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Topic : Bail and bond

**What is bail?**

There is no specific defination of bail in the code of criminal procedure 1898. Basically bail means temporary release of an accused person. There are two essential of bail one is **bail bond** another is **surity.**

**Bail bond**

it is a specific form of court. The person who is bailed fill up the form and court for bail fixed a amount which is mentioned in the bail bond.

**Exception of bail bond**

section 513 excluded the bail bond for minor as he is not competent to contract.

**Surity**

He must be a competent person to contract. He is the guarantor of the accused. He sign in the bail bond. The person who is bailed if failed to fulfill the condition of bail or not present in the court when required then surity will give the money mentioned in the bail bond.he basically takes responsibly.

**Bail given in bailable offence**

Section 496 deals with bail in case of bailable offence. In bailable offence bail is the statutory right of the accused person. In bailable offence giving bail is imperative to court here court is bound to give or grant bail.

**Bail given in non-bailable offence**

Section 497 deals with bail in non-bailable offence. The accused has no right to get bail. Here court may grant bail or not that means in non- bailable offence giving bail is court’s discretionary power. The court will not grant bail in non-bailable offence if the accused liable to that offence Which punishable under death sentence or imprisonment for life. Like murder, dacoity with murder, sedition.

**In some circumstances court may grant bail in non-bailable offence though punishable with death sentence or imprisonment for life using It’s discretionary power.**

**Firstly** if the accused is under the age of 16 years that means he is minor then court will grant him bail.

**Secondly** if the accused is a woman or a pregnant woman then court will grant bail to her in non-bailable offence.

**Thirdly** when the accused is sick or infirm the court may grant bail to him in case of non-bailable offence.

**There are some more grounds under which a accused can get bail in -non bailable offence and he is excluded from surity.**

**Firstly** At the stage of inquiry or trial if the court found no reasnable ground that the accused has done the non-bailable offence and if thinks need further inquiry then without surity just signing in the bail bond the court may grant bail. Court must record the reason to grant bail in non-bailable offence.

**Secondly**  after termination of trial proceedings and before pronouncement of judgement if court found there is no reason to believe that he done the offence then court may grant bail to him without surity, signing in the bail bond.

**How many times an accused can apply for bail?**

An accused can apply for bail for many times there is no limitation but he has to show fresh ground or new cause for getting bail.

**Types of bail**

There are different types of bail like conditional bail, interim bail, bail of an accomplice , anticipatory bail and bail of an convicted person.

**Conditional bail**

In bailable offence getting bail is his statutory right here court impose no condition but in non- bailable offence court may impose some condition like he has to stay in a specific area and can’t go beyond the area and when court order him to present, he has to present before court.

**Interim bail or parole bail**

When a case is in investigation stage, court may grant bail on some grounds like to attain in an exam, to present in Janaja of any relatives of the accused.

**Bail of an accomplice**

If the accomplice Didn’t get any bail before become accomplice, then after become accomplice he can’t get any bail. until the termination of trial proceedings he has to stay in the custody.

**Bail of convicted**

Section 426 deals with bail of a convicted person. If the accused is convicted for 1 year imprisonment and if he satisfied court for appeal, here court will grant leave to appeal and grant bail to him, during this period sentence will remain postponed. If sentence for more than one year than may grant bail or not.

If bail is granted for an accused who is under jail then court order to the officer of jail to release him.

Under section 500, if any accused bound to detain in jail for another offence except for the offence for Which submit bond and get bail then can claim release from the custody.

**Anticipatory bail**

If there is apprehension that a person is accused and police may arrest him then the accused may apply for anticipatory bail to the High court Division and session court. Section 498 gives power to the HCD and session court to grant anticipatory bail. Both in bailable and non-bailable offence it is permitted. The provision of section 497 will not be applicable here like though the accused is liable under the offence punishable with death sentence or life imprisonment, HCD or session court can grant anticipatory bail to the accused.

**Forfeiture of band**

Upon violating the conditions of bail like if don’t present in the court when required or threats witness then bond will be forfeitured . section **514** says that when a band forfeiture, the court will record it and said to the surity to give the money mentioned in the bail bond or show cause why he will not give the money. If he gives no money and fail to show cause and reasonable ground then court will attached his movable property and after his died his remain property. Here court can attach Both the property under It’s jurisdiction or beyond It’s jurisdiction.

If the attaching property is not sufficient to recover the penalty money then court may issue warrant to arrest him and can detain him in civil prison upto 6 month. The court may remit the amount of the penalty using descriatinary power.

Before forfeiture of bond if the surity died then he is excluded from al liability and his property will not be attached.

**Discharge of surity**

Under section 501 if court found that the surity is not fit or competent person then may order to accused find competent surity. If he filed to find surity then court may order to sent him jail.

Under section 502 surity can apply to the magistrate court for dismiss his name form the bond and upon this application court may order to the accused to present in the court and magistrate will dismiss the name of the surity from bond at presence of accused. Court then order to the accused to find a fit surity and if he failed then he will be sent to jail.