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# Drafting of Bail Application, Writ Petition Under Section 482 Cr.P.C., Public Interest Litigation (PIL) & Criminal Appeal

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## ABSTRACT

*This comprehensive project delves into the nuances of drafting critical legal documents in the Indian criminal justice system, specifically bail applications, writ petitions under Section 482 of the Code of Criminal Procedure (Cr.P.C.), Public Interest Litigations (PILs), and criminal appeals. With a focus on procedural law, this project highlights the significance of meticulous drafting in ensuring access to justice, fair trials, and the protection of fundamental rights. By examining the intricacies of these legal documents, this project aims to provide a practical guide for legal practitioners, judges, and law students to navigate the complexities of criminal procedural law in India. Through a detailed analysis of the Cr.P.C. and relevant case laws, this project seeks to establish the importance of effective drafting in shaping the outcome of legal proceedings and upholding the principles of justice.*

**Keywords:** *Bail, Crpc, appeal, offence, petition.*

## I. INTRODUCTION

The criminal justice system operates on the bedrock of procedural law, which is essential for ensuring due process, fair trial, and protection of fundamental rights. Procedural drafting within this framework—such as in the case of bail applications, petitions under Section 482 of the Code of Criminal Procedure, Public Interest Litigations (PILs), and criminal appeals—plays a vital role in operationalizing access to justice. A meticulously crafted legal petition or application is not merely a formal requirement but a crucial determinant in the delivery of justice, often influencing the direction and outcome of legal proceedings.

In India, criminal procedural law is primarily governed by the Code of Criminal Procedure, 1973 (Cr.P.C.), which lays down the mechanism for investigation, inquiry, trial, and appeal in criminal matters. While the substantive criminal law defines offences and prescribes punishments, it is the procedural law that provides the framework within which the criminal

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law is administered. Procedural drafting, thus, serves as the bridge between legal rights and judicial remedies.

The importance of precise and persuasive drafting in criminal litigation cannot be overstated. In matters of bail, the ability to clearly present factual context, legal grounds, and reasons for seeking interim liberty often determines whether an accused remains incarcerated or not. The Supreme Court has emphasized that —liberty is a priceless treasure for a human being<sup>3</sup> and that bail applications must be considered with utmost care, balancing individual liberty against societal interest.<sup>3</sup>

Likewise, Section 482 Cr.P.C., which preserves the DRAFTING OF BAIL APPLICATION, WRIT PETITION UNDER SECTION 482 CR.P.C., PUBLIC INTEREST LITIGATION (PIL) & CRIMINAL APPEAL, is often invoked to quash FIRs or criminal proceedings that may be frivolous, malicious, or legally untenable. Effective drafting in such petitions requires a nuanced understanding of both factual narratives and legal thresholds, as laid down in *State of Haryana v. Bhajan Lal*, where the Court laid down illustrative guidelines for quashing criminal proceedings.<sup>4</sup>

The domain of Public Interest Litigation (PIL)—originally a tool of constitutional law—has expanded into criminal law, allowing non-party petitioners to seek redressal for systemic failures in the criminal justice system. Drafting PILs in criminal matters demands a balance between public interest and judicial restraint, as the courts have repeatedly cautioned against the misuse of PILs for personal or political gain.<sup>5</sup>

Lastly, criminal appeals, whether before Sessions Courts, High Courts, or the Supreme Court, require rigorous legal drafting. An appeal must succinctly set out errors in law or procedure, or misappreciation of evidence, calling for reversal or modification of the original judgment. A poorly drafted appeal risks summary dismissal, while a well-reasoned memorandum of appeal can reopen avenues for justice that might otherwise be foreclosed. 1Sanjay Chandra v. CBI, (2012) 1 S.C.C. 40, 55 (India) (“Liberty is one of the most cherished freedoms which should not be denied casually.”). *State of Haryana v. Bhajan Lal*, 1992 Supp (1) S.C.C. 335, 343 (India) (laying down categories under which courts may quash FIRs under inherent powers). *Ashok Kumar Pandey v. State of W.B.*, (2004) 3 S.C.C. 349, 356 (India) (“PILs are a weapon which

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<sup>3</sup> Sanjay Chandra v. CBI, (2012) 1 S.C.C. 40, 55 (India) (“Liberty is one of the most cherished freedoms which should not be denied casually.”).

<sup>4</sup> *State of Haryana v. Bhajan Lal*, 1992 Supp (1) S.C.C. 335, 343 (India) (laying down categories under which courts may quash FIRs under inherent powers).

<sup>5</sup> *Ashok Kumar Pandey v. State of W.B.*, (2004) 3 S.C.C. 349, 356 (India) (“PILs are a weapon which has to be used with great care and circumspection.”)

has to be used with great care and circumspection.”). Procedural drafting, therefore, is not a mechanical task but an intellectual exercise that combines legal reasoning, statutory interpretation, and case law analysis. Legal education, however, often underemphasizes this critical skill. Despite being central to advocacy and litigation, drafting remains a skill acquired more through apprenticeship than academic instruction. Given the stakes involved—especially in criminal law where personal liberty and reputation are on the line—the need for clarity, precision, and legal rigour in procedural drafting is paramount. This study seeks to explore and analyze the doctrinal principles, statutory frameworks, and judicial precedents governing such drafting, while offering formats and practical illustrations that can contribute to more effective legal practice.

## **II. DRAFTING OF BAIL APPLICATIONS**

### **(A) Concept and Purpose of Bail**

Bail is a fundamental aspect of criminal jurisprudence that operates at the intersection of personal liberty and societal interest. It is a legal mechanism designed to ensure the temporary release of an accused person from custody, pending investigation, trial, or appeal, upon the furnishing of a bond or surety. The concept of bail stems from the broader constitutional principles enshrined under Article 21 of the Constitution of India, which guarantees the right to life and personal liberty.<sup>6</sup>

The philosophy of bail is rooted in the presumption of innocence, which posits that a person is deemed innocent until proven guilty in a court of law. This presumption forms the backbone of liberal democratic criminal justice systems and is a central tenet of procedural fairness.<sup>7</sup> The rationale behind granting bail is to prevent the pre-trial detention of accused individuals unless such detention is justified by the risk of absconding, tampering with evidence, influencing witnesses, or posing a threat to public order.

### **(B) Types of Bail in Practice**

Bail in Indian criminal law can be categorized into the following types:

1. Regular Bail: Granted to an accused who is already under arrest and is seeking release from custody.
2. Anticipatory Bail: Sought under Section 438 Cr.P.C. by a person apprehending arrest for a non-bailable offence.

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<sup>6</sup> India Const. art. 21.

<sup>7</sup> 4 M.P. Tandon, Code of Criminal Procedure 503–506 (24th ed. 2022).

**3. Interim Bail:** Temporary relief granted to an accused until a final decision is made on the regular or anticipatory bail application.

**4. Default Bail:** Mandated under Section 167(2) Cr.P.C. when the police fail to complete the investigation within the prescribed time.

Each type of bail requires separate drafting considerations, taking into account the facts, stage of investigation, nature of offence, and judicial precedents relevant to the case.

### **(C) Legal Provisions (Sections 436–439 Cr.P.C.)**

The legal framework governing the grant of bail in India is primarily encapsulated in Sections 436 to 439 of the Code of Criminal Procedure, 1973 (Cr.P.C.), which collectively outline the conditions, authorities, and discretion applicable to different categories of offences and courts. Section 436 Cr.P.C. deals with bailable offences, mandating that any person accused of such an offence and willing to furnish bail must be released.<sup>8</sup> It is a statutory right and leaves no discretion with the court, emphasizing that liberty cannot be denied merely due to procedural delay. However, if the accused fails to comply with the conditions of appearance without sufficient cause, the court may refuse bail subsequently.

In contrast, Section 437 Cr.P.C. governs non-bailable offences and confers limited discretion on Magistrates to grant or deny bail. It explicitly prohibits bail in cases where the offence is punishable with death or life imprisonment and there appears to be a reasonable ground for believing the accused is guilty of such offence, unless the accused is a child, woman, or sick/infirm person.<sup>9</sup> This section balances judicial discretion with societal interest, and courts must record reasons when refusing or granting bail, especially in grave offences.

Section 438 Cr.P.C. introduces the concept of anticipatory bail, enabling a person to seek pre-arrest bail where they apprehend arrest in a non-bailable offence.<sup>10</sup> This provision is preventive in nature and safeguards the personal liberty of individuals who may be falsely implicated, threatened, or harassed. The court, while granting anticipatory bail, may impose conditions such as availability for interrogation, non-tampering of evidence, and non-leaving of jurisdiction. Notably, anticipatory bail cannot be granted in bailable offences as regular bail is a matter of right in those cases. Further, Section 439 Cr.P.C. empowers the Sessions Court and the High Court with broader authority to grant bail in non-bailable cases, including cases where the Magistrate may have declined bail.<sup>11</sup> These higher courts may also impose additional conditions

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<sup>8</sup> Code of Criminal Procedure, No. 2 of 1974, India Code (1974), § 436.

<sup>9</sup> Cr.P.C., § 437; see also *State of U.P. v. Amarmani Tripathi*, (2005) 8 S.C.C. 21 (India).

<sup>10</sup> Cr.P.C., § 438; *Siddharam Satlingappa Mhetre v. State of Maharashtra*, (2011) 1 S.C.C. 694 (India)

<sup>11</sup> Cr.P.C., § 439; *Puran v. Rambilas*, (2001) 6 S.C.C. 338 (India).

or cancel previously granted bail if the accused breaches any condition or attempts to subvert the process of justice. The discretionary power under this section is extensive, but its exercise is expected to align with principles of fairness, judicial restraint, and constitutional values. Collectively, these provisions reflect a calibrated legal structure that ensures judicial oversight, protection of individual liberty, and maintenance of public order. The statutory scheme enables different courts to handle bail matters at various stages, from arrest to appeal, and empowers them to tailor bail orders to suit the facts and severity of each case. Judicial interpretation of these sections—through a long line of Supreme Court decisions—has further refined the standards for granting bail, emphasizing that bail is the rule and jail the exception.

#### **(D) Scope and Ambit of Section 482 Cr.P.C.**

Section 482 of the Code of Criminal Procedure, 1973 preserves the DRAFTING OF BAIL APPLICATION, WRIT PETITION UNDER SECTION 482 CR.P.C., PUBLIC INTEREST LITIGATION (PIL) & CRIMINAL APPEAL, enabling it to make such orders as may be necessary to: (i) give effect to any order under the Code; (ii) prevent abuse of the process of any court; or (iii) secure the ends of justice.<sup>12</sup> These powers are not derived from statute but are inherent in the very nature of a court of record, reflecting the principle that courts must retain authority to safeguard justice even in the absence of explicit statutory provisions.

The provision acts as a judicial safety valve and fills procedural gaps where rigid application of statutory law would lead to injustice or undue hardship. Section 482 is especially relevant in quashing FIRs, preventing harassment by malicious prosecution, correcting procedural errors, and ensuring fair process, particularly when no other effective remedy exists.<sup>13</sup> It is not an appellate or revisional jurisdiction, but a distinct form of equitable judicial discretion.

That said, the scope of Section 482 is not unlimited. Courts have consistently maintained that inherent powers must be exercised sparingly, with caution, and only when the circumstances warrant such extraordinary intervention. They cannot be invoked merely because the accused believes the trial is unjustified; rather, the applicant must demonstrate that allowing the criminal process to proceed would be a clear miscarriage of justice, or that it would amount to harassment or abuse of legal process.

The inherent jurisdiction under Section 482 is complementary to, not a substitute for, other statutory remedies such as appeals, revisions, or writs. Courts will ordinarily require the exhaustion of such remedies unless they are demonstrably ineffective or unavailable. Further,

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<sup>12</sup> Code of Criminal Procedure, No. 2 of 1974, § 482, India Code (1974).

<sup>13</sup> Code of Criminal Procedure, No. 2 of 1974, § 482, India Code (1974)

Section 482 cannot be used to override or circumvent specific provisions of the Code.

The three-pronged test derived from the language of Section 482 has been widely adopted:

1. Is the application necessary to give effect to an order under the Code?
2. Will failure to intervene amount to abuse of process?
3. Is intervention necessary to secure the ends of justice?

If the answer to any of the above is affirmative, the court may invoke its inherent power—though even then, it must act judiciously and proportionately.

#### **(E) Sample Format of Section 482 Petition**

A petition under Section 482 Cr.P.C. must be drafted with clarity, precision, and strong legal foundation, as it seeks the extraordinary inherent jurisdiction of the High Court. The sample format below reflects the standard structure followed in Indian legal practice, aligned with judicial expectations and procedural propriety.

IN THE HIGH COURT OF [STATE] AT [BENCH] CRIMINAL MISCELLANEOUS  
APPLICATION NO. \_OF 2025

In the matter of:

**Mr. A (Petitioner)**

S/o Mr. B, aged 35 years,

Resident of [Address] Versus

State of [Name of State] (Respondent)

Through: SHO, XYZ Police Station

PETITION UNDER SECTION 482 OF THE CODE OF CRIMINAL  
PROCEDURE, 1973 FOR QUASHING OF FIR/PROCEEDINGS

The humble Petitioner respectfully submits as follows:

- That the present petition is being filed under Section 482 Cr.P.C. for quashing FIR No. \_ dated \_ registered at Police Station XYZ under Sections \_IPC.
- That the Petitioner is a law-abiding citizen and has been falsely implicated in the aforementioned FIR due to personal enmity/dispute. The allegations are baseless and do not disclose the commission of any cognizable offence.
- That the FIR, even if taken at face value, does not satisfy the essential ingredients of the alleged offences and is manifestly attended with mala fide intentions,

attracting the principles laid down in *State of Haryana v. Bhajan Lal*.<sup>96</sup>

- That the Hon'ble Supreme Court in *Zandu Pharmaceutical Works Ltd. v. Mohd. Sharaful Haque*<sup>97</sup> held that when criminal proceedings are manifestly motivated by personal vendetta, the High Court must intervene under Section 482 Cr.P.C.
- That continuation of these proceedings would amount to abuse of process of law and cause undue harassment to the Petitioner, in violation of Article 21 of the Constitution of India.
- That no fruitful purpose would be served by allowing the trial to continue, especially in the absence of material evidence or corroboration.
- That the Petitioner has no other efficacious remedy and hence has approached this Hon'ble Court invoking its inherent jurisdiction.

### PRAYER

In view of the above, the Petitioner prays that this Hon'ble Court may be pleased to:

- Quash FIR No. \_\_dated \_\_registered at Police Station XYZ under Section \_\_\_\_\_IPC;
- Pass such other and further orders as this Hon'ble Court may deem fit in the interest of justice.

Filed by:

[Name of Advocate] Counsel for the Petitioner Date: \_\_\_\_\_

Place: \_

### III. ORIGIN AND EVOLUTION OF PIL IN INDIA

Public Interest Litigation (PIL) in India has emerged as a transformative judicial tool, redefining the landscape of litigation and access to justice. Originally conceived as a means to address grievances that affected large sections of society, PIL has evolved from rigid locus standi doctrines to a more liberal and inclusive mechanism that empowers even those without a direct interest in the case. The evolution of PIL in India is best understood against the backdrop of the country's democratic ethos, wherein the judiciary—particularly the Supreme Court and High Courts—has sought to balance individual rights against public welfare.

The genesis of Public Interest Litigation in India can be traced back to the early 1980s, when the Supreme Court began to relax the traditional requirement of locus standi. Historically,



Indian courts maintained strict rules limiting the right to approach the courts to individuals who could demonstrate a direct, personal interest in the matter. However, landmark decisions such as *S.P. Gupta v. Union of India* (1981) laid the groundwork for a paradigm shift by broadening the scope of who could be considered a —plaintiff in matters of public concern.<sup>14</sup>

In *S.P. Gupta*, also known as the —Judges’ Transfer Case, the Supreme Court expanded the traditional understanding of locus standi, permitting public-spirited individuals and organizations to initiate litigation in the interest of promoting transparency and accountability in government affairs. This case set in motion a series of judicial pronouncements that gradually redefined the contours of direct participation in the legal process. Public Interest Litigation quickly became a tool to address issues that affected communities rather than solely private disputes.

In the realm of criminal law, the application of PIL has been particularly significant. Traditionally, criminal litigation was seen as a domain restricted to the state, with the government or private complainants acting as the primary actors. However, with the advent of PIL, the judiciary began entertaining petitions on criminal matters where issues of human rights, systemic abuse, custodial violence, and procedural irregularities were at stake. By doing so, the courts provided a mechanism for redress to disadvantaged sections of society who were otherwise excluded from formal proceedings.

PIL in criminal law gained momentum through cases that challenged the misuse of power by state authorities and police misconduct. In several notable decisions, the courts observed that criminal law is not merely an instrument of punishment, but also a medium to ensure that the process of investigation and trial adheres to constitutional guarantees of fairness and justice.<sup>105</sup> The judiciary thereby used PIL as a corrective measure to address prolonged detention without trial, custodial torture, or selective enforcement of laws that disproportionately affected marginalized communities.

### **(A) Constitutional Basis and Legal Framework**

The legitimacy and evolution of Public Interest Litigation (PIL) in India find firm footing in the Constitution of India, which outlines the fundamental rights and directive principles that underpin social and legal justice. Although the term —public interest litigation is not explicitly mentioned in the Constitution, its emergence is firmly grounded in judicial interpretations of Articles 32 and 226, which confer the right to approach the Supreme Court and High Courts,

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<sup>14</sup> *S.P. Gupta v. Union of India*, 1981 Supp SCC 87 (India).

respectively, for the enforcement of fundamental rights.<sup>15</sup>

Article 32, often described as the —heart and soul of the Constitution by Dr. B.R. Ambedkar, provides the right to directly move the Supreme Court for enforcement of fundamental rights. This constitutional guarantee was judicially expanded in *S.P. Gupta v. Union of India*, wherein the Supreme Court acknowledged that public-spirited individuals could move the Court on behalf of others whose rights have been violated but are unable to access the justice system due to poverty, illiteracy, or social constraints.<sup>16</sup>

Similarly, Article 226 empowers High Courts to issue writs for the enforcement of fundamental rights and —for any other purpose. This wider jurisdiction allows High Courts to entertain PILs not only for violation of fundamental rights but also in matters concerning public accountability, good governance, and misuse of statutory powers, including criminal matters.<sup>17</sup>

In addition to Part III on Fundamental Rights, the Directive Principles of State Policy (Part IV) have also influenced the development of PIL. Although non-justiciable, these principles—such as the duty to promote justice (Article 38), ensure equal justice and free legal aid (Article 39A), and secure humane working conditions (Article 42)—have been invoked by the judiciary to breathe substance into PIL claims.<sup>18</sup>

Furthermore, Article 21, which guarantees the right to life and personal liberty, has been a bedrock for judicial interventions in criminal PILs. The expansive interpretation of Article 21 in cases such as *Maneka Gandhi v. Union of India* transformed it from a procedural safeguard into a repository of substantive human rights, including protection from illegal detention, custodial violence, and systemic injustice.<sup>19</sup> The judiciary has used Article 21 in conjunction with Articles 32 and 226 to justify suo motu actions and relax procedural rules in public interest cases involving criminal justice.

The legal framework of PIL has also drawn sustenance from Section 482 of the Cr.P.C., which preserves the DRAFTING OF BAIL APPLICATION, WRIT PETITION UNDER SECTION 482 CR.P.C., PUBLIC INTEREST LITIGATION (PIL) & CRIMINAL APPEAL to prevent abuse of process and to secure the ends of justice. Though Section 482 is typically invoked in private disputes, the judiciary has also used it to entertain PILs that highlight systemic lapses in criminal investigations or law enforcement.

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<sup>15</sup> India Const. art. 32; art. 226

<sup>16</sup> *S.P. Gupta v. Union of India*, 1981 Supp SCC 87 (India)

<sup>17</sup> *Bandhua Mukti Morcha v. Union of India*, (1984) 3 SCC 161 (India)

<sup>18</sup> India Const. arts. 38, 39A, 42.

<sup>19</sup> *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248 (India).

In this way, PIL stands at the confluence of constitutional values and procedural discretion, providing a flexible yet principled legal route to address criminal injustices, especially where existing laws fall short or are ineffectively enforced.

### **(B) Format of a Criminal PIL with Footnoted Sample**

A criminal PIL should be drafted with precision, supported by verified facts, and structured to clearly reflect **public interest**, not personal grievances. Below is a sample format, annotated for reference.

### **IN THE HIGH COURT OF [STATE] AT [BENCH] PUBLIC INTEREST LITIGATION (CRIMINAL) WRIT PETITION NO. \_ OF 2025**

In the matter of:

#### **Petitioner**

Mr. A, aged 38, social activist and founder of [NGO Name], working in the field of human rights.

Address: [Address] Versus **Respondents**

- State of [Name] through Principal Secretary, Home Department
- Director General of Police, [State]
- SHO, XYZ Police Station

### **WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA SEEKING INVESTIGATION AND MONITORING INTO ALLEGED CUSTODIAL VIOLENCE**

To

The Hon'ble Chief Justice and His Companion Justices of the Hon'ble High Court The humble petitioner most respectfully submits:

1. That the present petition is being filed in public interest under Article 226 of the Constitution of India, seeking judicial intervention and an independent inquiry into the custodial torture and death of Mr. X, aged 24, allegedly caused by officials of XYZ Police Station on 15.01.2025.
2. That the petitioner is a public-spirited citizen working for the protection of human rights, and has previously been involved in legal literacy and prison monitoring programs (See Annexure P1 – Profile & Credentials).

3. That the incident was reported in multiple media outlets and is supported by photographs showing injuries on the body of the deceased (Annexure P2 – Media Reports; Annexure P3 – Post-Mortem Report).
4. That despite repeated complaints, the local police have refused to register an FIR under Section 302 IPC and continue to maintain that Mr. X died of natural causes. No magisterial inquiry as required under Section 176(1A) Cr.P.C. has been initiated. That this Hon'ble Court has, in similar cases, upheld the constitutional rights of detainees and laid down procedural safeguards (See *D.K. Basu v. State of W.B.*, (1997) 1 S.C.C. 416). The present case reflects a gross violation of Articles 21 and 22 of the Constitution.
5. That the petitioner has no personal interest in the matter and seeks intervention solely to uphold the rule of law and ensure that such deaths do not go unpunished.

### PRAYER

In view of the above, the Petitioner humbly prays that this Hon'ble Court may kindly be pleased to:

- a) Direct the registration of an FIR under appropriate sections of the IPC against concerned police officials;
- b) Appoint a **court-monitored Special Investigation Team (SIT)** or direct the **CBI/NHRC** to investigate the custodial death of Mr. X;
- c) Direct interim compensation to the family of the deceased;
- d) Pass any other order(s) as may be deemed just and proper in the interest of justice.

And for this act of kindness, the Petitioner shall ever pray. Filed by:

[Name of Advocate] Counsel for the Petitioner

Date: \_\_

Place: \_\_

## IV. CRIMINAL APPEALS – PRACTICE AND DRAFTING

### (A) Right to Appeal in Indian Criminal Law

The right to appeal in criminal jurisprudence is not an inherent or constitutional right, but rather a statutory right that must be expressly conferred by law. The Indian criminal justice system, as codified in the *Code of Criminal Procedure, 1973 (Cr.P.C.)*, delineates the contours of appellate remedies through a structured and hierarchical framework that ensures accountability and procedural fairness in judicial decisions.

While Article 21 of the Constitution guarantees the right to life and personal liberty, which has been expansively interpreted to include the right to a fair trial, it does not automatically confer the right to appeal. Instead, the right to challenge a criminal conviction, acquittal, or sentence is governed entirely by the provisions contained in Sections 372 to 394 of the Cr.P.C. The appellate structure serves to mitigate judicial error, uphold procedural integrity, and promote public confidence in criminal adjudication.

Historically, appellate jurisdiction has evolved as a safeguard against miscarriages of justice. The Supreme Court in *Shivaji Sahabrao Bobade v. State of Maharashtra* observed that "appeals are but a continuation of the original proceedings," and that appellate courts bear the responsibility of re-evaluating facts and legal interpretations to prevent wrongful convictions or unwarranted acquittals.

The introduction of proviso to Section 372 of the Cr.P.C. in 2009 was a significant reform. It recognized the victim's right to appeal against orders of acquittal, conviction for lesser offences, or inadequate sentencing. This amendment was a milestone in acknowledging victims as stakeholders in the justice process, aligning Indian criminal law more closely with the global shift towards victim-centric justice models.

In addition to the right of an accused or the prosecution to appeal, the appellate system in India also encompasses appeals by the state, appeals from special courts (e.g., POCSO, NDPS, SC/ST), and statutory bars to appeals in certain circumstances, which make the drafting and filing of criminal appeals a nuanced exercise in both legal understanding and strategic argumentation.

### **(B) Statutory Provisions: Sections 372–394 Cr.P.C.**

The legal framework for criminal appeals is elaborately provided in Chapter XXIX (Sections 372 to 394) of the *Code of Criminal Procedure, 1973*. These provisions govern the right to appeal, the forum of appeal, limitation periods, appellate powers, and procedures for hearing and disposal of criminal appeals.

#### **Section 372 – No Appeal Unless Provided by Law**

Section 372 sets the general principle that no appeal shall lie from any judgment or order of a criminal court unless expressly provided by the Code or any other law.

The proviso added in 2009, however, allows the victim of an offence to appeal against:

- (a) an order of acquittal,
- (b) conviction for a lesser offence, or

(c) inadequate compensation or sentence,

to the Court to which an appeal ordinarily lies against the order of conviction. This recognition of the victim's right has been affirmed in *Satya Pal Singh v. State of Madhya Pradesh*, where the Supreme Court held that the father of a deceased victim was entitled to file an appeal under the proviso.

### **Section 373 – Appeal from Orders Requiring Security or Refusing to Accept Surety**

This section provides for an appeal by persons aggrieved by orders requiring security for keeping peace or good behaviour under Sections 117, 118, 122, or 123 Cr.P.C., or against orders refusing to accept or rejecting sureties.

### **Section 374 – Appeals from Convictions**

This section is central to appellate practice. It permits:

- Any person convicted by a Sessions Judge or an Additional Sessions Judge to appeal to the High Court (Section 374(2));
- A person convicted on a trial held by a Magistrate to appeal to the Court of Sessions (Section 374(3));
- An accused to appeal against a conviction based on a guilty plea, only if the sentence is not as per the law (Section 375).

### **Section 375 & 376 – No Appeal in Certain Cases**

Section 375 bars appeals when the accused has pleaded guilty and has been convicted, unless the appeal relates to the legality or extent of the sentence. Section 376 bars appeal in petty cases, such as those where the sentence does not exceed six months or a fine of ₹1000, except on the grounds of illegality.

### **Section 377 – Appeal for Enhancement by the State Government**

The State Government may direct the Public Prosecutor to file an appeal against inadequate sentences, subject to judicial scrutiny. This provision empowers the state to pursue stricter punishment where the trial court's order appears unduly lenient.

### **Section 378 – Appeal in Case of Acquittal**

This section allows the State Government, and in certain cases the Central Government, to appeal against an order of acquittal. Importantly, the leave of the High Court is required before such an appeal is entertained. In *State of Rajasthan v. Sohan Lal*, the Supreme Court underscored the need for strong and compelling reasons to overturn acquittals.

**Section 379 – Appeal Against Conviction in High Court**

This permits a direct appeal to the Supreme Court, in certain cases where the High Court reverses an acquittal and convicts the accused under its revisional or appellate jurisdiction, often involving capital or life imprisonment.

**Sections 380 to 385 – Procedural Aspects**

These provisions deal with appeals from multiple convictions (Section 380), the form and content of appeal (Section 382), and the procedure for hearing and admitting an appeal (Sections 383–385).

**Sections 386 to 391 – Appellate Powers**

These are critical drafting references:

- Section 386 allows the appellate court to reverse, confirm, alter, or remand the judgment;
- Section 389 allows suspension of sentence and grant of bail during pendency of appeal;
- Section 391 allows the appellate court to take additional evidence if necessary.

**Section 394 – Abatement of Appeals**

Appeals abate on the death of the appellant, except in appeals from sentences of fine or compensation, where legal representatives may pursue the appeal.

Collectively, Sections 372–394 of the Cr.P.C. provide a comprehensive appellate mechanism in Indian criminal law, balancing the rights of the accused, the victim, and the state. Mastery over these provisions is crucial for the effective drafting of criminal appeals, ensuring that petitions are filed within limitation, before the appropriate forum, and on legally sustainable grounds.<sup>20</sup>

**Drafting Format and Sample Criminal Appeal**

*(Appeal under Section 374(2) Cr.P.C. before High Court)*

IN THE HIGH COURT OF [STATE]                      AT [BENCH] CRIMINAL APPEAL NO. \_\_\_\_  
\_\_\_\_ OF 2025

In the matter of:

**Appellant:**

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<sup>20</sup> Cr.P.C.

Mr. A, S/o Mr. B, Aged 35 years, R/o [Address]

(Convicted by the Court of Additional Sessions Judge, XYZ, in Sessions Case No. \_\_)

Versus Respondent:

State of [Name], through Public Prosecutor

## MEMO OF CRIMINAL APPEAL UNDER SECTION 374(2) OF THE CODE OF CRIMINAL PROCEDURE, 1973

The Appellant above-named respectfully submits this appeal against the judgment and order dated 15.01.2025, passed by the Ld. Additional Sessions Judge, XYZ, convicting the Appellant under Sections 307 and 452 of the IPC and sentencing him to 7 years' rigorous imprisonment with fine.

### GROUND OF APPEAL

1. **Because the trial court erred in law and fact by relying on a single interested witness, whose testimony lacked corroboration.**
2. **Because the court ignored the medical evidence (Exhibit P-5) which contradicts the prosecution's theory regarding the manner of injury.**
3. **Because the alleged recovery under Section 27 of the Indian Evidence Act was not proved beyond reasonable doubt.**
4. **Because the Appellant has no prior criminal antecedents and was falsely implicated due to a land dispute with the complainant.**
5. **Because the conviction is based on conjecture and not on legally admissible or reliable evidence.**
6. **Because the trial suffered from procedural lapses, including improper framing of charges and non-examination of key defense witnesses.**

### PRAYER

In light of the above, the Appellant most respectfully prays that this Hon'ble Court may be pleased to:

- a) **Set aside the impugned judgment of conviction and sentence dated 15.01.2025**, passed in Sessions Case No. \_\_\_\_;
- b) **Acquit the Appellant of all charges** or pass such orders as deemed just in the interest of justice;



- c) Grant bail to the Appellant during the pendency of this appeal;
- d) Pass any other or further relief as the Court may deem fit.

Filed by:

[Name of Advocate] Counsel for the Appellant Date: \_\_\_\_\_

Place: \_

Annexures:

- Certified Copy of Judgment dated 15.01.2025
- FIR and Charge Sheet
- Medical Reports
- List of Exhibits and Witnesses

This **sample appeal** illustrates a clear structure, proper referencing of provisions, factual specificity, and a legally sound prayer—meeting the formal requirements of a High Court criminal appeal under Section 374 Cr.P.C.

## V. CONCLUSION

This paper examines the evolution of criminal procedural drafting in India, focusing on bail applications, petitions under Section 482 of the Code of Criminal Procedure (Cr.P.C.), Public Interest Litigations (PILs) involving criminal matters, and criminal appeals. The focus is on the pursuit of justice through procedural fairness, with the ultimate goal of drafting being to communicate grievances and legal claims with clarity, coherence, and conviction.

Bail applications reveal the balance between the right to liberty and the interest of society in ensuring justice. The evolution of bail jurisprudence has shaped how lawyers draft bail petitions today, incorporating grounds such as lack of prior criminal record, weak prima facie case, cooperation with the investigation, and personal circumstances. Successful 482 petitions are usually built on a strong legal foundation, referencing landmark precedents and demonstrating how the case fits within exceptional categories laid down by courts.

Public Interest Litigations (PILs) have become transformative legal developments in Indian jurisprudence, addressing issues ranging from custodial violence and extra-judicial killings to police reforms and prisoners' rights. The drafting of PILs demands not just legal acumen but also ethical responsibility, requiring bona fides, focus on issues of broad public concern, and avoid sensationalism or personal motives.

The paper analyzes comparative perspectives from the United Kingdom, United States, Canada, and Australia to understand global best practices in criminal procedural drafting. The doctrinal distinctions between appeal, revision, and review are critically analyzed to help legal practitioners choose the correct remedy and adopt suitable drafting strategies.

In conclusion, criminal procedural drafting in India stands at a unique juncture, anchored in common law tradition, responsive to constitutional mandates, and increasingly influenced by global standards.

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