

## ARTICLE 21 EXTEND TO FOREIGN NATIONALS – POLITY

HC grants bail to Bangladeshi woman: 'foreigners too have right to liberty under Article 21. The Punjab and Haryana High Court affirmed that Article 21's right to personal liberty extends to foreigners, granting bail to a Bangladeshi woman. This decision aligns with the Supreme Court's historical expansion of Article 21, which now includes a wide range of human rights beyond mere physical freedom.

### Judicial Affirmation – Article 21's Protection Extends to Foreign Nationals

#### 1. The News Context

**Core Issue** – The Punjab and Haryana High Court recently granted bail to a Bangladeshi woman who was accused of forgery and residing in India illegally.

**Landmark Ruling** – The decision is significant because it was based on the foundational legal principle that Article 21 of the Indian Constitution, which guarantees the right to personal liberty, is a universal right that applies to all persons on Indian soil, including foreign nationals.

#### 2. Key Aspects of the High Court's Ruling

**Personal Liberty as a Universal Right** – The High Court strongly emphasized that the right to personal liberty is not confined to Indian citizens. It observed that holding a foreign national in prolonged detention simply because they cannot furnish local sureties would result in an "irreversible injustice."

**Broad Interpretation of the Word 'Person'** – The court's reasoning hinged on the specific wording of the Constitution.

1. It pointed out that Article 21 uses the word 'person', which is intentionally wide in its scope.
2. This contrasts with other articles, like Article 19 (which grants certain freedoms), that specifically use the word 'citizen'. This deliberate choice of words signifies that the framers of the Constitution intended for the protections under Article 21 to be universal.

**The State's Obligation to Protect** – The ruling places a positive duty on the State. It is not enough for the State to simply refrain from unlawful detention; it has an active obligation to protect the liberty of all individuals, including foreigners, and to ensure that any deprivation of liberty happens strictly in accordance with a "procedure established by law" that is fair and just.

**Pragmatism in Bail Conditions** – The court acknowledged the real-world difficulties that undocumented migrants face in finding local residents to stand as sureties for their bail. It ruled that bail conditions cannot be so harsh or impractical that they become impossible to meet, as this would effectively deny the accused their freedom and render the bail order meaningless.

#### 3. Understanding Article 21 of the Indian Constitution

**Core Guarantee** – Article 21 is a cornerstone of the fundamental rights in India. It states that "No person shall be deprived of his life or personal liberty except according to a procedure established by law."

**Safeguard Against Arbitrariness** – Its primary function is to ensure that the executive and legislative branches of the government cannot act arbitrarily to take away an individual's life or liberty. Any such action must be backed by a fair, just, and reasonable law.

**Broad Scope of Rights** – Over the years, the judiciary has interpreted Article 21 expansively to include a wide array of rights essential for a meaningful existence:

1. **The Right to Life** – This has been interpreted to mean more than mere survival. It encompasses the right to live with human dignity, the right to a livelihood, and the right to a healthy and clean environment.
2. **The Right to Personal Liberty** – This includes the freedom to move, reside, and work lawfully without unreasonable restrictions.

#### 4. The Evolution of Article 21 Through Supreme Court Judgments

The scope of Article 21 has been progressively widened through a series of landmark judgments by the Supreme Court.

1. **Early Interpretation (A.K. Gopalan v. The State of Madras, 1950):**

Initially, the Supreme Court took a very restrictive view, interpreting 'personal liberty' to mean only the 'liberty of the body,' which is freedom from physical arrest and wrongful detention.

2. **Broadening of Scope (R.C. Cooper v. Union of India, 1970):**

In this case, the court began to view fundamental rights as an integrated whole, holding that personal liberty under Article 21 is interconnected with the six fundamental freedoms guaranteed to citizens under Article 19(1).

3. **The Maneka Gandhi Revolution (Maneka Gandhi v. Union of India, 1978):**

This was a watershed moment. The Supreme Court ruled that the "procedure established by law" under Article 21 must be fair, just, and reasonable, not arbitrary. It declared that the right to life is not limited to "mere animal existence" but includes the right to live with human dignity.

4. **Right to Livelihood & Shelter (Olga Tellis v. Bombay Municipal Corporation, 1985):**

The court recognized the right to livelihood as an integral part of the right to life under Article 21. It reasoned that since livelihood is essential for life, the eviction of pavement dwellers without providing alternative arrangements would violate their fundamental right to life.

5. **Right to Dignity & a Safe Environment (Vishaka v. State of Rajasthan, 1997):**

The court held that the right to a safe and secure working environment, free from sexual harassment, is a fundamental right that flows directly from the right to life and personal liberty under Article 21.

6. **Right to Privacy (K.S. Puttaswamy v. Union of India, 2017):**

In this landmark judgment, a nine-judge bench of the Supreme Court unanimously recognized the right to privacy as a fundamental right, protected as an intrinsic part of the right to life and personal liberty under Article 21.

7. **Right to Die with Dignity (Common Cause v. Union of India, 2018):**

Expanding the concept of a dignified life, the court legalized passive euthanasia and recognized the right to die with dignity as a fundamental right under the umbrella of Article 21.

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