



## Surge in Bail Appeals in Indian High Courts

**For Prelims:** [Surge in Bail Appeals in Indian High Courts, High Court dashboard, DAKSH, Epidemic Diseases Act, 1897, Code Of Criminal Procedure \(CrPC\), 1973.](#)

**For Mains:** Surge in Bail Appeals in Indian High Courts, Bail Appeals.

[Source: TH](#)

### Why in News?

The number of Bail Appeals filed in **India's High Courts surged post 2020**, according to the **'High Court dashboard'** by **DAKSH**, a think-tank focussed on law and justice system reforms.

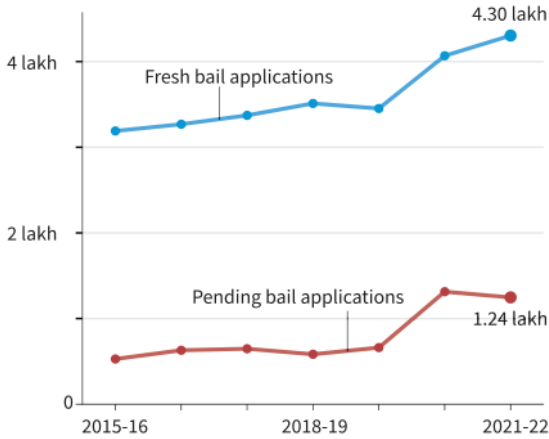
- DAKSH analyzed **9,27,896 bail cases filed between 2010 and 2021** across 15 High Courts. These courts followed distinct naming patterns for bail cases. The data revealed **81 case types associated with bail across** the analyzed High Courts.

### What are the Statistics Related to Bail Appeals?

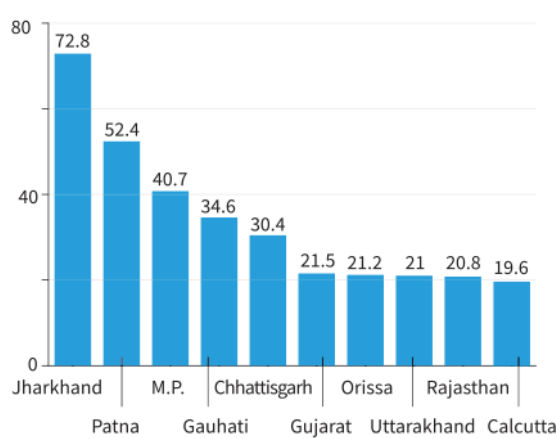
- **Bail Appeals are on Rise:**
  - Bail appeals have risen from approximately 3.2 lakh to 3.5 lakh annually before 2020, to 4 lakh to 4.3 lakh thereafter from July 2021 to June 2022.
  - Consequently, the number of pending bail **appeals in High Courts has surged from around 50,000 to 65,000** to between 1.25 lakh to 1.3 lakh.

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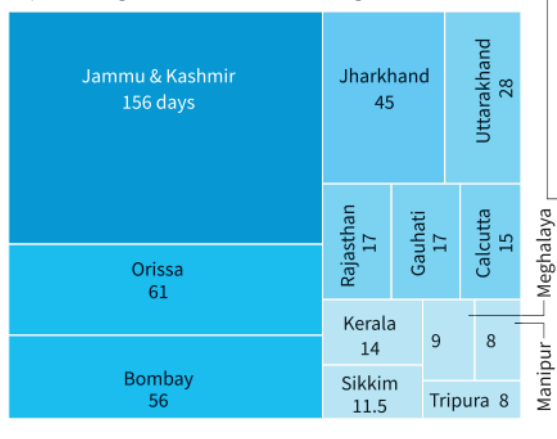
**Chart 1:** The chart shows the number of fresh and pending bail appeals in High Courts over time



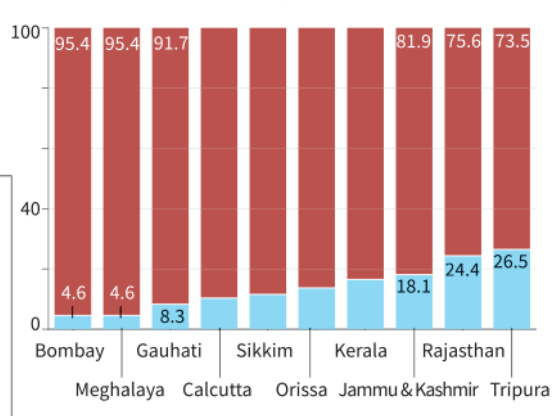
**Chart 2:** Bail applications filed in High courts as a share of their total caseload between July 2021 and June 2022 (in percentage)



**Chart 3:** The chart shows the median days taken for the disposal of regular bail cases in various High Courts



**Chart 4:** The chart shows the share of cases in which bail was granted/rejected and where the outcome was not given/ was unclear (in percentage)



▪ **High Courts and Caseload Distribution:**

- The distribution of caseloads varied across **different High Courts**. In some states, such as Patna, Jharkhand, Odisha, Madhya Pradesh, and Chhattisgarh, bail appeals **formed more than 30% of the total caseload** between July 2021 and June 2022.

▪ **Disposal Time and Outcome Uncertainty:**

- The median time taken for disposal of regular **bail applications varied among High Courts**. Some High Courts had significantly **higher disposal times**, raising concerns about delays in the resolution process.
- Delays in deciding on **bail cases are seen as equivalent to denying bail**, as the accused remains incarcerated during this period.

▪ **Incomplete Outcome Data:**

- The data also **highlighted the lack of clarity regarding the outcomes** of bail appeals in High Courts. In nearly 80% of disposed bail cases in all High Courts, the **outcome of the appeal**, whether it was granted or rejected, **was unclear or missing**.

**What are the Reasons for Surge in Bail Appeals?**

▪ **Covid Violations and Disruption in Court Functioning:**

- There has been an increased number of cases related to violations of Covid-19 lockdown **norms during the pandemic**.
- Additionally, the **disruption of court functioning during this period** could have contributed to the accumulation of pending bail cases.
  - However, the exact **cause cannot be definitively determined** from court data.

▪ **Epidemic Diseases Act as a Factor:**

- The **Epidemic Diseases Act, 1897** may have played a role in the increase in bail appeals. While 77% of regular bail cases did not mention the specific Act under which the **appellant**

**was imprisoned**, analysis of the remaining 23% showed the Epidemic Diseases Act ranked fourth.

- This hints at a **potential surge in cases under this Act** contributing to the increase in bail appeals.

## What is Bail and What are its Types?

### ▪ Definition:

- Bail is the **conditional/provisional release** of a person held under legal custody (in matters which are yet to be pronounced by the Court), by undertaking a promise to appear in the Court as and when required.
- It signifies a **security/collateral deposited before the Court** for release.
  - In ***Supt. and Remembrancer of Legal Affairs v. Amiya Kumar Roy Choudhry*** (1973) case, the Calcutta High Court explained the **principle behind giving Bail**.

### ▪ Types of Bail in India:

- **Regular Bail:** It is a direction given by the **Court (any Court within the country) to release** a person who is already under arrest and kept in police custody. For such Bail, a person can file an application under Section 437 and 439 of the **Code Of Criminal Procedure (CrPC), 1973**.
- **Interim Bail:** Bail granted for a **temporary and short period** by the Court till the application seeking Anticipatory Bail or Regular Bail is pending before a Court.
- **Anticipatory Bail or Pre-arrest Bail:** It is a legal provision that allows an accused person to apply for bail before being arrested. In India, pre-arrest bail is granted under section 438 of the CrPc, 1973. It is issued only by the Sessions Court and High Court.
  - The provision of pre-arrest **bail is discretionary**, and the court may grant bail after considering the nature and gravity of the offence, the **antecedents of the accused**, and other relevant factors.
  - The court may also impose certain conditions while granting bail, such as surrendering the passport, refraining from leaving the country, or reporting to the police station regularly.
- **Statutory Bail:** The remedy of statutory bail, also known as **default bail**, is distinct from bail obtained in the **ordinary procedure under CrPC Sections 437, 438, and 439**. As the name implies, statutory bail is **given when the police or investigating agency fails to file its report/complaint** within a certain time frame.

**Note:** Article 21 of the Indian Constitution gives everyone the **right to life and personal liberty**. It provides the fundamental **right to live with human dignity and personal freedom**, which entitles us to seek bail when detained by any law enforcement entity.