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A brief summary of the paper entitled as  
UNDERTRIALS NEED REFORMS IN CRIMINAL JUSTICE"

By

Surendra Yadav.\*

Thousands of the undertrial prisoners are languishing in all Indian jails for periods for exceeding the period if they had been at all convicted and sentenced by a court. More than 50% of the total prisoners in all jails are undertrials, whose cases are either pending or have not even commenced. Many of these undertrials had been awaiting trial for over a decade.

Reasons of the undertrial's problem are delay in the disposal of cases, non-availability of legal assistance to undertrials, slow and tardy police investigations and our unsatisfactory property-oriented bail system.

Among the solutions, first is to liberalise the concept of bail under the Cr.P.C. It suffers from a property-oriented approach, which is based on the erroneous assumption that risk of monetary loss is the only deterrent against fleeing from justice. Monetary consideration; on should not be the sole factor in accepting bail, but other factors such as roots in the community, job security, family ties etc. should be considered and the accused be released on his personal bond without monetary obligation.

Secondly s. 437(6), Cr.P.C. , which deals with bail in a non-bailable case, should be amended. The trial here does not seem to begin prior to the "fixing of date for taking evidence in the case." Whether the period from the date of accused's arrest to the "fixing of date for taking evidence" is or is not a "trial period"? The computing of "sixty days" period will not serve any purpose when the "date of commencement of trial" is not certain due to other factors such as judicial perusing of the police report, framing of the charge, questioning of the accused and fixing the date for taking evidence, all of which have no common-sense. Therefore, the Parliament should amend S. 437 (6) with effect that the term "trial" may include both the pre and post cognizance stages of a criminal proceeding and the accused undertrial may get bail as a right in both stages after the lapse of the "sixty days detention period."

Right of speedy trial is implicit in the guarantee of Art. 21, which the state cannot deny by pleading financial or administrative inability. For speedy trial to the accused, the Supreme Court has directed the states to strengthen the investigative machinery, set up new courts, build new Court houses, provide more staff and equipment to the courts and appoint additional judges.

All states must provide free legal aid to the under-trial guaranteed through Arts. 14, 21 and 39 A of our Constitution. Bar Councils should come forward for it.

The police-investigation should be completed positively in a time, specified under S. 167 (2), Cr.P.C. For quickness in getting expert's opinion the states are suggested to employ more experts, set up more testing and forensic laboratories. A time-limit for filling of charge-sheet should also be fixed.

General directions given by the Supreme Court and the Central Government for the release of undertrials should be followed. The undertrials should be kept in jails separate from the sentenced criminals. All states and union territories must set up district and state level committees to review the cases of undertrials from time to time.