case, after bail, to be punitive and set it aside. **[This week's ruling: Mulla Afroz v. Union of India (2026 INSC 1067)]**

Q3. A statutory demand notice under Section 138 of the Negotiable Instruments Act, 1881 is sent by registered post to the drawer's correct address and is received there by his mother. The drawer pleads that the notice was never served on him personally. Which is the correct legal position?

A. Service is presumed, and the drawer must rebut it by showing a wrong address or lack of knowledge
B. Service is invalid, as proviso (b) requires the notice to be tendered to the drawer in person
C. Service is valid only if the complainant proves the mother actually handed it to the drawer
D. Service is invalid unless the notice is also published in a newspaper circulating locally

> **Ans: A.** Section 27 of the General Clauses Act, 1897 deems service effected when a document is properly addressed, prepaid and sent by registered post, unless the contrary is proved, and s.114 of the Indian Evidence Act (now s.119 of the Bharatiya Sakshya Adhiniyam, 2023) supports the same rebuttable presumption (K. Bhaskaran; C.C. Alavi Haji). The burden then lies on the drawer, not the payee. This week the Supreme Court applied these presumptions to restore a s.138 conviction where a family member received the notice at the drawer's correct address. **[This week's ruling: Sainaba v. State of Kerala (2026 INSC 1069)]**

Q4. A two-Judge Bench of the Supreme Court decides a point without noticing an earlier three-Judge Bench decision that squarely governs it. The later decision is best described as:

A. Obiter dictum, binding on High Courts only until a later ruling is delivered
B. Sub silentio, binding on all courts until a Constitution Bench overrules it
C. Per incuriam, and therefore not a binding precedent under Article 141
D. Ratio decidendi, binding on all courts until a larger Bench reconsiders it

> **Ans: C.** Article 141 binds all courts to the law declared by the Supreme Court, but a decision rendered in ignorance of a binding statute or of a binding precedent of a larger or coordinate Bench is per incuriam and loses its binding force on that point. A smaller Bench cannot depart from a larger Bench's ruling. This week the Supreme Court declared M.D. Thomas v. P.S. Jaleel per incuriam for having ignored the three-Judge Bench in C.C. Alavi Haji on presumed service of s.138 notices. **[This week's ruling: Sainaba v. State of Kerala (2026 INSC 1069)]**

Q5. A sues B only for a permanent injunction restraining alienation of land, though his plaint already pleads that B has refused to perform an oral agreement of sale. No leave under Order II Rule 2(3) CPC is sought. A later withdraws the suit with liberty under Order XXIII Rule 1(3) and files a fresh suit for specific performance. The second suit is:

A. Maintainable, because liberty under Order XXIII Rule 1(3) operates as leave under Order II Rule 2
B. Maintainable, because suits for injunction and for specific performance never share a cause of action
C. Barred by res judicata under Section 11, because withdrawal with liberty is a decision on merits
D. Barred by Order II Rule 2(3), as leave to omit the relief was needed when the first suit was filed

Ans: D. Under Order II Rule 2(3) CPC, a person entitled to more than one relief on the same cause of action who omits to sue for any of them, except with the leave of the Court, cannot afterwards sue for the omitted relief (Gurbux Singh v. Bhooralal). Such leave must be obtained when the first suit is filed, and Order XXIII Rule 1(3) permits a fresh suit only for the same subject-matter, not for a new relief. This week the Supreme Court dismissed a specific performance suit on this ground, holding that liberty granted on withdrawal cannot cure the omission. **[This week's ruling: Bombay Garage Ahmedabad Limited v. J P Iscon Private Ltd. (2026 INSC 1066)]**

Q6. Which of the following statements is correct?

A. An agreement for sale of immovable property is void unless it is reduced to writing and registered
B. An oral agreement of sale must be strictly proved, showing a concluded contract with consensus ad idem
C. Evasive answers of defence witnesses discharge the plaintiff's burden of proving an oral agreement
D. A plaintiff who withdraws a suit without permission may sue afresh on the same subject-matter

Ans: B. No law requires an agreement for sale to be in writing, but a plaintiff relying on an oral agreement must strictly prove a concluded contract with consensus ad idem on the essential terms (Brij Mohan v. Sugra Begum; K. Nanjappa v. R.A. Hameed). The burden lies on the plaintiff under s.101 of the Indian Evidence Act (now s.104 of the Bharatiya Sakshya Adhiniyam, 2023), and weaknesses in the defence cannot supply it; a suit withdrawn without permission bars a fresh suit on the same subject-matter under Order XXIII Rule 1(4) CPC. This week the Supreme Court found an alleged oral agreement unproved for want of consistent pleadings and reliable evidence. **[This week's ruling: Bombay Garage Ahmedabad Limited v. J P Iscon Private Ltd. (2026 INSC 1066)]**

Q7. Which of the following is NOT one of the conditions laid down in Hanumant v. State of Madhya Pradesh for a conviction resting wholly on circumstantial evidence?

A. The circumstances from which guilt is to be drawn must be fully established
B. The proved facts must be consistent only with the hypothesis of the accused's guilt
C. The accused must offer a credible explanation for each incriminating circumstance
D. The chain must exclude every hypothesis except the one sought to be proved

Ans: C. Hanumant, later restated as five principles in Sharad Birdhichand Sarda, requires the circumstances to be fully established, consistent only with guilt, conclusive in nature, exclusive of every other hypothesis, and forming a chain so complete that no reasonable ground is left for a conclusion consistent with innocence. The burden stays on the prosecution throughout; an accused's failure to explain when examined under s.313 CrPC (now s.351 BNSS) cannot replace a missing link. This week the Supreme Court applied Hanumant to acquit an accused in a child rape-murder case where the chain broke at several points. **[This week's ruling: Santosh Gurung v. State of Sikkim (2026 INSC 1073)]**

Q8. In a murder trial based only on circumstantial evidence, the prosecution relies on last-seen evidence followed by a long gap before remains are found, a recovery under Section 27 of the Evidence Act from a spot ordinarily visible to others, and the accused's failure to explain when examined under Section 313 CrPC. Which proposition is correct?

A. Section 313 silence can be at most an additional link and cannot fill gaps in an incomplete chain
B. A recovery under Section 27 from a place open to the public is inadmissible in evidence per se
C. Last-seen evidence alone is enough to convict, whatever the time gap before the death is detected
D. Failure to explain under Section 313 shifts the burden on the accused to prove his innocence

Ans: A. An accused's failure to explain under s.313 CrPC (now s.351 BNSS) is only an additional link in a chain already proved and never shifts the burden (Raj Kumar Singh). A recovery under s.27 IEA (now the proviso to s.23(2) BSA) from an open place is not inadmissible as such, but where the object lay in a spot ordinarily visible to others it calls for caution (State of H.P. v. Jeet Singh); a long gap after the last sighting makes the last-seen theory hazardous (State of U.P. v. Satish). This week's ruling applied all three rules to set aside the conviction. **[This week's ruling: Santosh Gurung v. State of Sikkim (2026 INSC 1073)]**

Q9. An absconding accused in an NDPS case is implicated only by a co-accused's statement recorded under Section 67 of the NDPS Act. Before examining the chargesheet, the High Court quashes the prosecution under its inherent powers, citing Tofan Singh v. State of Tamil Nadu. The quashing is:

A. Proper, since a Section 67 statement is a confession to a police officer and cannot be proved
B. Proper, since an accused who flees the spot cannot be prosecuted under the NDPS Act at all
C. Improper, since a Section 67 statement is admissible as substantive evidence after Tofan Singh
D. Improper, since inadmissibility at trial is a matter for cognizance or discharge, not quashing

Ans: D. Tofan Singh held that NDPS officers are police officers for s.25 IEA (now s.23(1) BSA), so a s.67 statement cannot be used as a confession to convict, but that rule governs admissibility at trial, not whether a trial should proceed. A co-accused's disclosure naming the absconder may still guide further investigation, and the accused can press the 'confession-only' point at cognizance or in a discharge plea (s.227 CrPC, now s.250 BNSS) rather than under inherent powers (s.482 CrPC, now s.528 BNSS). This week the Supreme Court set aside such a quashing order and restored the case. **[This week's ruling: State of Karnataka v. Sadiq Pasha (2026 INSC 1083)]**

Q10. Which of the following statements on cancellation or setting aside of bail is correct?

A. Bail once granted may be cancelled only for misconduct by the accused after his release
B. A bail order that ignores relevant material, such as serious criminal antecedents, may be set aside
C. Imposing stringent conditions cures a grant of bail that overlooked material considerations
D. Co-accused released on parity keep their bail even after the principal accused's bail is set aside

Ans: B. Apart from cancellation for supervening misconduct, a superior court may set aside a bail order that ignored relevant considerations such as the gravity of the offence, the risk to witnesses or the accused's antecedents (Ash Mohammad v. Shiv Raj Singh); the High Court's power to direct re-arrest under s.439(2) CrPC is now s.483(3) BNSS. Conditions come in only after the accused is found to deserve bail, so they cannot cure a wrong grant, and bail granted on parity falls with the principal accused's bail. This week the Supreme Court cancelled a Corporator's bail on these principles. **[This week's ruling: State of Maharashtra v. Ramesh Sukrya Mhatre (2026 INSC 1075)]**

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

Mains Q1. — Delhi Judicial Service Mains, 2018 · Evidence — Confessions (ss.24-30 IEA) and s.27 discovery

In Pulukuri Kottayya v. King Emperor AIR 1947 PC 67, it was observed as under: "S. 27, which is not artistically worded, provides an exception to the prohibition imposed by the preceding section and enables certain statements made by a person in police custody to be proved. ... If this be the effect of S. 27, little substance would remain in the ban imposed by the two preceding sections on confessions made to the police, or by persons in police custody. ... In their Lordships' view it is fallacious to treat the 'fact discovered' within the section as equivalent to the object produced; the fact discovered embraces the place from which the object is produced and the knowledge of the accused as to this, and the information given must relate distinctly to this fact. Information as to past user, or the past history, of the object produced is not related to its discovery in the setting in which it is discovered. Information supplied by a person in custody that 'I will produce a knife concealed in the roof of my house' does not lead to the discovery of a knife; knives were discovered many years ago. It leads to the discovery of the fact that a knife is concealed in the house of the informant to his knowledge, and if the knife is proved to have been used in the commission of the offence, the fact discovered is very relevant. But if to the statement the words be added 'with which I stabbed A' these words are inadmissible since they do not relate to the discovery of the knife in the house of the informant." Elucidate and explain the legal effect of the aforesaid quotation with examples. In terms of your reasoning, please examine the following statement of the accused and indicate the portions which are admissible or not admissible under Section 27 of the Indian Evidence Act. "Statement made by the accused Inala Sydayya on being arrested. About 14 days ago, I, Kotayya and people of my party lay in wait for Sivayya and others at about sunset time at the corner of Pulipad tank. We, all beat Boddapati Chinna Sivayya and Subbayya, to death. The remaining persons, Pullayya, Kotayya and Narayna ran away. Dondapati Ramayya who was in our party received blows on his hands. He had a spear in his hands. He gave it to me then. I hid it and my stick in the rick of Venkata Narsu in the village. I will show if you come. We did all this at the instigation of Pulukuri Kotayya." (20 Marks)

Sections 25 and 26 of the Evidence Act erect a near-absolute wall. A confession to a police officer cannot be proved against the accused (s.25, now s.23 BSA 2023), nor can one made in police custody unless made in the immediate presence of a Magistrate (s.26). A confession must admit the offence or substantially all the facts constituting it (Pakala Narayana Swami v. Emperor, 1939 PC), and a mixed statement cannot be split to keep only its damaging half (Palvinder Kaur v. State of Punjab, AIR 1952 SC 354). It even bars the confessional parts of an accused's own FIR (Aghnoo Nagesia v. State of Bihar, AIR 1966 SC 119). Section 27 opens a narrow gate: where a fact is discovered in consequence of information from an accused in police custody, so much of it as relates distinctly to the fact discovered may be proved, the discovery vouching for its truth.

Treating the fact discovered as the object itself would turn every recovery into a vehicle for a full confession and nullify ss.25 and 26. The Privy Council therefore held it to be composite: the object, the place of its production and the accused's knowledge of that place. Past user or history of the object stays out. "I have buried the gold chain under the neem tree behind my hut and will point it out" is provable once the chain is dug up there; the tail "which I snatched from B on the highway" is confession and is excluded. State (NCT of Delhi) v. Navjot Sandhu (2005) 11 SCC 600 reaffirmed this reading.

In Inala Sydayya's statement, the account of lying in wait at Pulipad tank, beating Sivayya and Subbayya to death, the flight of the others, Ramayya's injuries and the instigation by Pulukuri Kotayya is narrative of past events, wholly inadmissible. "He had a spear in his hands. He gave it to me then" is the spear's past history and equally excluded. Only "I hid it and my stick in the rick of Venkata Narsu in the village. I will show if you come" is admissible, and only if the spear and stick are actually recovered from that rick at his instance. Even then it proves his knowledge of the concealment; the link to the killing needs independent evidence. The line naming Kotayya fails against him too, since s.30 works only on a proved confession, and even then Kashmira Singh v. State of M.P. (AIR 1952 SC 159) and Haricharan Kurmi v. State of Bihar (AIR 1964 SC 1184) treat it as no substantive evidence, only assurance for other proof.

This week's rulings sharpen each limb. Santosh Gurung v. State of Sikkim (2026 INSC 1073) held that a s.27 recovery from a spot ordinarily visible to others calls for caution under State of H.P. v. Jeet Singh, and acquitted. Mulla Afroz v. Union of India (2026 INSC 1067) held that a police confession, inadmissible under s.23 BSA and Article 20(3), cannot alone found the subjective satisfaction for preventive detention. State of Karnataka v. Sadiq Pasha (2026 INSC 1083) accepted that a s.67 NDPS confession has no evidentiary value at trial under Tofan Singh v. State of Tamil Nadu (2021) 4 SCC 1, which treats NDPS officers as police officers, yet refused to let that quash a pending prosecution; the point belongs at cognizance or discharge.

In short, s.27 admits a fact, not a story. Selvi v. State of Karnataka (2010) 7 SCC 263 roots the same caution in Article 20(3), permitting s.27 use of material discovered through a scientific test only where the test was voluntarily undergone.

Mains Q2. — **Gujarat Civil Judge Mains, 2011 · Negotiable Instruments — Dishonour of cheque, statutory notice and its service (ss.138, 139, 142)**

What are the provisions made in Section 138 of the Negotiable Instruments Act with respect to dishonour of cheque ?

Section 138 of the Negotiable Instruments Act, 1881 criminalises a commercial default, but only on a strict checklist. The drawer must have drawn the cheque on an account maintained by him with a banker, for payment of money to another person, in discharge in whole or in part of a legally enforceable debt or other liability. The cheque must be returned unpaid because the amount standing to the credit of that account is insufficient or exceeds the amount arranged to be paid. The drawer is then deemed to have committed an offence punishable with imprisonment up to two years, or fine up to twice the amount of the cheque, or both. A cheque given as a gift or for a time-barred debt therefore falls outside the section.

The proviso supplies three conditions without which no offence arises. The cheque must be presented within six months of its date or within its period of validity, whichever is earlier, and RBI has since 2012 cut that validity to three months. The payee must make a written demand for the amount within 30 days of receiving information of dishonour from the bank. The drawer must then fail to pay within 15 days of receipt of that notice. In K. Bhaskaran v. Sankaran Vaidhyan Balan (1999) 7 SCC 510 the Court broke the offence into five components: drawing, presentation, return unpaid, giving of notice and failure to pay. It distinguished the 'giving' of notice from its 'receipt' and held that a notice returned unclaimed is deemed served.

Service is where acquittals are usually argued. The three-Judge Bench in C.C. Alavi Haji v. Palapetty Muhammed (2007) 6 SCC 555 applied the presumption under Section 27 of the General Clauses Act to a notice correctly addressed and sent by registered post. A drawer who denies receipt may pay within 15 days of receiving the court's summons, and if he does not he cannot complain of non-service. This week, in Sainaba v. State of Kerala (2026 INSC 1069), the Supreme Court held that such a notice is presumed served whoever receives it at the correct address, there the drawer's mother, and declared M.D. Thomas v. P.S. Jaleel (2009) per incuriam for ignoring Alavi Haji.

Section 139 presumes, unless the contrary is proved, that the holder received the cheque for the discharge of a debt or liability, and Section 118 adds presumptions of consideration, date and endorsement. Rangappa v. Sri Mohan (2010) 11 SCC 441 held that the Section 139 presumption includes the existence of a legally enforceable debt, though it is rebuttable on a preponderance of probabilities by raising a probable defence. Under Section 141, where the drawer is a company, every person in charge of and responsible to it for the conduct of its business is also liable, unless he proves the offence occurred without his knowledge or despite due diligence.

Section 142 governs procedure. Cognizance can be taken only on a written complaint by the payee or holder in due course within one month of the cause of action, delay being condonable on sufficient cause. Dashrath Rupsingh Rathod v. State of Maharashtra (2014) 9 SCC 129 confined jurisdiction to the court where the drawee bank is situated, but the 2015 amendment inserted Section 142(2), vesting it in the court where the payee's bank branch is located when the cheque is presented through an account. Section 143A, added in 2018, permits interim compensation, and Section 147 makes the offence compoundable. Meters and Instruments v. Kanchan Mehta (2018) 1 SCC 560 stressed that the remedy is primarily compensatory and compounding should be encouraged.

Mains Q3. — **Bihar Judicial Service (Civil Judge) Mains, 2006 · Specific Relief — Specific performance of agreements to sell and readiness and willingness (ss.10, 16(c))**

When a contract can be specifically performed?

Bihar asked this in 2006, when the answer turned on discretion. Under the unamended s.10, specific performance was exceptional, granted where compensation was inadequate; its Explanation presumed that money could not adequately relieve breach of a contract to transfer immovable property, and s.20 let the court refuse even a proved case. The Specific Relief (Amendment) Act, 2018 inverts that scheme. Section 10 now says specific performance "shall be enforced by the court" subject only to s.11(2), s.14 and s.16. The adequacy test, the presumptions and the old s.20 discretion are gone; s.20 now governs substituted performance. Katta Sujatha Reddy v. Siddamsetty Infra Projects (2023) 1 SCC 355 holds the amendment prospective, so earlier transactions stay under the discretionary regime.

The surviving limits are therefore the real answer. Section 11(2) bars a contract made by a trustee in excess of his powers or in breach of trust. Section 14 excludes contracts where substituted performance has been obtained, those involving a continuous duty the court cannot supervise, those so dependent on personal qualifications that material terms cannot be enforced, and those determinable in nature. Section 16(c) decides most sale suits: relief is refused to a plaintiff who fails to prove that he has performed or has always been ready and willing to perform the essential terms resting on him. The Explanation spares him from actually tendering the price unless the court directs, but readiness (the means to pay) and willingness (conduct to match) must be shown. N.P. Thirugnanam v. R. Jagan Mohan Rao (1995) 5 SCC 115 treats this as a continuous condition from the date of contract until decree; a buyer who goes silent or cannot fund the price loses, whatever the vendor's default.

For immovable property the agreement need not be in writing. Section 54 of the Transfer of Property Act declares that a contract for sale creates no interest in or charge on the property; registration attaches to the conveyance, not the promise to convey. An oral agreement of sale can be specifically enforced, but Brij Mohan v. Sugra Begum (1990) 4 SCC 147 demands proof of its terms by clear and cogent evidence, and K.

Nanjappa v. R.A. Hameed (2016) 1 SCC 762 keeps that burden on the plaintiff. Once the contract is proved, s.21 allows compensation in addition to or in substitution for performance, and s.22 lets possession, partition and refund of earnest money be joined if specifically claimed.

Procedure can sink a sound claim. Virgo Industries (Eng.) Pvt. Ltd. v. Venturetech Solutions (2013) 1 SCC 625 barred a later specific-performance suit under Order II Rule 2 because that relief could have been claimed in the earlier injunction suit. This week, Bombay Garage Ahmedabad Ltd. v. J P Iscon Pvt. Ltd., 2026 INSC 1066 applied the same bar where no leave was taken when the injunction suit was filed, holding that liberty on withdrawal under Order XXIII Rule 1(3) cannot cure the omission, and added that an oral agreement of sale needs strict proof of consensus ad idem that evasive defence witnesses cannot supply.

So a contract can be specifically performed today whenever a concluded, valid contract is proved, it falls outside s.14, the plaintiff clears s.16 by proving continuous readiness and willingness, and the suit is within limitation and not shut out by Order II Rule 2. The court no longer asks whether it ought to grant relief, only whether the statute forbids it. Hardship and rising prices carry no statutory weight for post-2018 contracts, which is why strict proof of the contract and of readiness is now the battlefield.

Mains Q4. — **Telangana Civil Judge (Junior Division) Mains, 2021 · Criminal Procedure — Grant of bail in non-bailable offences and conditions (ss.437, 439 CrPC / ss.480, 483 BNSS)**

(a) When can bail be granted in case of a non-bailable offence? Can bail be granted subject to conditions?

"Non-bailable" does not mean bail is barred; it means release rests on judicial discretion rather than on the right that s.436 CrPC (s.478 BNSS) gives in bailable offences. Under s.437 CrPC (s.480 BNSS) a Magistrate may release such an accused, but not where there appear reasonable grounds for believing him guilty of an offence punishable with death or imprisonment for life, or where a cognizable offence is alleged against a person with the specified previous convictions; the provisos relax this for a person under sixteen, a woman and the sick or infirm. The Court of Session and High Court under s.439 CrPC (s.483 BNSS) are free of these limits. Gudikanti Narasimhulu v. Public Prosecutor (1978) 1 SCC 240 treats bail as a question of liberty under Article 21, never a punishment before trial.

The discretion is structured. Prasanta Kumar Sarkar v. Ashis Chatterjee (2010) 14 SCC 496 lists the factors: a prima facie case, the nature and gravity of the accusation, the severity of punishment, the danger of absconding, the accused's character and standing, the likelihood of repetition and the apprehension of witnesses being influenced. Brief reasons are required, not a mini-trial. Ash Mohammad v. Shiv Raj Singh (2012) 9 SCC 446 holds criminal antecedents relevant, since liberty must be balanced against society's interest, and Neeru Yadav v. State of U.P. (2014) 16 SCC 508 holds that parity is no mechanical rule where the applicant's antecedents set him apart from the co-accused.

Bail can certainly be conditional. Under s.437(3) CrPC (s.480(3) BNSS), for an offence punishable with imprisonment which may extend to seven years or more, or the other specified offences, the court shall require the accused to attend in terms of the bond, not commit a similar offence, and not induce, threaten or promise anything to a person acquainted with the facts to dissuade disclosure, and may add any condition in the interests of justice. Section 439(1)(a) CrPC (s.483(1)(a) BNSS) gives the superior courts the same power. Conditions must secure attendance and a fair investigation; they cannot be so onerous as to amount to refusal.

Breach invites cancellation under s.437(5) CrPC (s.480(5) BNSS) and s.439(2) CrPC (s.483(3) BNSS), and two routes must be kept apart. Dolat Ram v. State of Haryana (1995) 1 SCC 349 holds that cancelling bail differs from rejecting it and needs very cogent and overwhelming supervening circumstances: misuse of liberty, tampering, threatening witnesses, a fresh offence or absconding. Puran v. Rambilas (2001) 6 SCC 338 separately permits setting aside an order that ignores material evidence or rests on irrelevant considerations, with no supervening event, and Mahipal v. Rajesh Kumar (2020) 2 SCC 118 tests an appeal against a grant for perversity or illegality rather than later misconduct.

This week, in State of Maharashtra v. Ramesh Sukrya Mhatre, 2026 INSC 1075, the Supreme Court cancelled a Corporator's bail because the High Court, having stayed it as prima facie unsustainable, restored it without reasons for the departure while ignoring his criminal antecedents, and the co-accused's parity bail fell with his. The lesson for the examinee: the court first asks whether bail is deserved at all, and conditions come only afterwards, for no condition can cure a wrong grant.

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

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