Regional Conference on "Contemporary Judicial Developments and Strengthening Justice through Law & Technology" (East Zone-I)
(26th & 27th November, 2022)

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11.	**Judgments on Prohibition**	
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(v)	***Razakbhai Issakbhai Mansuri. v. State of Gujarat,*** 1993 Supp (2) SCC 659 *Constitutional obligation of the State under Part IV of the Constitution- So far the intoxicating drinks are concerned their evil effects are well-established specially for the Indian society. This was why the framers of the Constitution considered it fit to include it, in expressed terms, in Article 47 while indicating the duty of the State to raise the standard of living and to improve the public health. It is, therefore, within the authority of the State to prohibit consumption of intoxicating liquor and the State of Gujarat was fully justified when it adopted the policy of prohibition. In order that this policy may succeed, it is not sufficient to merely ban manufacture and consumption of alcoholic drinks. To render it really effective further measures became essential in order to defeat the illegal activities of the anti-social elements engaged in illicit manufacture and illegal distribution of the liquor in the market. It, therefore, became obligatory for the State to take all such steps as found necessary for implementing the prohibition policy, by not only placing restrictions on the manufacture, sale and consumption of liquors but also by adopting such other regulatory measures, essential to achieve the objective. Impugned provision fully justified and cannot be condemned as excessive and unreasonable.*	
(vi)	***P.N. Kaushal v. Union of India,*** (1978) 3 SCC 558 *Excise - dry days for liquor shop - Articles 14, 19 (1), 19 (6) and 47 of Constitution of India, Sections 58 and 59 of Punjab Excise Act, 1914, Section 41 of Uttar Pradesh Excise Act and Rule 37 of Uttar Pradesh Excise Rules - whether power under Section 59 (f) (v) was unguided and Rule framed under it arbitrary - Court opined control upon alcohol business is must for good of people - Government can put serious restrictions and lay down principles under Section 58 - subject matter of statute and purpose of Act was a social orientation and a statutory strategy - any action against Section or Rule intended to combat evil should be struck down - petition dismissed as Rules framed under Section 59 not found arbitrary and was public welfare legislation.*	

12.	**Judgments of Judiciary and Media**	
(i)	***Chief Election Commissioner of India v. M. R. Vijayabhaskar*** (2021) 9 SCC 770 *Held, Citizens have a right to information relating to court proceedings except in case of in-camera proceedings. This includes the right to know the observations/remarks mde by judges during the course of the hearing, which do not form part of the judgment; which the media is free to report. Exchange of legal arguments before court must be accessible to public scrutiny which is crucial for transparency, accountability, public faith and confidence in the process and is vital for the functioning of democracy.*	Full text Judgments are provided in the pendrive
(ii)	***Vidya Dhar v. Multi Screen Media (P) Ltd,*** (2013) 10 SCC 145 Whether the broadcasting of dramatised version of events that led to conviction would have any prejudicial effect on the fair trial at the appellate stage. Held, Trial of the petitioners and conviction has been completed, hence there is no possibility of any bias against them at the time of hearing of the appeal. The contents of the trial, the judgment and sentence is in the public domain and available for anyone to see. To safeguard the interests of the petitioners, restrictions imposed on the screening of the episode on television. Media channel directed to ensure that there is no direct similarity of the characters in the serial with the petitioners, and steps be taken to protect their identity.	
(iii)	***Sahara India Real Estate Corporation v. SEBI,*** (2012) 10 SCC 603 Coverage of Judicial Proceedings - Postponement of reporting by Judicial Order - Held, the principle of open justice is not absolute. There can be exceptions in the interest of administration of justice. The presumption of open justice has to be balanced with the presumption of innocence Parameters of passing of Postponement Order are (i) real and substantial risk of prejudice to fairness of trial or proper administration of justice (ii) necessity (iii) proportionality (iv) unavailability of alternative measures.	

(iv)	***Sidhartha Vashisht v. State (NCT of Delhi)***, (2010) 6 SCC 1 Every effort should be made by the print and electronic media to ensure that the distinction between trial by media and informative media should always be maintained. Trial by media should be avoided particularly, at a stage when the suspect is entitled to the constitutional protections. invasion of his rights is bound to be held as impermissible.	
13.	**Judgments on Freedom of Speech & Expression**	
(i)	***S. G. Vombatkere v. Union of India*** (2022) 7 SCC 433 *Challenge to validity on Section 12-A of the Indian Penal Code, 1860 on grounds of misuse. Held, State and Central Governments to restrain from registering any FIR under Section 124-A IPC till the Court decides the provision's constitutional validity. All pending trials, appeals and proceedings with respect to charge framed under Section 124-A IPC be kept in abeyance. Union of India shall be at liberty to issue directive as proposed and placed before the court, to prevent any misuse of Section 124-A IPC*	Full text Judgments are provided in the pendrive
(ii)	***Firoz Iqbal Khan v. Union of India & Ors.*** (2021) 2 SCC 596 *There should be a balance between fundamental right to free speech and expression and the fundamental right to equality and fair treatment for every segment of citizens.*	
(iii)	***Amish Devgan v. Union of India,*** (2021) 1 SCC 1 *Fraternity, diversity and pluralism assuring dignity of the individual have fundamental relationship with unity and integrity of the Nation. Speech or expression causing or likely to cause disturbance of or threats to public order, or, divisiveness and alienation amongst different groups of people, or, demeaning dignity of targeted groups, held, is against Preambular precepts, and violates dignity, liberty and freedom of others, particularly of the targeted groups, and poses threat to fraternity, and unity and integrity of the Nation, and must be dealt with as per law.*	

(iv)	***Vinod Dua v. UOI*** 2021 SCC OnLine SC 414 *Upheld right of the citizen to criticize the government - Every Journalist will be entitled to protection in terms of Kedar Nath Singh, as every prosecution under Sections 124A and 505 of the IPC must be in strict conformity with the scope and ambit of said Sections as explained in, and completely in tune with the law laid down in Kedar Nath Singh.*	
(v)	***Anuradha Bhasin v. Union of India*** (2020) 3 SCC 637 *Challenge to order(s), notification(s), direction(s) and/or circular(s) issued by the respondents under which any/all modes of communication including internet, mobile and fixed line telecommunication services have been shut down or suspended or in any way made inaccessible or unavailable in any locality - Freedom of speech and expression and the freedom to practise any profession or carry on any trade, business or occupation over the medium of internet enjoys constitutional protection under Article 19(1)(a) and Article 19(1)(g). The restriction upon such fundamental rights should be in consonance with the mandate under Articles 19(2) and (6) of the Constitution, inclusive of the test of proportionality.*	
(vi)	***Subramanian Swamy v. Union of India (UOI), Ministry of Law*** (2016) 7 SCC 221 *Court upheld the constitutional validity of Sections 499 and 500 of the Penal Code and Section 199 of the Code of Criminal Procedure.*	
(vii)	***Shreya Singhal v. Union of India,*** (2015) 5 SCC 1 *Freedom of Speech and Expression is a cardinal value under the constitutional scheme and is important from the point of view of the liberty of the individual and also from the point of view of the democratic form of government. This requires free flow of opinions and ideas essential to sustain the collective life of the citizenry* *Restrictions to Freedom of Speech and Expression - grounds for testing reasonableness of restrictions cannot be de hors Article 19(2). A law restricting freedom of speech and expression cannot pass muster if it is merely in the interest of the general public. Such law has to be covered by one of the eight subject matters set out in Article 19(2).*	

8.	**Judgments on Value of High Court Judgments**	
(i)	***Union of India v. R. Thiyagarajan,*** (2020) 5 SCC 201. *Judgment of High Court applicable only to the State(s) within its jurisdiction. Pan-India application of the order of the High Court would tantamount ot usurpation of the jurisdiction of the other High Courts.*	Full text Judgments are provided in the pendrive
(ii)	***Pradip J. Mehta v. CIT,*** (2008) 14 SCC 283 *The judgment of the other High Courts, though not binding, have persuasive value which should be taken note of and dissented from by recording its own reasons*	
9.	**Judgments on Doctrine of Stare Decisis**	
(i)	***Trimurthi Fragrances (P) Ltd. v. Government of N.C.T. of Delhi,*** 2022 SCC OnLine SC 1247 *A decision delivered by a Bench of largest strength is binding on any subsequent Bench of lesser or coequal strength. It is the strength of the Bench and not number of Judges who have taken a particular view which is said to be relevant - A Bench of lesser quorum cannot disagree or dissent from the view of law taken by a Bench of larger quorum. Quorum means the bench strength which was hearing the matter - The numerical strength of the Judges taking a particular view is not relevant, but the Bench strength is determinative of the binding nature of the Judgment.*	Full text Judgments are provided in the pendrive
(ii)	***Gregory Patrao v. Mangalore Refinery & Petrochemicals Ltd.,*** 2022 SCC OnLine SC 830 *Subsequent Supreme Court Decisions which have considered & distinguished earlier judgments are binding on High Courts*	
(iii)	***Shah Faesal v. Union of India,*** (2020) 4 SCC 1 *Per incuriam rule is strictly and correctly applicable to the ratio decidendi and not to obiter dicta. Earlier precedent can be overruled by a larger Bench if - (i) it is manifestly wrong, or (ii) injurious to public interest, or (iii) there is a social, constitutional, or economic change necessitating it. A coordinate Bench of the same strength cannot take a contrary view and cannot overrule the decision of earlier*	

	coordinate bench. No doubt it can distinguish the judgment of such earlier Bench or refer the matter to a larger Bench for reconsideration in case of disagreement with the view of such earlier Bench.	
(iv)	***S.E. Graphites (P) Ltd. v. State of Telangana,*** (2020) 14 SCC 521 *Even Brief Judgments Of Supreme Court Passed After Grant Of Special Leave Are Binding Precedents*	
(v)	***Kaikhosrou (Chick) Kavasji Framji v. Union of India,*** (2019) 20 SCC 705 Views in Lead Judgment are binding precedents if concurring judgments did not express any contrary opinion on it.	
(vi)	***Court on its Own Motion v. Jayant Kashmiri,*** 2017 SCC OnLine Del 7387 *The judgments of the High Court would bind the trial courts. If an unnecessary reference to a judicial precedent or erroneous submission in law is made, the Judge considering the matter would reject the reliance thereon or the submission made. However, certainly reference to a judicial precedent cannot be termed a contumacious act.*	
(vii)	***Union of India v. P. Shyamala,*** 2017 SCC OnLine Mad 6715 *Exposition of law and ratio decidendi, to be accepted as a binding precedent, should be based on issues raised and argued by both sides. A mere observation without reasons is distinguishable, from a ratio decidendi.*	
(viii)	***Hyder Consulting (UK) Ltd. v. State of Orissa,*** (2015) 2 SCC 189 *A prior decision of this Court on identical facts and law binds the Court on the same points of law in a later case. In exceptional circumstances, where owing to obvious inadvertence or oversight, a judgment fails to notice a plain statutory provision or obligatory authority running counter to the reasoning and result reached, the principle of per incuriam may apply.*	
(ix)	***Union of India v. Major Bahadur Singh,*** (2006) 1 SCC 368 *Courts should not place reliance on decisions without discussing as to how the factual situation fits in with the fact situation of the decision on which reliance is*	

	placed. Observations of courts are neither to be read as Euclid's theorems nor as provisions of the statute and that too taken out of their context. These observations must be read in the context in which they appear to have been stated. Judgments of courts are not to be construed as statutes. To interpret words, phrases and provisions of a statute, it may become necessary for Judges to embark into lengthy discussions but the discussion is meant to explain and not to define. Judges interpret statutes, they do not interpret judgments. They interpret words of statutes; their words are not to be interpreted as statutes.	
(x)	***State of Haryana v. AGM Management Services Ltd.***, (2006) 5 SCC 520 *Circumstantial flexibility, one additional or different fact may make a world of difference between conclusions in two cases. Disposal of cases by blindly placing reliance on a decision is not proper.*	
(xi)	***Megh Singh v. State of Punjab,*** (2003) 8 SCC 666 *Circumstantial flexibility, one additional or different fact may make a world of difference between conclusion in two cases or between two accused in the same case. Each case depends on its own facts and a close similarity between one case and another is not enough because a single significant detail may alter the entire aspect.*	
(xii)	***Director of Settlements, A.P. v. M.R. Apparao,*** (2002) 4 SCC 638 *It is necessary to follow the law declared by the Supreme Court and a judgment of the Court has to be read in context of questions which arose for consideration in the case in which the judgment was delivered. An "obiter dictum" as distinguished from a "ratio decidendi" is an observation by the Court on a legal question suggested in a case before it but not arising in such manner as to require a decision. Such an obiter may not have an effect of a binding precedent but it cannot be denied that it is of considerable weight.*	
(xiii)	***Suganthi Suresh Kumar v. Jagdeeshan***, (2002) 2 SCC 420 *It is impermissible for the High Court to overrule the decision of the Apex Court on the ground that the Supreme Court laid down the legal position without considering any other point. It is not only a matter of discipline for the High Courts in India, it is the mandate of the Constitution as provided in Article 141 that the law declared by the Supreme Court shall be binding on all courts within the territory of India.*	

(xiv)	***Vishnu Traders v. State of Haryana***, 1995 Supp (1) SCC 461 *In the matters of interlocutory orders, principle of binding precedent will not apply. However, the need for consistency of approach and uniformity in the exercise of judicial discretion respecting similar causes and the desirability to eliminate occasions for grievances of discriminatory treatment requires that all similar matters should receive similar treatment except where factual differences require a different treatment so that there is assurance of consistency, uniformity, predictability and certainty of judicial approach.*	
(xv)	***State of Punjab v. Surinder Kumar,*** (1992) 1 SCC 489 *The High Courts have no power, like the power available to the Supreme Court under Article 142 of the Constitution of India, and merely because the Supreme Court granted certain reliefs in exercise of its power under Article 142 of the Constitution of India, similar orders could not be issued by the High Courts.*	
(xvi)	***CIT v. Sun Engineering Works (P) Ltd.***, (1992) 4 SCC 363 *While applying the decision to a latter cases, the court must carefully try to ascertain the true principle laid down by the decision of Supreme Court and not to pick out words or sentences from the judgments divorced from the context of question under consideration by the court to support their reasoning.*	
(xvii)	***Empire Industries Ltd. v. Union of India,*** (1985) 3 SCC 314 *Different courts sometimes pass different interim orders as the courts deem fit. It is a matter of common knowledge that the interim orders passed by particular courts on certain considerations are not precedents for other cases which may be on similar facts.*	
(xviii)	***Regional Manager v. Pawan Kumar Dubey, (1976) 3 SCC 334*** *It is the rule deducible from the application of law to the facts and circumstances of a case which constitutes its ratio decidendi and not some conclusion based upon facts which may appear to be similar. One additional or different fact can make a world of difference between conclusions in two cases even when the same principles are applied in each case to similar facts.*	

(xix)	***State of Orissa v. Sudhansu Sekhar Misra,*** (1968) 2 SCR 154 *A decision is only an authority for what it actually decides. The essence in a decision is its ratio and not every observation found therein nor what logically follows from the various observations made in it. It is not a profitable task to extract a sentence, here and there from a judgment and to build upon it.*	
(xx)	***K.T.M.T.M. Abdul Kayoom v. CIT***, 1962 Supp (1) SCR 518 *Each case depends on its own facts and a close similarity between one case and another is not enough because even a single significant detail may alter the entire aspect. In deciding such cases, one should avoid the temptation to decide cases (as said by Cardozo) by matching the colour of one case against the colour of another. To decide, therefore, on which side of the line a case falls, the broad resemblance to another case is not at all decisive.*	
10.	**Recent Judicial Iterations on Language in Court**	
(i)	***Aparna Bhat v. State of M.P.,*** 2021 SCC OnLine SC 230 *Greatest extent of sensitivity is to be displayed in the judicial approach, language and reasoning adopted by the judge. Even a solitary instance of such order or utterance in court, reflects adversely on the entire judicial system of the country, undermining the guarantee to fair justice to all, and especially to victims of sexual violence (of any kind from the most aggravated to the so-called minor offences).*	Full text Judgments are provided in the pendrive
(ii)	***Chief Election Commissioner of India v. M. R. Vijayabhaskar,*** (2021) 9 SCC 770 *Judges should exercise caution and circumspection in the use of language while making oral remarks in court. Language, both on the Bench and in judgments, must comport with judicial propriety.*	
Session – 3 Developments in Criminal Law: Issues and Challenges		
1.	Dr. Justice B.S. Chauhan, ***Bail,*** unpublished paper, presented at National Judicial Academy, Bhopal on 27.08.2022.	**658**

	offences not covered by Special Acts, are completely taken out of the aforesaid guidelines but do form a different nature of offences. Thus the seriousness of the charge has to be taken into account but simultaneously, the severity of the punishment imposed by the statute would also be a factor.	
(ii)	***Y. v. State of Rajasthan and Another,*** 2022 SCC OnLine SC 458 *The impugned order passed by the High Court is cryptic, and does not suggest any application of mind. There is a recent trend of passing such orders granting or refusing to grant bail, where the Courts make a general observation that "the facts and the circumstances" have been considered. No specific reasons are indicated which precipitated the passing of the order by the Court." Reasoning is the life blood of the judicial system. That every order must be reasoned is one of the fundamental tenets of our system. An unreasoned order suffers the vice of arbitrariness. Merely recording "having perused the record" and "on the facts and circumstances of the case" does not subserve the purpose of a reasoned judicial order.*	
(iii)	***X v. Arun Kumar C.K.*** Criminal Appeal No.1834/2022 judgment dated 21st October 2022 (Supreme Court) *Section 438 - Anticipatory Bail - The first and foremost thing that the court hearing an anticipatory bail application should consider is the prima facie case put up against the accused. Thereafter, the nature of the offense should be looked into along with the severity of the punishment. Anticipatory Bail Cannot Be Granted Merely Because Custodial Interrogation Is Not Required*	
(iv)	***Mohammed Zubair v. State of NCT of Delhi,*** 2022 SCC OnLine SC 897 *The 6 FIRs filed in Ghaziabad, Chandauli, Lakhimpur, Sitapur, Hathras have also been transferred from the Uttar Pradesh Police to the Special Cell of the Delhi Police, thereby disbanding the SIT formed by the Director General of Police, Uttar Pradesh on 10 July 2022. If any other related FIR is filed against Zubair then the same will also be transferred to the Special Cell of the Delhi Police and Zubair shall be entitled to the order of interim bail.*	

(v)	***Naser Bin Abu Bakr Yafai v. State of Maharashtra***, (2022) 6 SCC 308 *Re S. 167(2) CrPC where default bail claimed on ground that as charge-sheet was not filed within stipulated period by investigating agency which had jurisdiction to submit the same, and/or charge-sheet was not submitted in a proper court entrusted with jurisdiction, the accused had an indefeasible right to bail.*	
(vi)	***Jagjeet Singh v. Ashish Mishra, 2022 SCC Online SC 453*** *If the right to file an appeal against acquittal, is not accompanied with the right to be heard at the time of deciding a bail application, the same may result in grave miscarriage of justice. Victims certainly cannot be expected to be sitting on the fence and watching the proceedings from afar, especially when they may have legitimate grievances. It is the solemn duty of a court to deliver justice before the memory of an injustice eclipses.*	
(vii)	***Brijmani Devi v. Pappu Kumar,*** (2022) 4 SCC 497 *Grant of bail under S. 439 though being a discretionary order, but, however, calls for exercise of such a discretion in a judicious manner and not as a matter of course and, thus, order for bail bereft of any cogent reason cannot be sustained. Therefore, prima facie conclusion must be supported by reasons and must be arrived at after having regard to the vital facts of the case and, thus, serious nature of accusations and facts having a bearing in the case cannot be ignored, particularly, when the accusations may not be false, frivolous or vexatious in nature but supported by adequate material brought on record so as to enable a court to arrive at a prima facie conclusion.* *It is not necessary for a Court to give elaborate reasons while granting bail particularly when the case is at the initial stage but an order de hors reasoning or bereft of the relevant reasons cannot result in grant of bail. Criticizing the practise of granting cryptic bail in a casual manner, the Bench remarked, "It would be only a non-speaking order which is an instance of violation of principles of natural justice. In such a case the prosecution or the informant has a right to assail the order before a higher forum."*	
(viii)	***Deepak Yadav v. State of U.P. and Another,*** 2022 SCC OnLine SC 672 *It is no doubt true that cancellation of bail cannot be limited to the occurrence of supervening circumstances. This Court certainly has the inherent powers and*	

	discretion to cancel the bail of an accused even in the absence of supervening circumstances. Following are the illustrative circumstances where the bail can be cancelled :- a) Where the court granting bail takes into account irrelevant material of substantial nature and not trivial nature while ignoring relevant material on record. b) Where the court granting bail overlooks the influential position of the accused in comparison to the victim of abuse or the witnesses especially when there is prima facie misuse of position and power over the victim. c) Where the past criminal record and conduct of the accused is completely ignored while granting bail. d) Where bail has been granted on untenable grounds. e) Where serious discrepancies are found in the order granting bail thereby causing prejudice to justice. f) Where the grant of bail was not appropriate in the first place given the very serious nature of the charges against the accused which disentitles him for bail and thus cannot be justified. g) When the order granting bail is apparently whimsical, capricious and perverse in the facts of the given case. *The importance of assigning reasoning for grant or denial of bail can never be undermined. There is prima facie need to indicate reasons particularly in cases of grant or denial of bail where the accused is charged with a serious offence. The sound reasoning in a particular case is a reassurance that discretion has been exercised by the decision maker after considering all the relevant grounds and by disregarding extraneous considerations.*	
(ix)	***Manoj Kumar Khokhar v. State of Rajasthan*** (2022) 3 SCC 501 *Cryptic and casual bail orders without relevant reasons liable to be set aside; "cessante ratione legis cessat ipsa lex" invoked to hold that "reason is the soul of the law, and when the reason of any particular law ceases, so does the law itself"*	
(x)	***Ashim v. NIA,*** (2022) 1 SCC 695 *Art. 21, Constitution of India undertrials cannot be detained indefinitely pending trial. Principles summarised regarding when Courts are obligated to enlarge them on bail.*	
(xi)	***Saudan Singh v. State of Uttar Pradesh,*** 2022 SCC OnLine SC 697 *While granting bail to appellant the court observed: "The only issue is whether in a criminal appeal of the year 2012 pending before the High Court of Allahabad where criminal appeals in the normal course are being heard of the 1980s and the appellant having undergone 12 years of actual incarceration is still to be denied*	

	bail! The High Court seems to think so and, to say the least, we completely disagree". The bench also called for a report from the Registrar of the Luckow bench on the position of non-availability of a Bench to hear criminal appeals, and also how many applications are pending consideration of bail where the appeal is pending and the person incarcerated has spent more than 14 years in actual custody as also cases where they may have been in incarceration for more than 10 years.	
(xii)	***Manno Lal Jaiswal v. State of Uttar Pradesh and Another,*** 2022 SCC OnLine SC 89 *The Supreme Court observed that the High Court had applied wrong facts and that it had not taken into consideration the gravity and nature of offences committed by the accused. The Apex Court reiterated relevant considerations while considering a bail application*	
(xiii)	***Meena Devi v. State of U.P. and Another,*** 2022 SCC OnLine SC 676 *While criticizing the practise of granting cryptic bail in a casual manner, the Bench expressed, "It would be only a non-speaking order which is an instance of violation of principles of natural justice. In such a case the prosecution or the informant has a right to assail the order before a higher forum."*	
(xiv)	***Imran v. Mohammed Bhava and Another,*** 2022 SCC OnLine SC 496 *Significant scrutiny is required at the instance of a superior court to cancel bail already granted by a lower court, the same could be done if relevant material, gravity of the offence or its societal impact were not considered by the lower court*	
(xv)	***P. v. State of Madhya Pradesh and Another,*** 2022 SCC OnLine SC 552 *High Court or for that matter, the Sessions Court have a wide discretion in deciding an application for bail under Section 439 Code of Criminal Procedure. However, the said discretion must be exercised after due application of the judicial mind and not in a routine manner. For cancelling bail once granted, the Court must consider whether any supervening circumstances have arisen or the conduct of the Accused post grant of bail demonstrates that it is no longer conducive to a fair trial to permit him to retain his freedom by enjoying the concession of bail during trial.*	

(xvi)	***Jaibunisha v. Meharban,*** (2022) 5 SCC 465 *S. 439 CrPC, 1973 qua grant of bail, requirement of giving reasons for the decision is of the essence and is virtually a part of "due process". However, while court is not required to give elaborate reasons while granting bail, an order dehors any reasoning whatsoever cannot result in grant of bail.*	
(xvii)	***Ishwarji Nagaji Mali v. State of Gujarat,*** (2022) 6 SCC 609 *Necessity of recording reasons: Though a court considering a bail application cannot undertake a detailed examination of evidence and an elaborate discussion on the merits of the case, but it has to indicate the prima facie reasons justifying the grant of bail. Hence, order granting bail bereft of any cogent reason(s) therefore, cannot be sustained.*	
(xviii)	***State of Maharashtra v. Pankaj Jagshi Gangar,*** (2022) 2 SCC 66 *S. 439 — Forum shopping to obtain bail: In this case, accused was charged under special Act and IPC. Vires of special Act under which accused was charged, was challenged and quashment of the proceedings was sought before High Court under Art. 226 of the Constitution, upon failure to obtain bail as per law. By impugned order, respondent was released on bail by High Court that too by way of interim relief, without at all considering seriousness of offences alleged against respondent, and other settled parameters for grant of bail in such cases. High Court did not at all even consider allegations with respect to offences under IPC. Such order, held, wholly impermissible. Hence, impugned order was quashed and respondent directed to surrender forthwith to face trial.*	
(xix)	***Mohammad Azam Khan v. State of Uttar Pradesh,*** 2022 SCC OnLine SC 653 *The Supreme Court set aside a bail condition imposed by the Allahabad High Court to seal the premises of a University while granting bail. The Bench expressed disappointment at the new trend in bail orders, wherein the High Courts' are exceeding their authority to delve into issues which are not relevant to the determination of the bail pleas.*	

(xx)	***Siddharth v. State of U.P.,*** (2022) 1 SCC 676 *Anticipatory bail cannot be denied solely on the ground that as police were ready to file a charge sheet, it was mandatory to arrest the appellant-accused.*	
(xxi)	***Aparna Bhat v. State of MP,*** 2021 SCC OnLine 230 *Directions to be considered while granting bail in sexual offences*	
(xxii)	***M Ravindran v. Intelligence Officer Directorate of Revenue Intelligence,*** (2021) 2 SCC 485 *Right to Default bail- scope – Accrual and Extinguishment; The Court held that the appellant was entitled to the relief of permanent bail on medical grounds. Therefore, the Court granted bail to the appellant by deleting the condition placed in the earlier Order limiting the relief in terms of time. The Bail was granted subject to certain conditions.*	
(xxiii)	***Vipan Kumar Dhir v. State of Punjab and Another,*** 2021 SCC OnLine SC 854 *Court explained the principles governing cancellation of bail and has held that it is necessary that 'cogent and overwhelming reasons' are present for the cancellation of bail. "Conventionally, there can be supervening circumstances which may develop post the grant of bail and are non-conducive to fair trial, making it necessary to cancel the bail."*	
(xxiv)	***Ramesh Bhavan Rathod v. Vishanbhai Hirabhai Makwana,*** (2021) 6 SCC 230 *The Bench not only criticized the practice of lower Courts of attaching caveat for not treating the decision as precedent, but also emphasized on need for reasoned disposal of bail matters.*	
(xxv)	***Criminal Trials Guidelines Regarding Inadequacies and Deficiencies, In re.,*** (2021) 10 SCC 598 *Directions issued regarding reformation and clarity of procedure and practices relating to investigation, prosecution, trial, evidence, judgment and bail. Draft Rules of Criminal Practice, 2021, to be finalised and read in terms of discussion in*	

	this order. All High Courts and State Governments should incorporate the Draft Rules of Criminal Practice, 2021 annexed to the present order read with clarifications and directions herein.	
(xxvi)	***Dharmesh v. State of Gujarat,*** (2021) 7 SCC 198 *A Division Bench of the Supreme Court found that direction passed by the High Court requiring the appellant-accused to deposit a sum of Rs 2 lakhs each towards compensation to the victims, as a condition for grant of bail was not sustainable.* *Permissibility of imposition of monetary conditions other than compensation as pre-condition for grant of bail- Held, compensation cannot be determined at the stage of consideration of the grant of bail. However, this does not rule out the imposition of other monetary conditions as preconditions for the grant of bail.*	
(xxvii)	***Nathu Singh v. State of Uttar Pradesh,*** (2021) 6 SCC 64 *Anticipatory Bail - Considerations on basis of which court is to exercise discretion to grant relief under S. 438 Cr.P.C. Extent of powers exercisable by courts under S. 438.*	
(xxviii)	***Sudha Singh v. State of U.P.,*** (2021) 4 SCC 781 *There is no doubt that liberty is important, even that of a person charged with crime, but it is important for courts to recognize potential threat to life and liberty to victims/witnesses if such accused is released on bail.*	
(xxix)	***Sonu v. Sonu Yadav,*** 2021 SCC OnLine SC 286 *That there has been a judicious application of mind by the judge who is deciding an application under Section 439 of the CrPC must emerge from the quality of the reasoning which is embodied in the order granting bail. While the reasons may be brief, it is the quality of the reasons which matters the most. That is because the reasons in a judicial order unravel the thought process of a trained judicial mind. The reasons in support of orders granting bail comport with a judicial process which brings credibility to the administration of criminal justice.*	
(xxx)	***Union of India v. K.A. Najeeb,*** (2021) 3 SCC 713 *When timely trial would not be possible and the accused has suffered incarceration for a significant period of time, the courts would ordinarily be obligated to enlarge*	

	accused on bail regardless of statutory restrictions imposed on right to bail by provisions like Section 43-D(5) of the UAPA.	
(xxxi)	***Thwaha Fasal v. Union of India,*** 2021 SCC OnLine SC 1000 *The stringent conditions for grant of bail in sub-section (5) of Section 43D will apply only to the offences punishable only under Chapters IV and VI of the 1967 Act. The offence punishable under Section 13 being a part of Chapter III will not be covered by sub-section (5) of Section 43D and therefore, it will be governed by the normal provisions for grant of bail under the Criminal Procedure Code, 1973. The proviso imposes embargo on grant of bail to the accused against whom any of the offences under Chapter IV and VI have been alleged. The embargo will apply when after perusing charge sheet, the Court is of the opinion that there are reasonable grounds for believing that the accusation against such person is prima facie true. Thus, if after perusing the charge sheet, if the Court is unable to draw such a prima facie conclusion, the embargo created by the proviso will not apply.*	
(xxxii)	***S. Kasi v. State,*** 2020 SCC OnLine SC 529 *Grant of default bail as per section 167(2) of the Code of Criminal Procedure.*	
(xxxiii)	***Sarvanan v. State,*** (2020) 9 SCC 101 *Indefeasible right to default bail/statutory bail under S. 167(2), once statutory period expires, discussed. Condition(s) if may be imposed as: (A) precondition(s) to release on default bail, and (B) conditions post release on default bail for cooperation in investigation, reporting to police station, etc., explained. This contrasted with position obtaining in regard to regular bail under S. 437.*	
(xxxiv)	***Sushila Aggarwal v. State (NCT of Delhi),*** (2020) 5 SCC 1 *The Constitution Bench considered and gave due weightage to personal liberty, which at the very heart of the law, is central to the concept of anticipatory bail. Held that, the application for anticipatory bail should be based on concrete facts, relatable to one or other specific offence, along with the reason for apprehending arrest. It was iterated that courts should consider the nature of the offence, role of the person, likelihood of him influencing the course of the investigation or tampering with evidence or likelihood of fleeing and accordingly courts may impose restrictive conditions.*	

(xxxv)	***Mahipal v. Rajesh Kumar,*** (2020) 2 SCC 118 *"Where a court considering an application for bail fails to consider relevant factors, an appellate court may justifiably set aside the order granting bail. An appellate court is thus required to consider whether the order granting bail suffers from a non-application of mind or is not borne out from a prima facie view of the evidence on record. It is thus necessary for this Court to assess whether, on the basis of the evidentiary record, there existed a prima facie or reasonable ground to believe that the accused had committed the crime, also taking into account the seriousness of the crime and the severity of the punishment."*	
(xxxvi)	***Motamarri Appanna Veerraju v. State of West Bengal,*** (2020) 14 SCC 284 *For, the application for bail or anticipatory bail is a matter of moment for the accused and protracted hearing thereof may also cause prejudice to the investigation and affect the prosecution interests which cannot be comprehended in this order. Such application needs to be dealt with expeditiously and finally, one way or the other and cannot brook delay.*	
(xxxvii)	***Prabhakar Tewari v. State of U.P.,*** (2020) 11 SCC 648 *Factors to be considered while granting bail. Opinion of court in granting bail is not borne out from prima facie view of evidence on record. Offence alleged, no doubt is grave and serious, a holistic view has to be taken of all facts and circumstances.*	
(xxxviii)	***Ankita Kailash Khandelwal v. State of Maharashtra,*** (2020) 10 SCC 670 *The law presumes an accused to be innocent till his guilt is proved. As a presumably innocent person, he is entitled to all the fundamental rights including the right to liberty guaranteed under Article 21 of the Constitution.* *Any condition, which has no reference to the fairness or propriety of the investigation or trial, cannot be countenanced as permissible under the law. So, the discretion of the court while imposing conditions must be exercised with utmost restraint.*	
(xxxix)	***P. Chidambaram v. Directorate of Enforcement,*** (2019) 9 SCC 24 *Anticipatory Bail - Factors to be considered*	

(xl)	***M.D. Dhanpal v. State,*** (2019) 6 SCC 743 *Bail cannot be made conditional upon heavy deposits beyond financial capacity of applicant*	
(xli)	***Kunal Kumar Tiwari v. State of Bihar,*** (2018) 16 SCC 74 *Anticipatory bail- Nature of conditions that may be imposed while granting anticipatory bail. Onerous and absurd anticipatory bail conditions are alien and cannot be sustained in the eyes of law.*	
(xlii)	***Anil Kumar Yadav v. State (NCT of Delhi),*** (2018) 12 SCC 129 *While considering the question of grant of bail, court should avoid consideration of details of the evidence as it is not a relevant consideration. While it is necessary to consider the prima facie case, an exhaustive exploration of the merits of the case should be avoided.*	
(xliii)	***Dataram Singh v. State of Uttar Pradesh,*** (2018) 3 SCC 22 *Factors and considerations for grant or refusal of bail: Need of humane approach while dealing with applications for remanding matter to police or judicial custody, stressed. There is overcrowding in jails due to non-adherence to basic principles of criminal jurisprudence regarding grant of bail and presumption of innocence. Even if grant or refusal of bail is entirely upon discretion of Judge, it must be exercised in a judicious manner and in a humane way as such remanding hampers dignity of accused howsoever poor he might be.*	
(xliv)	***Hema Mishra v. State of Uttar Pradesh,*** (2014) 4 SCC 453, *Section 438(2) of CrPC states that the High Court or Sessions Court are empowered to grant a conditional bail to a person apprehending arrest. The Court dismissed the appeal however, extended application of its interim order granting conditional bail to the appellant to continue till the completion of trial. It stated that the State can always move to the Court to vacate the order if the appellant doesn't cooperate in investigation.*	
(xlv)	***Gulabrao Baburao Deokar v. State of Maharashtra,*** (2013) 16 SCC 190 *Cancellation of bail- when warranted.*	

(xlvi)	***Sumit Mehta v. State of N.C.T. of Delhi,*** (2013) 15 SCC 570 *It was held that while exercising power Under Section 438 of the Code, the Court is duty-bound to strike a balance between the individual's right to personal freedom and the right of investigation of the police. While exercising utmost restraint, the Court can impose conditions countenancing its object as permissible under the law to ensure an uninterrupted and unhampered investigation.*	
(xlvii)	***Sanjay Chandra v. CBI,*** (2012) 1 SCC 40 *The object of bail is neither punitive nor preventative. Deprivation of liberty must be considered a punishment, unless it is required to ensure that an accused person will stand his trial when called upon.* *Seriousness of the charge is, no doubt, one of the relevant considerations while considering bail applications but that is not the only test or the factor: the other factor that also requires to be taken note of is the punishment that could be imposed after trial and conviction, both under the Penal Code and the Prevention of Corruption Act. Otherwise, if the former is the only test, we would not be balancing the constitutional rights but rather "recalibrating the scales of justice".*	
(xlviii)	***Siddharam Satlingappa Mhetre v. State of Maharashtra,*** (2011) 1 SCC 694 *The law of bail dovetails two conflicting interests namely, the obligation to shield the society from the hazards of those committing and repeating crimes and on the other hand absolute adherence to the fundamental principle of criminal jurisprudence - presumption of innocence and the sanctity of individual liberty*	
(xlix)	***Munish Bhasin v. State (Govt. of NCT of Delhi***), (2009) 4 SCC 45 *In a proceeding under Section 438 of the Code, the Court would not be justified in awarding maintenance to the wife and child. The condition imposed by the High Court directing the appellant to pay a sum of Rs. 12,500/- per month as maintenance to his wife and child is onerous, unwarranted and is liable to be set aside.*	
(l)	***Ram Govind Upadhyay v. Sudarshan Singh and Others,*** (2002) 3 SCC 598 *Grant of bail though being a discretionary order but, however, calls for exercise of such a discretion in a judicious manner and not as a matter of course. Order for*	

	Bail bereft of any cogent reason cannot be sustained. Needless to record, however, that the grant of bail is dependent upon the contextual facts of the matter being dealt with by the Court and facts however do always vary from case to case.	
(li)	***State v. Anil Sharma,*** (1997) 7 SCC 187 *Anticipatory Bail- when should not be granted to bail applicants holding high position and/or wielding considerable influence-factors to be considered in exercise of discretion by court.*	
(lii)	***Shri Gurbaksh Singh Sibbia v. State of Punjab, (1980) 2 SCC 565*** *In regard to anticipatory bail if the proposed accusation appears to stem not from motives of furthering the ends of justice but from some ulterior motive, the object being to injure and humiliate the applicant by having him arrested, a direction for the release of the applicant on bail in the event of his arrest would generally be made. On the other hand, if it appears likely, considering the antecedents of the applicant, that taking advantage of the order of anticipatory bail he will flee from justice, such an order would not be made. But the converse of these propositions is not necessarily true…The nature and seriousness of the proposed charges, the context of the events likely to lead to the making of the charges, a reasonable possibility of the applicant's presence not being secured at the trial, a reasonable apprehension that witnesses will be tampered with and "the larger interests of the public or the State" are some of the considerations which the court has to keep in mind while deciding an application for anticipatory bail."*	
(liii)	***Gudikanti Narsimhulu v. Public Prosecutor, (1978) 1 SCC 240*** *The Supreme Court has highlighted the importance of personal liberty of an accused. In the said judgment, the Supreme Court has emphasized on creating a balance between the right and liberty guaranteed under Article 21 of the Constitution of India and the interest of justice as well as the society which is sought to be protected by Section 437 Cr.P.C.*	
(liv)	***Moti Ram v. State of Madhya Pradesh, AIR 1978 SC 1594*** *The Supreme Court clarified that the definition of the term bail includes both release on personal bond as well as with sureties. It is to be noted that even under this expanded definition, `bail' refers only to release on the basis of monetary*	

	assurance-either one's own assurance (also called personal bond or recognizance) or third party's sureties.	
9.	**Judgments on Burden of Proof**	
(i)	***Dauvaram Nirmalkar v. State of Chhattisgarh,*** 2022 SCC OnLine SC 955 *The prosecution must prove the guilt of the accused, that is, it must establish all ingredients of the offence with which the accused is charged, but this burden should not be mixed with the burden on the accused of proving that the case falls within an exception. However, to discharge this burden the accused may rely upon the case of the prosecution and the evidence adduced by the prosecution in the court.*	Full text Judgments are provided in the pendrive
(ii)	***Mohan Lal v. State of Punjab,*** (2018) 17 SCC 627 *A fair trial to an accused, a constitutional guarantee under Article 21 of the Constitution, would be a hollow promise if the investigation in an NDPS case were not to be fair or raises serious questions about its fairness apparent on the face of the investigation. In the nature of the reverse burden of proof, the onus will lie on the prosecution to demonstrate on the face of it that the investigation was fair, judicious with no circumstances that may raise doubts about its veracity. The obligation of proof beyond reasonable doubt will take within its ambit a fair investigation, in the absence of which there can be no fair trial. If the investigation itself is unfair, to require the accused to demonstrate prejudice will be fraught with danger vesting arbitrary powers in the police which may well lead to false implication also. Investigation in such a case would then become an empty formality and a farce. Such an interpretation therefore naturally has to be avoided.*	
(iii)	***Sk. Zahid Mukhtar v. State of Maharashtra,*** 2016 SCC OnLine Bom 2600 *The facts stated in the Preamble and the Statement of Objects and Reasons appended to any legislation are evidence of legislative judgment. The Court would begin with a presumption of reasonability of the restriction, more so when the facts stated in the Statement of Objects and Reasons and the Preamble are taken to be correct and they justify the enactment of law for the purpose sought to be achieved".*	

(iv)	***Bhola Singh v. State of Punjab,*** (2011) 11 SCC 653 *The culpable mental state of an accused has to be proved as a fact beyond reasonable doubt and not merely when its existence is established by a preponderance of probabilities.*	
(v)	***Dharampal Singh v. State of Punjab,*** (2010) 9 SCC 608 *The initial burden of proof of possession lies on the prosecution and once it is discharged legal burden would shift on the accused. Standard of proof expected from the prosecution is to prove possession beyond all reasonable doubt but what is required to prove innocence by the accused would be preponderance of probability. Once the plea of the accused is found probable, discharge of initial burden by the prosecution will not nail him with offence.*	
(vi)	***Noor Aga v. State of Punjab,*** (2008) 16 SCC 417 *An initial burden exists upon the prosecution and only when it stands satisfied, would the legal burden shift. Even then, the standard of proof required for the accused to prove his innocence is not as high as that of the prosecution. Whereas the standard of proof required to prove the guilt of the accused on the prosecution is "beyond all reasonable doubt" but it is "preponderance of probability" on the accused.*	
(vii)	***Seema Silk & Sarees v. Directorate of Enforcement,*** (2008) 5 SCC 580 *Reverse burden as also statutory presumptions can be raised in several statutes as, for example, the Negotiable Instruments Act, the Prevention of Corruption Act, tada, etc. Presumption is raised only when certain foundational facts are established by the prosecution. The accused in such an event would be entitled to show that he has not violated the provisions of the Act.*	
(viii)	***P.N. Krishna Lal v. Govt. of Kerala,*** 1995 Supp (2) SCC 187 *It is thus settled law even under general criminal jurisprudence that Sections 105 and 106 of the Evidence Act place a part of the burden of proof on the accused to prove facts which are within his knowledge. When the prosecution establishes the ingredients of the offence charged, the burden shifts on to the accused to prove certain facts within his knowledge or exceptions to which he is entitled to. Based upon the language in the statute the burden of proof varies. However, the test of*	

	proof of preponderance of probabilities is the extended criminal jurisprudence and the burden of proof is not as heavy as on the prosecution. Once the accused succeeds in showing, by preponderance of probabilities that there is reasonable doubt in his favour, the burden shifts again on to the prosecution to prove the case against the accused beyond reasonable doubt, if the accused has to be convicted.	
(ix)	***Rabindra Kumar Dey v. State of Orissa,*** (1976) 4 SCC 233 *On the question, the nature and extent of the onus of proof placed on an accused person who claims the benefit of an exception is exactly the same as the nature and extent of the onus placed on the prosecution in a criminal case; it was observed that, there is consensus of judicial opinion in favour of the view that where the burden of an issue lies upon the accused, he is not required to discharge that burden by leading evidence to prove his case beyond a reasonable doubt. That, no doubt, is the test prescribed while deciding whether the prosecution has discharged its onus to prove the guilt of the accused; but that is not a test which can be applied to an accused person who seeks to prove substantially his claim that his case falls under an exception. Where an accused person is called upon to prove that his case falls under an exception, law treats the onus as discharged if the accused person succeeds 'in proving a preponderance of probability'. As soon as the preponderance of probability is proved, the burden shifts to the prosecution which has still to discharge its original onus. It must be remembered that basically, the original onus never shifts and the prosecution has, at all stages of the case, to prove the guilt of the accused beyond a reasonable doubt.*	
(x)	***K.M. Nanavati v. State of Maharashtra,*** 1962 Supp (1) SCR 567 *The legal impact of section 103 & section 105 of the Indian Evidence Act on the question of burden of proof may be stated thus: In India, as it is in England, there is a presumption of innocence in favour of the accused as a general rule, and it is the duty of the prosecution to prove the guilt of the accused; to put it in other words, the accused is presumed to be innocent until his guilt is established by the prosecution. But when an accused relies upon the general exceptions in the Indian Penal Code or on any special exception or proviso contained in any other part of the Penal Code, or in any law defining an offence, Section 105 of the Evidence Act raises a presumption against the accused and also throws a burden on him to rebut the said presumption. Under that Section the Court shall presume the absence of circumstances bringing the case within any of the exceptions, that is, the court shall regard the non-existence of such circumstances as proved till they are disproved*	

10.	**Judgments on PMLA**	
(i)	***Vijay Madanlal Choudhary v. Union of India,* 2022 SCC OnLine SC 929** *Supreme Court holds "twin conditions" under Section 45 of PMLA reasonable: Applicability to anticipatory bail, non-cognizable offences discussed; exception highlighted*	Full text Judgments are provided in the pendrive
(ii)	***P. Chidambaram v. Directorate of Enforcement,*** (2019) 9 SCC 24 *Money laundering offences involving several stages require a systematic and analysed investigation. Success in such investigation would elude if the accused knows that he is protected by a pre-arrest bail order. Exercising power to grant anticipatory bail in money laundering cases would be to scuttle the statutory power of arrest enshrined in the relevant statute with sufficient safeguards.*	
(iii)	***Rohit Tandon v. Directorate of Enforcement,*** (2018) 11 SCC 46 *The two threshold conditions stipulated in S. 45 are mandatory and must be complied with even in respect of bail application under S. 439 Cr.P.C. as S. 45 overrides general provisions of Cr.P.C.*	
(iv)	***Nikesh Tarachand Shah v. Union of India,*** (2018) 11 SCC 1 *Pre-trial bail provision under S. 45 PMLA imposing twin stringent conditions under S. 45(1) for offences classified thereunder held to be manifestly arbitrary, discriminatory and invalid.*	
(v)	***Union of India v. Varinder Singh,*** (2018) 15 SCC 248 *Grant of bail without complying S. 45(ii) PMLA held to be impermissible.*	
(vi)	***Gautam Kundu v. Directorate of Enforcement,*** (2015) 16 SCC 1 *Mandatory conditions under Ss. 45 (1)(i) & (ii), PMLA for grant of bail is applicable to bail application under S. 439 Cr.P.C. in cases to which PMLA applies. Provisions of special statute like PMLA dealing with economic offences would prevail over a general statute like Cr.P.C in case of conflict.*	

11.	Judgments on Electronic Evidence	
(i)	***Ravinder Singh Alia Kaku v. State of Punjab,*** (2022) 7 SCC 581 *Indian Evidence Act, 1872; Section 65B (4) - Certificate under Section 65B(4) is a mandatory requirement for production of electronic evidence - Oral evidence in the place of such certificate cannot possibly suffice.*	Full text Judgments are provided in the pendrive
(ii)	***Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantayal,*** (2020) 7 SCC 1 *Production of certificate under section 65 B (4) is mandatory, but only in case of secondary evidence i.e. where primary evidence is not produced. Shafhi Mohammad, (2018) 2 SCC 801 is overruled and Anvar P.V. case (2014) 10 SCC 473 is followed with clarification. The person who gives this certificate can be anyone out of several persons who occupy a "responsible official position" in relation to the operation of the relevant device, as also the person who may otherwise be in the "management of relevant activities" spoken of in sub-section (4) of Section 65-B. Sections 65-A and 65-B of the Evidence Act are a complete code in themselves when it comes to admissibility of evidence of information contained in electronic records.*	
(iii)	***P. Gopalkrishnan v. State of Kerala,*** (2020) 9 SCC 161 *Evidence", it clearly takes within its fold documentary evidence to mean and include all documents including electronic records produced for the inspection of the court. An electronic record is not confined to "data" alone, but it also means the record or data generated, received or sent in electronic form. The expression "data" includes a representation of information, knowledge and facts, which is either intended to be processed, is being processed or has been processed in a computer system or computer network or stored internally in the memory of the computer*	
(iv)	***State by Karnataka Lokayukta, Police Station, Bengaluru v. M.R. Hiremath,*** (2019) 7 SCC 515 *The need for production of such a certificate would arise when the electronic record is sought to be produced in evidence at the trial. It is at that stage that the necessity of the production of the certificate would arise.*	

(v)	***Shafhi Mohammad v. State of HP,*** (2018) 2 SCC 801 *Electronic evidence is admissible and provisions under Sections 65-A and 65-B of the Evidence Act are by way of a clarification and are procedural provisions. If the electronic evidence is authentic and relevant the same can certainly be admitted subject to the Court being satisfied about its authenticity and procedure for its admissibility may depend on fact situation such as whether the person producing such evidence is in a position to furnish certificate under Section 65-B(4). The requirement of a certificate under Section 65-B (4) is not always mandatory. The requirement of a certificate under Section 64B (4), being procedural, can be relaxed by the Court wherever the interest of justice so justifies, and one circumstance in which the interest of justice so justifies would be where the electronic device is produced by a party who is not in possession of such device, as a result of which such party would not be in a position to secure the requisite certificate. Sections 65-A and 65-B of the Evidence Act, 1872 cannot be held to be a complete code on the subject.*	
(vi)	***Shamsher Singh Verma v. State of Haryana,*** (2016) 15 SCC 485 *In view of the definition of "document" in the Evidence Act, it was held that the compact disc is also a document.*	
(vii)	***Tomaso Bruno v. State of UP,*** (2015) 7 SCC 178 *Held that the computer-generated electronic records in evidence are admissible at a trial if proved in the manner specified by section 65B. The effect of non-production of or not adducing the best evidence (in this case the CCTV footage of the hotel) is viewed by the Court as material suppression which leads to an adverse inference under Section 114(g) of the Evidence Act.*	
(viii)	***Anvar v. P.K. Basheer and Ors***. (2014) 10 SCC 473 *Section 65B (4) is a condition precedent to the admissibility of evidence by way of electronic record. Proof of electronic record is a special provision introduced by the IT Act amending various provisions under the Evidence Act. The very caption of Section 65-A of the Evidence Act, read with Sections 59 and 65-B is sufficient to hold that the special provisions on evidence relating to electronic record shall be governed by the procedure prescribed under Section 65-B of the Evidence Act. That*	

	is a complete code in itself. If an electronic record as such is used as primary evidence the same is admissible in evidence, without compliance with the conditions in Section 65-B of the Evidence Act.	
(ix)	***NCT of Delhi v. Navjot Sandhu,*** (2005) 11 SCC 600 *According to Section 63, secondary evidence means and includes, among other things, "copies made from the original by mechanical processes which in themselves insure the accuracy of the copy, and copies compared with such copies". Section 65 enables secondary evidence of the contents of a document to be adduced if the original is of such a nature as not to be easily movable. It is not in dispute that the information contained in the call records is stored in huge servers which cannot be easily moved and produced in the court. That is what the High Court has also observed at para 276. Hence, printouts taken from the computers/servers by mechanical process and certified by a responsible official of the service-providing company can be led in evidence through a witness who can identify the signatures of the certifying officer or otherwise speak of the facts based on his personal knowledge. Irrespective of the compliance with the requirements of Section 65-B, which is a provision dealing with admissibility of electronic records, there is no bar to adducing secondary evidence under the other provisions of the Evidence Act, namely, Sections 63 and 65. It may be that the certificate containing the details in sub-section (4) of Section 65-B is not filed in the instant case, but that does not mean that secondary evidence cannot be given even if the law permits such evidence to be given in the circumstances mentioned in the relevant provisions, namely, Sections 63 and 65.*	
Session- 4 **Overview of E-courts Project**		
1.	***e-Courts Brief*** , National Information Centre.	**841**
2.	***The Milestones of e-Committee***, Supreme Court of India (2021)	**862**
3.	National Council of Applied Economic Research, ***Information & Communication Technology in the Indian Judiciary: Evaluation of the eCourts Project Phase -II,*** (2021)	**891**

(ii)	***In Re. Guidelines for Court Functioning Through Video Conferencing During Covid-19 Pandemic,*** (2021) 5 SCC 454 *The Video Conferencing in every High Court and within the jurisdiction of every High Court shall be conducted according to the Rules for that purpose framed by that High Court. High Courts that have not framed such Rules shall do so having regard to the circumstances prevailing in the State. Till such Rules are framed, the High Courts may adopt the model Video Conferencing Rules provided by the E-Committee, Supreme Court of India to all the Chief Justices of the High Court.*	
(iii)	***Arnab Manoranjan Goswami v. The State of Maharashtra,*** (2021) 2 SCC 427 *The NJDG is a valuable resource for all High Courts to monitor the pendency and disposal of cases, including criminal cases. For Chief Justices of the High Courts, the information which is available is capable of being utilized as a valuable instrument to promote access to justice, particularly in matters concerning liberty. The Chief Justices of every High Court should in their administrative capacities utilize the ICT tools which are placed at their disposal in ensuring that access to justice is democratized and equitably allocated. Administrative judges in charge of districts must also use the facility to engage with the District judiciary and monitor pendency.*	
(iv)	***In Re. Guidelines for Court Functioning Through Video Conferencing During Covid-19 Pandemic,*** (2020) 6 SCC 686 *The Supreme Court of India and all High Courts are authorized to adopt measures required to ensure the robust functioning of the judicial system through the use of video conferencing technologies. The District Courts in each State shall adopt the mode of Video Conferencing prescribed by the concerned High Court. Courts shall duly notify and make available the facilities for video conferencing for such litigants who do not have the means or access to video conferencing facilities. Video conferencing shall be mainly employed for hearing arguments whether at the trial stage or at the appellate stage. In no case shall evidence be recorded without the mutual consent of both the parties by video conferencing.* *Virtual Courts in the Covid-19 Pandemic - Held, every High Court is authorised to determine the modalities which are suitable to the temporary transition to the use of video conferencing technologies. All measures taken for functioning of courts in*	

	consonance with social distancing guidelines and best public health practices shall be deemed to be lawful	
(v)	***Pradyuman Bisht v. Union of India,*** (2018) 15 SCC 639 *Directions for installation of CCTV Cameras in court complexes*	
(vi)	***Swapnil Tripathi v. Supreme Court of India,*** (2018) 10 SCC 639 *Directions regarding Livestreaming of court proceedings - Held, virtual access of live court proceedings will effectuate the right of access to justice or right to open justice and public trial, right to know the developments of law and including the right of justice at the doorstep of the litigants., live streaming of court proceedings in the prescribed digital format would be an affirmation of the constitutional rights bestowed upon the public and the litigants in particular. Sensitive cases, matrimonial matters, matters relating to children not to be livestreamed. Discretion of the judge to disallow live-streaming for specific cases where publicity would prejudice the interests of justice.*	
14.	**Rules**	
1.	***Model Rules for Video Conferencing for Courts,*** e-Committee, Supreme Court of India.	Full text Judgments are provided in the pendrive
2.	***Model Rules for Live-streaming and Recording of Court Proceedings,*** e-Committee, Supreme Court of India.	
3.	***Model Rules for E-Filing - Rules for On-Line Electronic Filing (E-Filing) Framed under Article 225 and 227 of the Constitution of India,*** e-Committee, Supreme Court of India.	
15.	**Manuals**	
1.	***E-Filing Procedure for High Courts & District Courts in India, e-Committee Supreme Court of India.***	Full text Judgments

2.	***National Service and Tracking of Electronic Processes (NSTEP)-Android OS APP, e- Committee Supreme Court of India.***	are provided in the pendrive
3.	***eCourts Digital Payment, e-Committee Supreme Court of India.***	
4.	***E-Filing, from Case Management through CIS 3.0, Case Information system 3.0, e- Committee, Supreme Court of India.***	
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1.	Dory Reiling and Francesco Contini, ***E-Justice Platforms: Challenges for Judicial Governance*****,** 13 IJCA 1 (2022)	**1382**
2.	Zichun Xu, ***Human Judges in the Era of Artificial Intelligence: Challenges and Opportunities*****,** 36(1) Applied Artificial Intelligence, 2013652 (2022).	**1400**
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10.	Morison, J., & Harkens, A., ***Re-engineering Justice? Robot Judges, Computerised Courts and (Semi) Automated Legal Decision-Making,*** 39(4), Legal Studies, 618-635 (2019).	**1530**
11.	Susskind, R., ***Artificial Intelligence*** in Online Courts and the Future of Justice, 263-275, Oxford University Press (2019).	**1548**
12.	***European Ethical Charter on the use of Artificial Intelligence in Judicial Systems and their Environment***, Adopted at the 31st plenary meeting of the CEPEJ (Strasbourg, 3-4 December 2018).	**1561**
13.	Tania Sourdin, ***Judge v Robot? Artificial Intelligence and Judicial Decision-Making***, 41(4)UNSW Law Journal (2018)	**1640**

Judgments mentioned includes citation only for reference. Please refer the full judgment for conclusive opinion provided in the soft copy.