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Case Law		
<i>(Judgments mentioned below includes citation and short note for reference and discussion purpose during the course of the programme. Please refer the full judgment for conclusive opinion)</i>		
General Principles of Bail		
✓ Satender Kumar Antil v. CBI, 2021 10 SCC 773 [<i>'The Supreme Court issued guidelines for grant of bail and categorized offences without fettering the discretion of the courts concerned and keeping in mind the statutory provisions. Further held, where the accused have not cooperated in the investigation nor appeared before the investigating officers, nor answered summons when the court feels that judicial custody of the accused is necessary for the completion of the trial, where further investigation including a possible recovery is needed, the benefit of the above guidelines cannot be given to such accused. Lastly, held, it is not as if economic 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.'</i>] ✓ Jitendra Paswan Satya Mitra v. State of Bihar, Crl.A. No. 3648/2024 [<i>The Supreme Court held that once a court concludes that an accused is entitled to bail, it cannot delay the implementation of the bail order as it may violate the rights guaranteed under Article 21 of the Constitution</i>] ✓ Girish Gandhi v. The State of Uttar Pradesh & Ors., 2024 INSC 617 [<i>The Supreme Court while holding that the accused need not furnish multiple sureties against multiple bail orders emphasised that courts can do away with the condition of local surety if its insistence delays the release of the accused from jail and renders the bail order ineffective.</i>] ✓ Arnab Manoranjan Goswami v. State of Maharashtra, (2021) 2 SCC 427 [<i>The Supreme Court</i>		

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observed that criminal law should not become a tool for selective harassment of citizens. The High Courts and Courts in the district judiciary of India must enforce this principle in practice, and not forego that duty, leaving this Court to intervene at all times.] ✓ 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. "] ✓ Gudikanti Narsimhulu v. Public Prosecutor, (1978) 1 SCC 240 [The Supreme Court highlighted the importance of personal liberty of an accused. The Supreme Court 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.] ✓ State of Rajasthan, Jaipur v. Balchand, (1977) 4 SCC 308 [The basic rule is bail, not jail, except-where there are circumstances suggestive of fleeing from justice or thwarting the course of justice or creating other troubles in the shape of repeating offences or intimidating witnesses and the like by the petitioner who seeks enlargement on bail from the court.] ✓ Emperor v. H.L. Hutchinson, 1931 SCC OnLine All 14 [Justice Mukerji observed that on general principles, and on the principles on which sections 496 and 497 of the Criminal Procedure Code, 1898 are framed, the grant of bail should be the rule and refusal of bail should be the exception.]	Conditions for Bail
✓ Frank Vitus v. Narcotics Control Bureau, 2024 INSC 479 [The Supreme Court held that there cannot be a bail condition that enables the police to constantly track the movements of the accused and virtually peep into the privacy of the accused.] ✓ Nanhak Manjhi V. The State of Bihar, SLP(Crl) No. 14784/2024; Upendra Manjhi V. The State of Bihar, SLP (Crl) No. 14764/2024 [The Supreme Court observed that bail condition that accused shall furnish bail bonds 6 months after passing of order can't be imposed.] ✓ Talat Sanvi v. State of Jharkhand, 2023 SCC OnLine SC 103 [It was held that interim victim compensation cannot be imposed as a condition for grant of bail.] ✓ Mursaleen Tyagi v State of UP, SLP(Crl) No. 000898/ 2023 [The Supreme Court emphasised that bail with onerous conditions should only be granted under exceptional circumstances and not in ordinary matters.] ✓ Mohammad Azam Khan v. State of Uttar Pradesh, 2022 SCC OnLine SC 653 [The Supreme	

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Court set aside a bail condition imposed by the 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.] ✓ Aparna Bhat v. State of MP, 2021 SCC OnLine 230 [The Supreme Court set aside the bail condition imposed by the High Court upon the person (accused of outraging the modesty of women) to request the victim to tie the rakhi around his wrist. The Court further observed that “using rakhi tying as a condition for bail, transforms a molester into a brother, by a judicial mandate. This is wholly unacceptable, and has the effect of diluting and eroding the offence of sexual harassment.”] ✓ Mithun Chatterjee v. State of Odisha, Special Leave to Appeal (Crl.) No(s).4705/2021 [The Supreme Court held that imposition of onerous conditions for grant of bail tantamount to denial of bail.] ✓ Sanjay Chandra v. Central Bureau of Investigation, (2012) 1 SCC 40 [It was held that objective of imposing condition is to secure the attendance of accused during pendency of trial and should not be punitive.]
Reasoning in Bail Orders
✓ Y. v. State of Rajasthan and Another, 2022 SCC OnLine SC 458 [The Supreme Court observed that there is a recent trend of passing 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.” It was further observed that reasoning is the life blood of the judicial 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.] ✓ Brijmani Devi v. Pappu Kumar (2022) 4 SCC 497 [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.”] ✓ Ram Govind Upadhyay v. Sudarshan Singh and Others, (2022) 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.]
Expeditious Disposal of Bail Applications
✓ Rajanti Devi @ Rajanti Kumari v. The Union of India, Miscellaneous Application No. 2578 of 2023 [The Supreme Court directed that High Courts should scrupulously follow the directions/guidelines issued by the Supreme Court in various decisions. The Court also left it to the High Courts to evolve a mechanism for speedy disposal of bail applications.]

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✓ Satendar Kumar Antil v. CBI, 2022 10 SCC 51 [The Supreme Court directed that Bail applications ought to be disposed of within a period of two weeks except if the provisions mandate otherwise, with the exception being anintervening application. Applications for anticipatory bail are expected to be disposed of within a period of six weeks with the exception of any intervening application.] ✓ Hussain and Anr. v. Union of India, (2017) 5 SCC 702 [Bail applications be disposed of normally within one week; deprivation of personal liberty without ensuring speedy trial is not consistent with Article 21. While deprivation of personal liberty for some period may not be avoidable, period of deprivation pending trial/appeal cannot be unduly long.]
Bail under Special Statutes
✓ Jalaluddin Khan v. Union of India, 2024 INSC 604 [The Supreme Court held that 'bail is the rule and Jail is the exception' even in special statutes like UAPA. The Court distinguished Gurwinder Singh v. State of Punjab, 2024 5 SCC 403.] ✓ Gurwinder Singh v. State of Punjab, 2024 5 SCC 403 [The Supreme Court observed that "the conventional idea in bail jurisprudence vis-à-vis ordinary penal offences that the discretion of Courts must tilt in favour of the oft-quoted phrase - 'bail is the rule, jail is the exception' – unless circumstances justify otherwise - does not find any place while dealing with bail applications under UAP Act. The 'exercise' of the general power to grant bail under the UAP Act is severely restrictive in scope. The form of the words used in proviso to Section 43D (5)– 'shall not be released' in contrast with the form of the words as found in Section 437(1) CrPC - 'may be released' – suggests the intention of the Legislature to make bail, the exception and jail, the rule".] ✓ Manish Sisodia v. Directorate of Enforcement, 2024 INSC 595 [The Supreme Court observed that it appears that the trial Courts and the High Courts attempt to play safe in the matters of grant of bail. The principle that bail is a rule and refusal an exception is at times followed in breach...on account of non-grant of bail, even in open-and-shut cases, this court is getting huge number of bail petitions thereby adding to the huge pendency. It is high time that the trial Courts and the high Courts should recognise that bail is the rule and jail an exception.] ✓ Kalvakuntla Kavitha v. Directorate of Enforcement, 2024 INSC 632 [The Court observed that the benefit of first proviso to Section 45 PMLA cannot be denied merely because a woman is well-educated or an MP/MLA.] ✓ Arvind Kejriwal v. Central Bureau of Investigation, 2024 INSC 687 [The Supreme Court granted bail considering the fact that the chargesheet has been filed in the case and that the trial is unlikely to be completed in the near future. The Court further observed that "if an accused approaches the High Court directly without first seeking relief from the Trial Court, it is generally appropriate for the High Court to redirect them to the Trial Court at the threshold. Nevertheless, if there are significant delays following notice, it may not be prudent to relegate the matter to the Trial Court at a later stage. Bail being closely tied to personal liberty, such claims should be adjudicated promptly on their merits, rather than oscillating between courts on mere procedural technicalities".] ✓ Sheikh Javed Iqbal @ Ashfaq Ansari @ Javed Ansari v. State of Uttar Pradesh, 2024 INSC 534 [The Supreme Court taking note of the nine years period of undertrial custody and the slow-pace of trial granted bail and observed that observed that the judgement in the case of NIA v. Zahoor

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<i>Ahmad Shah Watali (2019) 5 SCC 1 cannot be cited as a precedent to deny bail in UAPA cases where the accused has suffered long incarceration. Zahoor Ahmad Shah Watali (supra) has to be read and understood in the context in which it was rendered and not as a precedent to deny bail to an accused undertrial suffering long incarceration with no end in sight of the criminal trial”.]</i> ✓ Mohd. Muslim v. State (NCT of Delhi), 2023 SCC OnLine SC 352 [Undue delay in trial can be a ground to grant bail to an accused, despite the rigors of Section 37 of the Narcotic Drugs and Psychotropic Substances Act 1985.] ✓ Vernon v. State of Maharashtra, 2023 INSC 655 [The Supreme Court held that a bail restricting clause (Section 43-D, UAPA Act, 2002) cannot denude the jurisdiction of a Constitutional Court in testing if continued detention in a given case would breach the concept of liberty enshrined in Article 21 of the Constitution of India, would apply in a case where such a bail-restricting clause is being invoked on the basis of materials with prima facie low-probative value or quality.] ✓ Vijay Madanlal Choudhary v. Union of India, 2022 SCC OnLine SC 929 [Supreme Court holds “twin conditions” under Section 45 of PMLA reasonable.] ✓ Thwaha Fasal v. Union of India, 2021 SCC OnLine SC 1000 [The stringent restrictions imposed by sub-section(5) of Section 43D, do not negate the power of Constitutional Court to grant bail keeping in mind violation of Part III of the Constitution... while deciding a bail petition filed by an accused against whom offences under Chapters IV and VI of the 1967 Act have been alleged, the Court has to consider whether there are reasonable grounds for believing that the accusation against the accused is prima facie true. If the Court is satisfied after examining the material on record that there are no reasonable grounds for believing that the accusation against the accused is prima facie true, then the accused is entitled to bail.] ✓ Union of India v. KA Najeeb (2021) 3 SCC 713 [‘Gross Delay’ in trial violates the right to life and personal liberty under Article 21. A fundamental right violation could be used as a ground for granting bail. Even if the case is under stringent criminal legislation including anti-terror laws, prolonged delay in a trial necessitates granting of bail.] ✓ NIA v. Zahoor Ahmad Shah Watali, (2019) 5 SCC 1 [The Supreme Court observed that the High Court had virtually conducted a mini trial and determined admissibility of certain evidence which was beyond the scope of bail proceedings.]		
Session - 3 Role of Judge in a Democracy		
1.	Justice R.V. Raveendran, “How to be a Good Judge: Advice to New Judges” in Anomalies In Law & Justice: Writings Related To Law & Justice, EBC Publishing (P) Ltd., (2021) pp. 277-317	214
2.	Brian M. Barry, “Judges’ Characteristics and Effects on Judicial Decision-Making” in How Judges Judge: Empirical Insights Into Judicial Decision Making pp. 111-163 (2021)	256
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5.	Lord Denning, <i>“Into the Conduct of Judges” in The Due Process Of Law</i> , Oxford University Press (2012), pp. 58-66	369
6.	Richard A. Posner, <i>How Judges Think</i> , Universal Law Publishing, (2011 Second Indian Reprint) ▪ “The Judicial Environment: External Constraints on Judging”, pp. 125-157 ▪ “The Judicial Method: Internal Constraints on Judging”, pp. 174-203	379 413
7.	Justice G. S. Singhvi, <i>“Judicial Ethics”</i> , 7(2) Journal of Delhi Judicial Academy 93-106 (2011)	443
8.	Aharon Barak, <i>“The Role of the Judge: Theory, Practice and the Future”</i> in the judge in a democracy, Princeton University Press (2008) pp. 306-315	456
Additional Readings		
• Justice R.C. Lahoti, “Canons of Judicial Ethics”, NJA Occasional Paper Series No. 5 (2005) • The Bangalore Principles of Judicial Conduct, 2002 • Restatement of Values of Judicial Life, 1997		
Case Law		
(Judgments mentioned below includes , please refer the full text judgment provided as soft copy for conclusive opinion)		
✓ <i>Muzaffar Hussain v. State of Uttar Pradesh and Anr.</i> 2022 SCC OnLine SC 567 ✓ <i>Mathew Z Pulikunnel v. Chief Justice of India</i>, WP(C) NO. 17654 OF 2021 ✓ <i>Election Commission of India v. M.R. Vijayabhaskar</i>, (2021) 9 SCC 770 ✓ <i>Sadhna Chaudhary v. State of Uttar Pradesh</i> (2020) 11 SCC 760 ✓ <i>Ram Murti Yadav v. State of U.P.</i>, (2020) 1 SCC 801 ✓ <i>Krishna Prasad Verma v. State of Bihar</i>, (2019) 10 SCC 640 ✓ <i>Shrirang Yadavrao Waghmare v. State of Maharashtra</i>, (2019) 9 SCC 144 ✓ <i>Registrar General, Patna High Court v. Pandey Gajendra Prasad</i>, (2012) 6 SCC 357 ✓ <i>Amar Pal Singh v. State of U.P</i> (2012) 6 SCC 491 ✓ <i>R.C. Chandel v. High Court of M.P.</i>, (2012) 8 SCC 58 ✓ <i>Rajendra Singh Verma (Dead) Through LRs. v. Lieutenant Governor (NCT of Delhi)</i>, (2011) 10 SCC 1 ✓ <i>Rajesh Kohli v. High Court of J&K</i>, (2010) 12 SCC 783 ✓ <i>Tarak Singh v. Jyoti Basu</i>, (2005)1 SCC 201 ✓ <i>In Re: “K” a judicial officer</i>, AIR 2001 SC 972 ✓ <i>High Court of Judicature at Bombay v. Shashikant S. Patil</i>, (2000) 1 SCC 416 ✓ <i>High Court of Judicature at Rajasthan v. Ramesh Chand Paliwal</i>, (1998) 3 SCC 72 ✓ <i>High Court of Judicature at Bombay v. Uday Singh</i>, (1997) 5 SCC 129 ✓ <i>C. Ravichandran Iyer v. Justice A.M. Bhattacharjee & Ors.</i> (1995) 5 SCC 457 ✓ <i>Union of India v. K.K. Dhawan</i> (1993) AIR 1478 ✓ <i>Daya Shankar v. High Court of Allahabad</i>, (1987) 3 SCC 1		

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Sentencing Procedure: Issues And Challenges		
1.	Prof. A Lakshminath, <i>Sentencing Jurisprudence An Indian Perspective</i>, Thomson Reuters, Legal (1st Edition, 2018) (excerpts) • <i>Punishment – Philosophical Justification</i>, pp. 10-28 • <i>Sentencing Principles</i>, pp. 29-65 • <i>Sentencing Court Practices</i>, pp. 66-102	469 490 529
2.	Andrew Ashworth, <i>Sentencing and Criminal Justice</i>, Cambridge University Press (2009) (excerpts) • <i>Sentencing aims Principles and Policies</i>, pp. 66-101 • <i>Elements of Proportionality</i>, pp. 102-150 • <i>Aggravation and Mitigation</i>, pp. 151-181	568 605 656
3.	Dr. Humayun Rasheed Khan, <i>Crime, Punishment and Due Sentence</i>, Lexis Nexis (2024) • <i>The Purpose of Sentence: From Retribution to Reformation</i>, pp. 42-92 • <i>Age of Reformation, Capital Punishment and Sentencing Approach in Murder Trials</i>, pp. 258-303	688 740
Case Law (Judgments mentioned below includes citation and short note for reference and discussion purpose during the course of the programme. Please refer the full judgment for conclusive opinion)		
✓ <i>Sunita Devi v. The State of Bihar & Anr., 2024 INSC 448</i> ✓ The Supreme Court recommended the Department of Justice, Ministry of Law and Justice, Government of India, to consider introducing a comprehensive policy, possibly by way of getting an appropriate report from a duly constituted Sentencing Commission consisting of experts in different fields for the purpose of having a distinct sentencing policy. ✓ <i>Baba Natarajan Prasad v. M. Revathi, 2024 INSC 523</i> ✓ Non-prescribing of the minimum sentence would not permit the courts to impose a flea-bite sentence without looking into the nature of the offence, circumstances under which it was committed, degree of deliberation shown by the offender, antecedents of the offender up to the time of sentence, etc. In other words, the Court stated that though the imposition of a sentence falls within the realm of judicial discretion, the imposition of a sentence must be in tune with the rule of proportionality with the nature of the offence. ✓ <i>Shiva Kumar alias Shiva alias Shivamurthy v. State of Karnataka, 2023 SCC OnLine SC 345</i> ✓ The court held that even if the case does not fall within the category of "rarest of the rare" case so as to warrant death penalty, a Constitutional Court can award fixed-term life sentence. The Court noted that as per settled position of law, when an offender is sentenced to undergo imprisonment for life, the incarceration can continue till the end of the life of the accused. However, this is subject to the grant of remission under the Code of Criminal Procedure.		

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- ✓ ***In re: Framing Guidelines Regarding Potential Mitigating Circumstances to be Considered while Imposing Death Sentences, 2022 SCC OnLine SC 1246***
- ✓ *The court is of the opinion that it is necessary to have clarity in the matter to ensure a uniform approach on the question of granting real and meaningful opportunity, as opposed to a formal hearing, to the accused/convict, on the issue of sentence.*
- ✓ ***Jaswinder Singh v. Navjot Singh Sidhu, (2022) 7 SCC 628***
- ✓ *An important aspect to be kept in mind is that any undue sympathy to impose inadequate sentence would do more harm to justice system and undermine the public confidence in the efficacy of law. The society cannot long endure under serious threats and if the courts do not protect the injured, the injured would then resort to private vengeance and, therefore, it is the duty of every court to award proper sentence having regard to the nature of the offence and the manner in which it was executed or committed. It has, thus, been observed that the punishment to be awarded for a crime must not be irrelevant but it should conform to and be consistent with the atrocity and brutality with which the crime has been perpetrated.*
- ✓ ***Saifur @ Saifur Rehman Ansari v. State of Rajasthan, D.B. Criminal Death Reference No. 2/2020***
- ✓ *Material witnesses required to unfold the events were withheld and apparent manipulations and fabrications have been done during the investigation. This case is a classic example of institutional failure resulting in botched/flawed/shoddy investigation. We fear this isn't the first case to suffer due to failure of investigation agencies and if things are allowed to continue the way they are, this certainly won't be the last case in which administration of justice is affected due to shoddy investigation.*
- ✓ ***State of Madhya Pradesh v. Nandu, Criminal Appeal No. 1356 of 2022***
- ✓ *The punishment for murder under Section 302 IPC shall be death or imprisonment for life and fine. Therefore, the minimum sentence provided for the offence punishable under Section 302 IPC would be imprisonment for life and fine. There cannot be any sentence/punishment less than imprisonment for life, if an accused is convicted for the offence punishable under Section 302 IPC. Any punishment less than the imprisonment for life for the offence punishable under Section 302 would be contrary to Section 302 IPC.*
- ✓ ***Manoj v. State of M.P., 2021 SCC OnLine SC 3219***
- ✓ *The Court opined that the recent trend to call for a Probation Officer's Report, is in fact a desperate attempt by the courts at the appellate stage, to obtain information on the accused. However, this too is too little, too late, and only offers a peek into the circumstances of the accused after conviction. Therefore, the Court made it mandatory for trial courts to call for psychiatric and psychological evaluation reports of the accused before awarding capital punishment. The Court observed, "The unfortunate reality is that in the absence of well-documented mitigating circumstances at the trial level, the aggravating circumstances seem far more compelling, or overwhelming, rendering the sentencing court prone to imposing the death penalty, on the basis of an incomplete, and hence, incorrect application of the Bachan Singh test.*
- ✓ ***Dattaraya v. State of Maharashtra (2020) 14 SCC 290***

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- ✓ The court observed, that for effective hearing under Section 235(2) of the Code of Criminal Procedure, the suggestion that the court intends to impose death penalty should specifically be made to the accused, to enable the accused to make an effective representation against death sentence, by placing mitigating circumstances before the Court.
- ✓ **Surinder Singh v. State, 2021 SCC OnLine SC 1135**
- ✓ The Court has explicitly ruled out the practice of awarding disproportionate sentences, especially those that showcase undue leniency, for it would undermine the public confidence in efficacy of law.” The awarding of just and proportionate sentence remains the solemn duty of the Courts and they should not be swayed by non-relevant factors while deciding the quantum of sentence. Naturally, what factors should be considered as ‘relevant’ or ‘non-relevant’ will depend on the facts and circumstances of each case, and no straight jacket formula can be laid down for the same.
- ✓ **Rajendra Pralhadrao Wasnik v. State of Maharashtra, (2019) 12 SCC 460**
- ✓ Adequate opportunity to produce relevant material on the question of death sentence shall be provided to the accused by the trial court.
- ✓ **State of Madhya Pradesh v. Vikram Das, AIR 2019 SC 835**
- ✓ The Court cannot impose less than minimum sentence contemplated by the statute. Even the provisions of Article 142 of the Constitution of India cannot be resorted to impose sentence less than the minimum sentence provided by law.
- ✓ **Jasvir Kaur v. State of Punjab, (2013) 11 SCC 401**
- ✓ The issue of punishment, sentencing of the convicted accused which is at the heart of the administration of criminal justice is both a delicate and difficult task. Unfortunately, however, the question of sentencing does not receive due importance and the requisite application of mind by the courts. In our country, there is very little legislative, judicial or any other kind of guidance available to meaningfully deal with the question of sentencing. The absence of any guidelines makes the task of the court more difficult and casts a heavy responsibility on it to calibrate the due punishment that might be awarded to a convict, taking into consideration all the relevant facts and circumstances.
- ✓ **Shanker Kisanrao Khade v. State of Maharashtra (2013) 5 SCC 546**
- ✓ The court acknowledged that the difficulty in the application of ‘rarest of rare’ since there is lack of empirical data for making two fold comparison between murder (not attracting death penalty) and murder (attracting penalty).
- ✓ **Hazara Singh v. Raj Kumar (2013) 9 SCC 516**
- ✓ It is the duty of the courts to consider all the relevant factors to impose an appropriate sentence. The legislature has bestowed upon the judiciary this enormous discretion in the sentencing policy, which must be exercised with utmost care and caution. The punishment awarded should be directly proportionate to the nature and the magnitude of the offence. The benchmark of proportionate sentencing can assist the Judges in arriving at a fair and impartial verdict.” The Court further observed that the cardinal principle of sentencing policy is that the sentence imposed on an offender should reflect the crime he has committed and it should be proportionate to the gravity of the offence. This Court has repeatedly stressed the central role of proportionality in sentencing of offenders in numerous cases.”
- ✓ **Soman v. State of Kerala, (2013) 11 SCC 382**

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- ✓ Giving punishment to the wrongdoer is at the heart of the criminal justice delivery, but in our country, it is the weakest part of the administration of criminal justice. There are no legislative or judicially laid down guidelines to assist the trial court in meting out the just punishment to the accused facing trial before it after he is held guilty of the charges.
- ✓ **Gopal Singh v. State of Uttarakhand, (2013) 7 SCC 545**
- ✓ Just punishment is the collective cry of the society and while collective cry has to be kept uppermost in mind, simultaneously the principle of proportionality between the crime and punishment cannot be totally brushed aside. Thus, the principle of just punishment is the bedrock of sentencing in respect of a criminal offence. No doubt there cannot be a straitjacket formula nor a solvable theory in mathematical exactitude. An offender cannot be allowed to be treated with leniency solely on the ground of discretion vested in a court.
- ✓ **Santosh Kumar Satishbhushan Bariyar v. State of Maharashtra, (2009) 6 SCC 498**
- ✓ The court had articulated a two-step process to determine whether a case deserves the death sentence – “firstly, that the case belongs to the ‘rarest of rare’ category, and secondly, that the option of life imprisonment would simply not suffice.” Noting that despite over four decades since Bachan Singh’s case there has been little to no policy-driven change, towards formulating a scheme or system that elaborates how mitigating circumstances are to be collected, for the court’s consideration and that scarce information about the accused at the time of sentencing, severely disadvantages the process of considering mitigating circumstances, the Bench opined, “Therefore, ‘individualised, principled sentencing’ – based on both the crime and criminal, with consideration of whether reform or rehabilitation is achievable, and consequently whether the option of life imprisonment is unquestionably foreclosed – should be the only factor of ‘commonality’ that must be discernible from decisions relating to capital offences
- ✓ **Sadhupati Nageswara Rao v. State of A.P., (2012) 8 SCC**
- ✓ The court observed that the courts cannot take lenient view in awarding sentence on the ground of sympathy or delay as the same cannot furnish any ground for reduction of sentence.
- ✓ **Neel Kumar v. State of Haryana, (2012) 5 SCC 766**
- ✓ While commuting the awarded death sentence into a sentence of life imprisonment, it has been directed by this Court that convicts therein must serve a minimum of 30 years in jail without remissions, before the consideration of their respective cases for premature release.
- ✓ **Shivu v. High Court of Karnataka (2007) 4 SCC 713**
- ✓ The principle of “just deserts” was applied and the death penalty awarded to the convicts was upheld. The circumstances of the convicts were not considered for reducing the death penalty
- ✓ **Alister Anthony Pareira v. State of Maharashtra, (2012) 2 SCC 648**
- ✓ The principle of proportionality in sentencing a crime-doer is well entrenched in criminal jurisprudence. As a matter of law, proportion between crime and punishment bears most relevant influence in determination of sentencing the crime-doer. The court has to take into consideration all aspects including social interest and consciousness of the society for award of appropriate sentence.
- ✓ **State of U.P. v. Sanjay Kumar, (2012) 8 SCC 537**

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- ✓ Sentencing policy is a way to guide judicial discretion in accomplishing particular sentencing. Generally, two criteria, that is, the seriousness of the crime and the criminal history of the accused, are used to prescribe punishment. By introducing more uniformity and consistency into the sentencing process, the objective of the policy, is to make it easier to predict sentencing outcomes. Sentencing policies are needed to address concerns in relation to unfettered judicial discretion and lack of uniform and equal treatment of similarly situated convicts. The principle of proportionality, as followed in various judgments of this Court, prescribes that, the punishments should reflect the gravity of the offence and also the criminal background of the convict. Thus, the graver the offence and the longer the criminal record, the more severe is the punishment to be awarded
- ✓ **Sangeet v. State of Haryana, AIR 2012 SC 447**
- ✓ The court expressed reservation regarding inconsistent and incoherent application of sentencing policy with respect to analyzing the aggravating and mitigating circumstances. The court critiqued the process of drawing a balance sheet of aggravating and mitigating circumstances and stated that they cannot be compared with each other as each of the factors are two distinct and different constituents of the incident.
- ✓ **C. Muniappan v. State of Tamil Nadu, (2010) 9 SCC 567**
- ✓ Criminal law requires careful adherence to the rule of proportionality in imposing punishment based on the culpability of each type of criminal action, while bearing in mind the societal impact of not awarding just punishment.
- ✓ **Jameel v. State of U.P., (2010) 12 SCC 532**
- ✓ Court held that the punishment should reflect the society's cry for justice against the criminals. The general policy which the courts have followed with regard to sentencing is that the punishment must be appropriate and proportional to the gravity of the offence committed. Imposition of appropriate punishment is the manner in which the courts respond to the society's cry for justice against the criminals. Justice demands that courts should impose punishment befitting the crime so that the courts reflect public abhorrence of the crime.
- ✓ **Ahmed Hussein Vali Mohammed Saiyed v. State of Gujarat, (2009) 7 SCC 254**
- ✓ The object of awarding appropriate sentence should be to protect the society and to deter the criminal from achieving the avowed object to (sic break the) law by imposing appropriate sentence. It is expected that the courts would operate the sentencing system so as to impose such sentence which reflects the conscience of the society and the sentencing process has to be stern where it should be. Any liberal attitude by imposing meagre sentences or taking too sympathetic view merely on account of lapse of time in respect of such offences will be result wise counterproductive in the long run and against the interest of society which needs to be cared for and strengthened by string of deterrence inbuilt in the sentencing system. Justice demands that courts should impose punishment befitting the crime so that the courts reflect public abhorrence of the crime. The court must not only keep in view the rights of the victim of the crime but the society at large while considering the imposition of appropriate punishment. The court will be failing in its duty if appropriate punishment is not awarded for a crime which has been committed not only against the individual victim but also against the society to which both the criminal and the victim belong.

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- ✓ **State of M.P. v. Basodi, AIR 2009 SC 3081**
- ✓ Sentence u/s 376 IPC less than minimum prescribed cannot be awarded on the ground that the accused was rustic and illiterate labourer belonging to scheduled tribe. Impact of offence on social order and public interest cannot be lost sight of while exercising such discretion.
- ✓ **State of MP v. Kashiram, AIR 2009 SC 1642**
- ✓ Punishment awarded by courts for crimes must not be irrelevant. It should conform to and be consistent with the atrocity and brutality with which crime was committed. It must respond to society's cry for justice and criminals.
- ✓ **State of M.P. v. Bablu Natt, 2009 2 SCC 272**
- ✓ Mere existence of a discretion by itself does not justify its exercise. Discretion in awarding sentence should be exercised in a justified manner.
- ✓ **Sushil Kumar v. State of Punjab, 2009 10 SCC 434**
- ✓ There have to be very special reasons to record death penalty and if mitigating factors in the case are stronger then it is neither proper nor justified to award death sentence and it would be sufficient to place it out of "rarest of rare category.
- ✓ **Harendra Nath Chakraborty v. State of W.B., 2009 2 SCC 758**
- ✓ If the legislature has provided for a minimum sentence, the same should ordinarily be imposed save and except some exceptional causes which may justify awarding lesser sentence than the minimum prescribed.
- ✓ **State of Punjab v. Prem Sagar, (2008) 7 SCC 550**
- ✓ The court while awarding a sentence would take recourse to the principle of deterrence or reform or invoke the doctrine of proportionality, would no doubt depend upon the facts and circumstances of each case. While doing so, however, the nature of the offence said to have been committed by the accused plays an important role. The offences which affect public health must be dealt with severely. For the said purpose, the courts must notice the object for enacting Article 47 of the Constitution of India. There are certain offences which touch our social fabric. We must remind ourselves that even while introducing the doctrine of plea bargaining in the Code of Criminal Procedure, certain types of offences had been kept out of the purview thereof. While imposing sentences, the said principles should be borne in mind. What would be the effect of the sentencing on the society is a question which has been left unanswered by the legislature. The superior courts have come across a large number of cases which go to show anomalies as regards the policy of sentencing. Whereas the quantum of punishment for commission of a similar type of offence varies from minimum to maximum, even where same sentence is imposed, the principles applied are found to be different. Similar discrepancies have been noticed in regard to imposition of fine.
- ✓ **State of Karnataka v. Raju, (2007) 11 SCC 490**
- ✓ The law regulates social interests, arbitrates conflicting claims and demands. Security of persons and property of the people is an essential function of the State. It could be achieved through instrumentality of criminal law. Undoubtedly, there is a cross-cultural conflict where living law must find answer to the new challenges and the courts are required to mould the sentencing system to meet the challenges. The contagion of lawlessness would undermine social order and lay it in

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ruins. Protection of society and stamping out criminal proclivity must be the object of law which must be achieved by imposing appropriate sentence. Therefore, law as a cornerstone of the edifice of 'order' should meet the challenges confronting the society. Friedman in his *Law in Changing Society* stated that: 'State of criminal law continues to be—as it should be—a decisive reflection of social consciousness of society.' Therefore, in operating the sentencing system, law should adopt the corrective machinery or deterrence based on factual matrix. By deft modulation, sentencing process be stern where it should be, and tempered with mercy where it warrants to be. The facts and given circumstances in each case, the nature of the crime, the manner in which it was planned and committed, the motive for commission of the crime, the conduct of the accused, the nature of weapons used and all other attending circumstances are relevant facts which would enter into the area of consideration.

- ✓ **Union of India v. Devendra Nath Rai, (2006) 2 SCC 243**
- ✓ Undue sympathy to impose inadequate sentence would do more harm to the justice system to undermine the public confidence in the efficacy of law, and society could not long endure under such serious threats. It is, therefore, the duty of every court to award proper sentence having regard to the nature of the offence and the manner in which it was executed or committed etc.
- ✓ **Adu Ram v. Mukna and Ors., (2005) 10 SCC 597**
- ✓ Highlighted the principle of proportionality between crime and punishment and held that social impact of crime cannot be lost sight of and the offence of murderous assault under Section 300 read with Section 149, 304, Part I of I.P.C per se requires exemplary treatment. The criminal law adheres to the principle of criminal liability according to the culpability of each kind of criminal conduct. Thought the judges must affirm that punishment always fits to the crime but in practice sentences are generally determined by other considerations. Sometimes correctional needs of the perpetrator justify leniency in sentencing. The Court lamented that the practice of punishing serious crimes with equally severe punishment is now unknown to the civil societies and there has been a departure from the principle of proportionality in recent times. The recent Court notes that imposition of sentence without considering its effect on the social order leads to some undesirable practical consequences. Particularly, crimes against women, children, dacoity, treason, misappropriation of public money and offences involving moral turpitude have great impact on social order, and per se require exemplary punishment in public interest. Any liberal attitude by imposing lenient sentences or taking sympathetic view on account of lapse of time in respect of such offences will be counter-productive in the long run and will jeopardizes the social interest which needs to be strengthened by the string of deterrence inbuilt in the sentencing system
- ✓ **Ajmer Singh v. State of Punjab, (2005) 6 SCC 633**
- ✓ In reducing the sentence awarded by the lower court, it has been held by the Court that while reducing the sentence to period already undergone, courts should categorically notice and state the period actually undergone by the accused.
- ✓ **P. Prabhakaran v. P. Jayarajan, AIR 2005 SC 688,**
- ✓ The direction by the court for the sentence to run concurrently or consecutively is in the discretion of the court and that does not affect the nature of the sentence.
- ✓ **Mohd. Munna v. Union of India, (2005) 7 SCC 417**

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- ✓ Interpreting the provisions u/s 53, 53-A, 55, 57 of the IPC, the Court has held that the expression “life imprisonment” is not equivalent to imprisonment for 14 years or 20 years. “Life imprisonment” means imprisonment for the whole of the remaining period of the convicted person’s natural life. There is no provision either in IPC or in CrPC whereby life imprisonment could be treated as 14 years or 20 years without their being a formal remission by the appropriate government.
- ✓ **State of M.P. v. Munna Choubey (2005) 2 SCC 710**
- ✓ Imposition of sentence without considering its effect on the social order in many cases may be in reality a futile exercise. The social impact of the crime e.g. where it relates to offences against women, dacoity, kidnapping, misappropriation of public money, treason and other offences involving moral turpitude or moral delinquency which have great impact on social order and public interest, cannot be lost sight of and per se require exemplary treatment. Any liberal attitude by imposing meagre sentences or taking too sympathetic view merely on account of lapse of time in respect of such offences will be resultwise counterproductive in the long run and against societal interest which needs to be cared for and strengthened by string of deterrence inbuilt in the sentencing system.
- ✓ **State of U.P. v. Shri Kishan, (2005) 10 SCC 420**
- ✓ The court has emphasized that just and proper sentence should be imposed. Any liberal attitude by imposing meagre sentences or taking too sympathetic view merely on account of lapse of time in respect of such offences will be result wise counterproductive in the long run and against societal interest which needs to be cared for and strengthened by string of deterrence inbuilt in the sentencing system. The court will be failing in its duty if appropriate punishment is not awarded for a crime which has been committed not only against the individual victim but also against the society to which the criminal and victim belong. The punishment to be awarded for a crime must not be irrelevant but it should conform to and be consistent with the atrocity and brutality with which the crime has been perpetrated, the enormity of the crime warranting public abhorrence and it should ‘respond to the society’s cry for justice against the criminal’.
- ✓ **Deo Narain Mandal v. State of UP (2004) 7 SCC 257**
- ✓ Sentence should not be either excessively harsh or ridiculously low. While determining the quantum of sentence, the court should bear in mind the principle of proportionality. Sentence should be based on facts of a given case. Gravity of offence, manner of commission of crime, age and sex of accused should be taken into account. Discretion of court in awarding sentence cannot be exercised arbitrarily or whimsically.
- ✓ **Dalbir Singh v. State of Haryana (2000) 5 SCC 82**
- ✓ While considering the quantum of sentence, to be imposed for the offence of causing death by rash or negligent driving of automobiles, one of the prime considerations should be deterrence. A professional driver pedals the accelerator of the automobile almost throughout his working hours. He must constantly inform himself that he cannot afford to have a single moment of laxity or inattentiveness when his leg is on the pedal of a vehicle in locomotion. He cannot and should not take a chance thinking that a rash driving need not necessarily cause any accident; or even if any

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accident occurs it need not necessarily result in the death of any human being; or even if such death ensues he might not be convicted of the offence; and lastly that even if he is convicted he would be dealt with leniently by the court. He must always keep in his mind the fear psyche that if he is convicted of the offence for causing death of a human being due to his callous driving of vehicle he cannot escape from jail sentence. This is the role which the courts can play, particularly at the level of trial courts, for lessening the high rate of motor accidents due to callous driving of automobiles.

✓ **Jai Kumar v. State of M.P., (1999) 5 SCC 1**

✓ The court held that, the measure of punishment in a given case must depend upon the atrocity of the crime; the conduct of the criminal and the defenceless and unprotected state of the victim. Imposition of appropriate punishment is the manner in which the courts respond to the society's cry for justice against the criminals. Justice demands that courts should impose punishment befitting the crime so that the courts reflect public abhorrence of the crime. The courts must not only keep in view the rights of the criminal but also the rights of the victim of crime and the society at large while considering imposition of appropriate punishment.

✓ **Ravji alias Ram Chandra v. State of Rajasthan, (1996) 2 SCC 175**

✓ It was observed by the Court "The crimes had been committed with utmost cruelty and brutality without any provocation, in a calculated manner. It is the nature and gravity of the crime but not the criminal, which are germane for consideration of appropriate punishment in a criminal trial."

✓ **State of Punjab v. Bira Singh, 1995 Supp (3) SCC 708**

✓ The Court held that at the time of awarding the sentence, the court should not adopt the lenient view and show misplaced sympathy. When courts give such lenient punishments, the value of deterrence of the punishment greatly reduces thereby encouraging rather than discouraging a criminal, allowing the whole society to suffer.

✓ **State of A.P. v. Bodem Sundara Rao (1995) 6 SCC 230**

✓ The courts have an obligation while awarding punishment to impose appropriate punishment so as to respond to the society's cry for justice against such criminals. Public abhorrence of the crime needs a reflection through the court's verdict in the measure of punishment. The courts must not only keep in view the rights of the criminal but also the rights of the victim of crime and the society at large while considering imposition of the appropriate punishment.

✓ **Suresh Chandra Bahri v. State of Bihar, AIR 1994 SC 2420**

✓ The critique of judicial sentencing has taken several forms: it is inequitable as reflected in disparate sentences; it is ineffectual; or it is unfair because it is either inadequate or, in some situations, cruel. It has frequently been stated that there is a significant disparity in punishing an accused who has been found guilty of some offence."

✓ **Dhananjoy Chatterjee Dhana v. State of West Bengal, 1994 2 SCC 220**

✓ In recent years, the rising crime rate-particularly violent crime against women has made the criminal sentencing by the courts a subject of concern. Today there are admitted disparities. Some criminals get very harsh sentences while many receive grossly different sentence for an essentially equivalent crime and a shockingly large number even go unpunished, thereby encouraging the criminal and in the ultimate making justice suffer by weakening the system's credibility. Of course, it is not possible to lay down any cut and dry formula relating to imposition of sentence but the

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object of sentencing should be to see that the crime does not go unpunished and the victim of crime as also the society has the satisfaction that justice has been done to it.

- ✓ **Bachan Singh v. State of Punjab, (1980) 2 SCC 684**
- ✓ The majority upheld the constitutionality of the death sentence, on the condition that it could be imposed in the “rarest of rare” cases. The Court, being conscious of the safeguard of a separate hearing on the question of sentence, articulated it as a valuable right, which ensures to a convict, to urge why in the circumstances of his or her case, the extreme penalty of death ought not to be imposed. The Court noted, “The present legislative policy discernible from Section 235 (2) read with Section 354 (3) is that in fixing the degree of punishment or making the choice of sentence for various offences the Court should not confine its consideration “principally” or merely to the circumstances connected with a particular crime, but also give due consideration to the circumstances of the criminal.”
- ✓ Principles laid down in the case:
- ✓ The extreme penalty of death need not be inflicted except in gravest cases of extreme culpability;
- ✓ Before opting for the death penalty the circumstances of the 'offender' also require to be taken into consideration along with the circumstances of the 'crime'.
- ✓ Life imprisonment is the rule and death sentence is an exception. In other words death sentence must be imposed only when life imprisonment appears to be an altogether inadequate punishment having regard to the relevant circumstances of the crime, and provided, and only provided the option to impose sentence of imprisonment for life cannot be conscientiously exercised having regard to the nature and circumstances of the crime and all the relevant circumstances.
- ✓ A balance sheet of aggravating and mitigating circumstances has to be drawn up and in doing so the mitigating circumstances has to be accorded full weightage and a just balance has to be struck between the aggravating and the mitigating circumstances before the option is exercised.
- ✓ **Dagdu v. State of Maharashtra, (1977) 3 SCC 68**
- ✓ The court rejected the interpretation as laying down that failure on the part of the court to hear a convicted accused, on the question of sentence, would necessitate remand to the trial court. Instead, it held that such an omission could be remedied by the higher court by affording a hearing to the accused on the question of sentence, provided the hearing was “real and effective” wherein the accused was permitted to “adduce before the court all the data which he desires to be adduced on the question of sentence”.
- ✓ **Mohd. Giasuddin v. State of A.P., 1977 3 SCC 287**
- ✓ There is a great discretion vested in the Judge, especially when pluralistic factors, enter his calculations even so, the judge must exercise this discretionary power, drawing his inspiration from the humanitarian spirit of the law, and living down the traditional precedents which have winked at the personality of the crime doer and been swept away by the features of the crime. What is dated has to be discarded. What is current has to, be incorporated. Therefore innovation, in all conscience, is in the field of judicial discretion. Unfortunately, [the Indian Penal Code](#) still lingers in the somewhat compartmentalized system of punishment viz. imprisonment simple or rigorous, fine and, of course, capital sentence. There is a wide range of choice and flexible treatment which must be available with the judge if he is to fulfil his tryst with cruing the criminal in a hospital

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setting. Maybe in an appropriate case actual hospital treatment may have to be prescribed as part of the sentence. In another case, liberal parole may have to be suggested and, yet in a third category, engaging in certain types of occupation or even going through meditational drills or other courses may be part of the sentencing prescription. The perspective having changed, the legal strategies and judicial resources, in their variety, also have to change. Rule of thumb sentences of rigorous imprisonment or other are too insensitive to the highly delicate and subtle operation expected of a sentencing judge. Release on probation, conditional sentences, visits to healing centres, are all on the cards. Sentencing justice is a facet of social justice, even as redemption of a crime-doer is an aspect of restoration of a whole personality. Till the new code recognized statutorily that punishment required considerations beyond the nature of the crime and circumstances surrounding the crime and provided a second stage for bringing in such additional materials, the Indian courts had, by and large, assigned an obsolescent backseat to the sophisticated judgment on sentencing. Now this judicial skill has to come of age.

✓ ***Santa Singh v. State of Punjab, (1976) 4 SCC 190***

✓ The court had held that a separate stage should be provided after conviction when the court can hear the accused in regard to the factors bearing on sentence and then pass proper sentence on the accused—the nature of the offence, the circumstances of the offence (extenuating or aggravating), the prior criminal record of the offender, the age of the offender, the record of the offender as to employment, the background of the offender with reference to education, home life, sobriety and social adjustment, the emotional and mental condition of the offender, the prospects for the rehabilitation of the offender, the possibility of return of the offender to a normal life in the community, the possibility of treatment or training of the offender, the possibility that the sentence may serve as a deterrent to crime by the offender or by others and the current community need, if any, for such a deterrent in respect to the particular type of offence. In the aforesaid case, The Court had also noted, “of course, care would have to be taken by the court to see that this hearing on the question of sentence is not abused and turned into an instrument for unduly protracting the proceedings. The claim of due and proper hearing⁸ would have to be harmonized with the requirement of expeditious disposal of proceedings.”

✓ ***Ramashraya Chakravarti v. State of Madhya Pradesh, AIR 1976 SC 392***

✓ To adjust the duration of imprisonment to the gravity of a particular offence is not always an easy task. It is always a matter of judicial discretion subject to any mandatory minimum prescribed by law. In judging the adequacy of a sentence, the nature of the offence, the circumstances of its commission, the age and character of the offender, injury to individuals or to Society, effect of the punishment on the offender, eye to correction or reformation of the offender, are some amongst many other factors which would be ordinarily taken into consideration by courts.

✓ ***Ediga Anamma v. State of A.P., 1974 4 SCC 443***

✓ The punitive dilemma begins when the guilt is established. Modern penology regards crime and criminal as equally material when the right sentence has to be picked out, although in our processual system there is neither comprehensive provision nor adequate machinery for collection and presentation of the social and personal data of the culprit to the extent required in the verdict on sentence. In any scientific system which turns the focus, at the sentencing stage, not only on the

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<i>crime but also the criminal, and seeks to personalise the punishment so that the reformatory component is as much operative as the deterrent element, it is essential that facts of a social and personal nature, sometimes altogether irrelevant if not injurious at the stage of fixing the guilt, may have to be brought to the notice of the Court when the actual sentence is determined</i> ✓ B.G. Goswami v. Delhi Administration (1974) 3 SCC 85 ✓ <i>In absence of guidelines, it is necessary to weigh and balance various considerations with a judicial mind. Broadly, the main purpose of the sentence is that the accused should realise that he has not only committed a harmful act to the society of which he is also an integral part but the act is also harmful to his own future, both as a member of the society and as an individual.</i> ✓ Jagmohan Singh v. State of U.P (1973) 1 SCC 20 ✓ <i>It was held that a balanced approach of considering the aggravating and mitigating factors should be considered while deciding on the question of capital punishment.</i> ✓ D.R. Bhagare v. State of Maharashtra, AIR 1973 SC 476 ✓ <i>The Court held that the question of sentencing is a matter of judicial discretion. The relevant considerations in determining the sentence, broadly stated, include the motive for and the magnitude of the offence and the manner of its commission.</i> ✓ Gopal Vinayak Godse v. State of Maharashtra, AIR 1961 SC 600 ✓ <i>The Court held that sentence of imprisonment for life is one of “imprisonment for the whole of the remaining period of the convicted person’s natural life”</i>		
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1.	Dory Reiling and Francesco Contini, <i>E-Justice Platforms: Challenges for Judicial Governance</i> , 13 IJCA 1 (2022)	789
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• <i>Status of Implementation of e-Court Mission Mode Project, 05 Aug 2022, Ministry of Law and Justice</i> • <i>R. Arulmozhiselvi, Court and Case Management through National Judicial Data Grid (NJDG) (2021)</i> • <i>Digital Courts Vision * Roadmap (Phase III of the E-Courts Project E-Committee, Supreme Court of India)</i> • <i>Use of ICT in Judicia Activity (Implemented by Council of Europe)</i>
Case Law (Judgments mentioned below includes citation and short note for reference and discussion purpose during the course of the programme. Please refer the full judgment for conclusive opinion)
✓ <i>Sarvesh Mathur vs. The Registrar General, High Court of Punjab and Haryana</i> 2023 SCC OnLine SC 1293 [The Supreme Court directed the High Courts to ensure that adequate internet facilities including Wi-fi are made available free of charge to all advocates and litigants appearing before the High Courts. The Apex Court also observed that links available through video conferencing must be made available in the cause list of the concerned court and that there should be no requirement to make a separate application to appear through virtual mode.] ✓ <i>In Re: Children in Street Situations</i>, 2022 SCC OnLine SC 189 [Standard Operating Procedure for recording evidence of children through video conferencing to be followed in all criminal trials where child witnesses, not residing near Court Points, are examined and not physically in the courts where the trial is conducted. Remote Point Coordinators to ensure that child-friendly practices are adopted during the examination of the witnesses.] ✓ <i>In Re. Guidelines for Court Functioning Through Video Conferencing During Covid-19 Pandemic</i>, (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.] ✓ <i>Arnab Manoranjan Goswami v. The State of Maharashtra</i>, (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.] ✓ <i>In Re. Guidelines for Court Functioning Through Video Conferencing During Covid-19 Pandemic</i>, (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

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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. 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.]

- ✓ **Pradyuman Bisht v. Union of India**, (2018) 15 SCC 639 [*Directions for installation of CCTV Cameras in court complexes.*]
- ✓ **Swapnil Tripathi v. Supreme Court of India**, (2018) 10 SCC 639 [*Directions regarding livestreaming of court proceedings - 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.*]