JUDGES MUST GIVE REASONS FOR BAIL DECISIONS, SAYS SC

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Judges are duty-bound to give reasons for granting or denying bail, especially in cases involving serious offences and hardened criminals, the Supreme Court has held.

Cryptic bail orders without giving any reasons have no place in the judicial system, it said on Tuesday.

"There is a recent trend of passing such 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," a Bench led by Chief Justice of India N.V. Ramana observed in a judgment.

The case concerned the grant of bail by the Rajasthan High Court to a man accused of raping his minor niece for years. The man is an "infamous criminal" with 20 pending criminal cases to his name, involving offences like murder, attempt to murder, kidnapping, dacoity, etc.

Fundamental tenets

Setting aside the bail order, Chief Justice Ramana, who wrote the verdict, observed that "judges are duty-bound to explain the basis on which they have arrived at a conclusion... Reasoning is the life blood of the judicial system. That every order must be reasoned is one of the fundamental tenets of our system. An unreasoned order suffers the vice of arbitrariness".

Bail revoked

"There is need to indicate reasons for *prima facie* concluding why bail was being granted particularly where the accused is charged of having committed a serious offence. Any order devoid of such reasons would suffer from non-application of mind…" the judgment noted.

The judgment said the High Court erred in granting bail to the accused in a mechanical manner without any reasoning. The top court ordered the accused to surrender in a week.

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