

Bill Summary

The Rajasthan Control of Organized Crime Bill, 2023

- The Rajasthan Control of Organized Crime Bill, 2023 was introduced in the Rajasthan Legislative Assembly on March 15, 2023. The Bill aims to make special provisions to prevent and control organised crime.
- **Organised Crime:** Organised crime refers to any continuing unlawful activity carried out by an individual, either as a member or on behalf of a criminal organisation, through the use of: (i) violence, (ii) threats, (iii) intimidation, or (iv) other illegal means. The aim of such activities may include: (i) gaining financial or economic advantage, or (ii) promoting insurgency. Continuing unlawful activity means an activity which is (i) a cognisable offence, punishable with a minimum imprisonment of three years and (ii) for which more than one chargesheets have been filed in the preceding ten years. An organised crime syndicate is defined as two or more individuals indulging in organised crime.
- **Penalties related to organised crime:** The Bill provides punishments for various offences related to organised crime. If an offence results in the death of any person, the punishment shall be death or life imprisonment, along with a minimum fine of one lakh rupees. If an individual possesses or has possessed unaccountable wealth on behalf of a member of an organised crime syndicate, they shall be punished with imprisonment from three to ten years and a minimum fine of one lakh rupees. The Court may additionally declare any movable or immovable property of the convicted to be forfeited to the state government.
- In any other case of organised crime including: (i) abetting the commission of organised crime, (ii) attempting to or harbouring a member of an organised crime syndicate, or (iii) being a member of an organised crime syndicate, the punishment shall be imprisonment from five years up to life and a minimum fine of five lakh rupees.
- **Interception of communication:** Under the Bill, a police officer (rank of superintendent or above) may intercept wire, electric or oral communication if such interception may or has provided evidence of an offence related to an organised crime. The officer must seek authorisation from the competent authority, who must be a government officer from the Home Department not below the rank of Secretary to the Government. The application of authorisation must provide information including: (i) facts and circumstances to justify the use of interception, (ii) if other modes of intelligence have been tried and failed, (iii) the period for interception, and (iv) previous applications for authorising interception of communications against the person. The competent authority may accept the application if certain conditions are met including: (i) there is probable cause that organised crime is being committed, (ii) other modes of intelligence gathering have failed or are insufficient, and (iii) communications related to the offence may be obtained through such interception.
- The decision of the competent authority, along with the reasons, must be submitted to a Review Committee. The Committee will be chaired by the Chief Secretary to the Government and comprise of two members. It may approve or disapprove the competent authority's decision.
- **Offences and penalties related to interception:** Police officers who intercept or attempt to intercept communications outside the ambit of the Bill shall be punished with imprisonment of up to a year and a fine of Rs 50,000. Other punishable offences include: (i) disclosing details of interceptions to other individuals, and (ii) violating orders of the Review Committee.
- **Trial:** The state government may constitute one or more Special Courts for trying offences under the Bill. These courts will be presided over by judges appointed by the state government, in concurrence with the Chief Justice of the Rajasthan High Court. The judge must be a sessions judge. The state shall also appoint a public prosecutor. Under the Bill, the accused will be presumed to be guilty if: (i) unlawful arms and material such as documents are recovered from him, or (ii) the evidence of an expert provides that fingerprints of the accused have been recovered from the site of the offence or on evidence such as documents and unlawful arms.
- Any proceedings may be held in camera. The Special Court may allow for the protection of witnesses such as avoiding mentioning names and addresses of witnesses in orders, judgements or records which are publicly accessible.

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