

**GOVERNMENT OF INDIA
LAW AND JUSTICE
LOK SABHA**

UNSTARRED QUESTION NO:2781
ANSWERED ON:19.12.2003
MISUSE OF ANTICIPATORY BAIL
IQBAL AHMED SARADGI

Will the Minister of LAW AND JUSTICE be pleased to state:

- (a) whether there has been a number of cases of misuse of provisions of anticipatory bail in the country;
- (b) if so, whether the Malimath panel has proposed for curtailing powers of court in this regard;
- (c) if so, the details thereof; and
- (d) the steps taken by the Government in this regard?

Answer

MINISTER OF STATE FOR LAW & JUSTICE (SHRI P. C. THOMAS)

(a) to (d): A Statement is laid on the Table of the House at Annexure-I.

Annexure-I

Statement in reply to parts (a) to (d) of Lok Sabha Unstarred Question No.2781 for answer on 19.12.2003

(a) to (d): Malimath Committee has noted that a Session Court or High Court is empowered to grant bail u/s 438 of Criminal Procedure Code irrespective of the fact whether it has the jurisdiction to hear the matter or not. Further, the law does not require the public prosecutor being heard, irrespective of the gravity of the offence. It is stated that this provision has been often misused by rich and influential people and proposed that Section 438 of the Criminal Procedure Code regarding anticipatory bail be amended to the effect that such power should be exercised only by the court of competent jurisdiction only after giving the public prosecutor an opportunity of being heard. The report of the Malimath Committee has been forwarded to the State Governments for their comments. The Criminal Law is on the concurrent list of the Seventh Schedule of the Constitution. Therefore, amendments to the Criminal Procedure Code 1973 and Indian Penal Code 1860 on the basis of the recommendations of the Malimath Committee will depend on views of the State Government as well as that of the Central Government and no definite time frame can be fixed.