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Lawyers strike to bail themselves out

8 Jan 2009, 03:26 hrs IST, Abhinav Garg, TNN

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NEW DELHI: For all their public posturing and indignation against the CrPC amendment vesting greater discretionary powers with the police in making an arrest,

lawyers privately admit their opposition to it because the changed [law](#) will reduce bail cases.

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Though loathe to come on record, lawyers across various district bar associations in Delhi which struck work on Wednesday predicted a drastic fall in bail cases due to the CrPC amendment. Since it gives greater leeway to an investigating officer (IO) to decide if an arrest is warranted or not in offences which carry a maximum sentence of seven years' imprisonment, observers say number of arrests for such crimes is likely to come down and so will the corresponding bail matters ending up

before courts.

The bar associations, however, have wrapped their grievances in dire warnings of lawlessness and increased crimes against women, since a molester can now walk away secure in the knowledge that he might not be arrested. Still, was going on strike the solution, given that every judicial authority from the [Supreme Court](#) to Delhi High Court has repeatedly directed lawyers to refrain from this option?

"It isn't a strike on principle and policy," says senior lawyer Kamini Jaiswal, referring to Wednesday's protest. She said it was the loss of clients due to less bail pleas that was causing heartburn to most district lawyers, "Litigant had nothing to do with the amendment but it is he who suffers the most because of such strikes. Even when SC has termed strike as 'gross misconduct' lawyers resort to it, this is extremely unfortunate. If we take a fee we are dutybound to provide legal service to our clients," she said.

While the bar associations claim the amendment will lead to increase in crimes like kidnapping, stabbing, forgery etc, lawyers like Ashok Arora see nothing wrong in the amendment, concluding it will in fact "help administration of justice". He added, "Whether bail matters will be reduced or not shouldn't be concern of any profession.

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Lawyers strike to bail themselves out...

"Whether bail matters will be reduced or not shouldn't be concern of any profession. As lawyers our aim should be to help in administration of justice."

Even the judges, speaking on condition of anonymity, maintained the bar striking work at the drop of a hat on every issue was unacceptable. "In [district courts](#), many lawyers are dependent on fighting cases for anticipatory or interim bail. Therefore this amendment has left them fuming," added an HC judge familiar with the workings of lower courts.

It was left to Delhi High Court Bar Association president K C Mittal to stand by his lower court counterparts and back their demands. "Amendment does suffer from many defects which will have consequences like escalation of crime. Giving discretion to police to arrest or not means there will be no deterrence," Mittal told TOI. When asked if going on strike was a good way to protest against this change, Mittal claimed it was being done only to warn the public of what trouble lies ahead due to the changed CrPC. "How do we raise a point? We keep shouting, sending representations, letters, etc but no one listens."

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