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# **SUBORDINATE COURTS' BAIL GUIDELINES**

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Bail Administrator  
Bail Centre  
Subordinate Courts  
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## **SECTION ONE**

### **(I) Introduction**

The object of bail is to secure by a pecuniary penalty, the appearance of the accused at his trial. Once an accused person is produced in court, whether under a warrant of arrest or a summons, he is thereafter under the jurisdiction of the court. The court is empowered to ensure his future attendance. In order to give effect to this, the accused is ordered to provide security in the form of bail.

An accused person is presumed innocent until his guilt is proved and depending on the nature of the offence is entitled to pre-trial liberty. Nonetheless, the court has to balance the interests of the State in having to protect the public. Therefore, the exercise of judicial discretion in determining whether to grant bail and thereafter the appropriate bail quantum would always involve a careful and analytical process. This process must be based on consideration of all available information produced before the court. The principles and general bail quanta listed below are intended to provide guidance in the exercise of this discretion and in setting the amount of bail in relation to offences which are frequently prosecuted in the courts.

It is settled law that bail should not be punitive but set at a sum that is sufficient in the circumstances of the case to procure the attendance of the accused at his trial. Currently offences are classified into “bailable” and “non-bailable” offences under the Criminal Procedure Code i.e. whether the offence is bailable as of right or not.<sup>1</sup> An accused person charged for a bailable offence is entitled to bail. Where an accused person is arrested or detained for a non-bailable offence, his release is at the discretion of the police or the courts<sup>2</sup>. However he shall not be released if there are reasonable grounds for believing that he is guilty of committing an offence punishable with death or life imprisonment.

### **(II) Principles and methodology in granting bail**

Two fundamental questions need to be addressed separately in dealing with bail applications:

- (a) whether bail should be granted; and if so,
- (b) the appropriate bail quantum.

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<sup>1</sup> Schedule A Criminal Procedure Code (Cap 68)

<sup>2</sup> Section 352 CPC

In determining whether to grant bail to an accused, the factors that the court would consider include the following:-

**(a) Probability of appearance at trial**

- (i) whether the accused has a fixed place of abode within the jurisdiction;
- (ii) whether the accused is domiciled or is a permanent resident in the country;
- (iii) the nature and seriousness of the offence, the punishment prescribed and the likely sentence to be imposed upon conviction i.e. whether there is a provision for a fine or mandatory custodial sentence or other punishment such as caning;
- (iv) the nature and the strength of the evidence in support of the charge e.g. where the evidence comprises confessions, admissions, material eye-witness accounts, or is supported by medical or scientific evidence such as HSA reports;
- (v) whether the accused, if released on bail, is likely to abscond;
- (vi) whether the accused has made an attempt to leave the jurisdiction without the permission of the court or the investigating officer;
- (vii) the extent of the accused's ties and roots in Singapore.

**(b) Likelihood of interference with the judicial process**

- (i) whether there is evidence of a likelihood that the accused will tamper with prosecution evidence;
- (ii) whether the accused is likely to procure false evidence either in support of his defence or to exonerate other accused persons involved in the commission of the offence;
- (iii) whether the accused is likely to convey information acquired during the investigations to other accused persons not yet arrested or charged for the offence.

**(c) Public safety considerations**

- (i) where offences against the person are involved, whether the attack was deliberate, provoked, triggered by frustration or motivated by vengeance.
- (ii) whether the attack was by a group/secret society, gang or triad;
- (iii) the nature of violence inflicted on the victim and the extent of injuries suffered;
- (iv) the type of weapon or corrosive substance used;
- (v) whether the accused is likely to repeat the offence while on bail;
- (vi) whether the accused has displayed a propensity towards violence and can be regarded (possibly after psychiatric assessment from IMH) as one who has no respect for life and property;
- (vii) the number of charges preferred against the accused;
- (viii) whether the accused is a persistent offender with previous criminal convictions for serious or violent offences. In such cases, the previous conviction or record of the accused shall not be referred to in a manner that will prejudice his or her right to a fair trial. Furthermore, the court may in its discretion either hear the proceedings *in camera* or exclude from the proceedings all those other than the officers of the court, persons directly concerned with the proceedings and the press and such other persons if any as the court may permit to remain. It should be noted that when the press is allowed to remain, no information relating to the criminal record of the accused applying for bail should be published in a written publication or be broadcast.

**(d) Preparation of the defence**

- (i) whether in the circumstances of the case, and the nature of the alleged offence, a refusal of bail would deprive the accused of the opportunity to adequately prepare his defence;
- (ii) whether there is a likelihood of the prosecution withdrawing or reducing the charges;

**(e) Likelihood of obtaining further evidence by remand**

- (i) whether sufficient evidence has been obtained to raise a reasonable suspicion that the accused may have committed the alleged offence and it appears likely that further evidence may be obtained by investigators during a short period in remand;
- (ii) whether the period of remand requested by the police is reasonable in the circumstances of the case.

**(f) Humanitarian grounds**

- (i) the long period of detention of the accused and probability of further period of delay in the accused's trial;
- (ii) the likelihood of the trial being protracted resulting in a long period in remand;
- (iii) age, sex and state of health of the accused in remand.

**(g) Other factors**

- (i) whether the accused had previously been refused bail by another court and is awaiting trial;
- (ii) the accused's previous conduct and behaviour in court;
- (iii) whether the principal accused, accomplices and co-accused (if any) have been offered bail;
- (iii) whether the accused surrendered himself to the authorities;
- (iv) whether the accused co-operated with the authorities and assisted in the investigation to recover evidence or misappropriated other property;
- (v) whether the accused had made restitution in part or in full;
- (vi) whether the accused had shown any remorse for the commission of the offence/s;
- (vii) whether the accused is addicted to a controlled drug or other intoxicating substance/s.

### **(III) Bail Amounts**

Sufficient security must be furnished by a surety to ensure the attendance of the accused at his trial. The suggested guidelines in this section are meant to apply to a Singaporean accused who faces one charge only and has no antecedents. Where the accused is a foreigner, bail is likely to be set at a higher amount as there is a greater risk of him absconding.

The suggested bail quanta listed below are intended only to serve as general guidelines. They may be adjusted upwards or downwards depending on the facts and circumstances of the case, bearing in mind considerations such as:

- a. the seriousness of the offence(s) – including the likely sentence upon conviction and any mandatory sentences;
- b. the number of charges involved;
- c. the accused's antecedents (if any);
- d. the accused's individual circumstances, including his means of raising bail;
- e. where the offence relates to property, the benefits obtained or loss caused by the accused, including the value of any unrecovered property;
- f. whether the accused surrendered himself.

The court will also evaluate, based on available evidence, the likelihood of the accused absconding if he is released on bail and consider what would be an appropriate amount to secure his attendance.

As a general guide, bail in respect of offences investigated by the police and other enforcement agencies is set at \$5,000 upwards. Bail in respect of regulatory offences is usually set at between \$1,000 to \$5,000. These include offences under the following legislation and subsidiary legislation, which do not attract mandatory imprisonment and usually result in the imposition of fines only (in the case of first offenders) upon conviction:

- a. Copyright Regulations
- b. Environmental Public Health Act and Regulations
- c. Hire-Purchase Act
- d. Immigration Regulations
- e. Parking Places Act and Rules
- f. Property Tax Act
- g. Public Utilities Regulations
- h. Road Traffic Rules
- i. Town Councils Act

## **General Bail Formulae**

<b>S/No</b>	<b>Punishment Prescribed</b>	<b>Bail Amount Guide</b>
1.	Offence is punishable with <i>fine only</i>	\$1,000 - \$5,000 or Up to the maximum fine
2.	Offence is punishable with <i>mandatory minimum fine</i>	Consider setting bail at minimum fine amount or upwards
3.	Offence is punishable with imprisonment for up to <i>1 year</i>	\$2,000 - \$10,000
4.	Offence is punishable with imprisonment for up to <i>3 years</i>	\$5,000 upwards
5.	Offence is punishable with imprisonment for up to <i>5 years</i>	\$10,000 upwards
6.	Offence is punishable with imprisonment for up to <i>7 years</i>	\$10,000 upwards
7.	Offence is punishable with imprisonment from <i>7 years upwards</i>	\$20,000 upwards
8.	Offence is punishable with <i>mandatory imprisonment term</i> *	\$6,000 upwards
9.	Offence is punishable with <i>mandatory caning</i> *	\$10,000 upwards
10.	Offence is punishable with either <i>Mandatory minimum imprisonment of 1 year</i> * OR <i>Mandatory minimum caning of 3 strokes</i> *	\$12,000 upwards
11.	Offence is punishable with either <i>Mandatory minimum imprisonment of 2 – 3 years</i> * OR <i>Mandatory minimum caning of 6 strokes</i> *	\$20,000 upwards
12.	Offence is punishable with either <i>Mandatory minimum of 5 years upwards</i> * OR <i>Mandatory minimum caning of 12 strokes</i> *	\$30,000 upwards
*	To consider scaling bail amount upwards if offence is punishable with mandatory minimum imprisonment term AND caning	
Note	Where the offence relates to property and the property is not recovered, the bail amount should generally bear some proportion to the value of the unrecovered property.	

### **(IV) Imposition of Additional Conditions**

In the event the court releases an accused on bail, additional conditions may be imposed in the bail bond for the accused and the bailor to comply with. Should additional conditions be imposed, the court may take them into account in

determining the appropriate bail quantum. However, the additional conditions must be such that the accused and the surety are in a position to comply with them. The conditions should preferably also be easily enforceable.

Some additional conditions that the court might impose in the bail bond are that: -

- (i) the accused refrains from attending such premises or other place as the court may specify;
- (ii) the accused should not approach or communicate with the victim and/or other witnesses whilst released on bail;
- (iii) (in cases involving domestic violence) the accused voluntarily leaves the matrimonial home and takes up residence elsewhere i.e. to reside or remain in a particular place in the State to prevent interference with the family;
- (iv) the accused reports routinely (e.g. daily/weekly) to the nearest police station at specified intervals to ensure that he remains within the jurisdiction;
- (v) the accused surrenders all travel documents forthwith to the Investigating Officer;
- (vi) where the accused was granted permission to leave the jurisdiction, he reports to the Investigating officer (IO) upon his arrival within the jurisdiction and surrenders to the IO his international passport and/or other travel documents;
- (vii) the accused furnishes a signed promise by trustworthy persons or an organization that they would ensure his proper conduct and appearance in court.

A breach of any of the above conditions may entail bail being revoked and the accused being remanded pending trial. This would serve to instill in accused persons the serious consequences of breaching the conditions of their bail bonds. Bail may also be revoked if the accused is charged for a fresh offence while on bail for an earlier offence.

#### **(V) Application by an accused to leave jurisdiction**

An accused is not allowed to leave the country whilst he is on bail unless he has obtained the court's permission to do so. Such applications are often made before the trial, at adjournments during the trial, and even after conviction of the accused.

Once an accused person has been charged in court, the risk that he may abscond is apparent. This risk increases after he has been convicted. In determining whether to grant an application to leave the jurisdiction, the court will require good reasons why he ought to be allowed to do so. Before permission to leave the jurisdiction is granted, the court must ascertain from the surety whether there is any objection to the application. In addition, bail will usually be increased. If the existing surety objects to the application, the accused should find a new surety who is prepared to consent to the application and who will undertake the original bail as well as any additional bail imposed.

When such applications are made before or during the trial, subject to the surety's consent being obtained, the following factors are relevant in deciding whether to allow the application, and in assessing an appropriate amount of bail to secure the attendance of the accused, namely: -

- a) whether the accused is a foreigner.;
- b) whether the accused is gainfully employed and is either working or has business interests outside the jurisdiction; If so, the court may require the production of documents to substantiate the type of business, course, conference etc. requiring the accused's attendance and ascertain the length of time required for the accused to remain outside the jurisdiction (e.g. return air-tickets, visa etc);
- c) whether the accused has family, property and business interests within the jurisdiction that ought to deter him from absconding;
- d) whether the accused has made full or substantial restitution in respect of the offence/s charged;
- e) the seriousness of the charges against the accused;
- f) whether there is a likelihood of the prosecution amending the charges to lesser ones;
- g) whether there is a valid defence to the charges;
- h) whether the case is still under investigation;
- i) the possibility of interfering with prosecution witnesses who may reside overseas or with documentary evidence that may be located overseas;
- j) whether the accused is required to keep to a curfew, remain at a

particular place or required to undergo regular urine tests at a particular police station on specified dates;

- k) whether the accused will be posting additional bail as added security to cover the period of the trip;

#### **(VI) Bail Pending Appeal**

An accused, after his conviction at a trial, may appeal against the conviction on grounds of fact or law. He may also appeal against the sentence. An accused who has pleaded guilty may only appeal against sentence imposed on grounds that it is manifestly excessive. Once an appeal is filed, the accused (now the appellant) may apply for bail pending appeal<sup>3</sup>.

When such an application is made, the current practice is for the District Court or Magistrate's Court that recorded the conviction to hear the application. The judge dealing with the matter would be conversant with all the facts of the case. If the judge is unavailable, another judge may be assigned to hear the matter. On receipt of such an application from the appellant's solicitor in writing, a hearing date to deal with the application will be set down.

In the exercise of its discretion to grant bail pending appeal, the court has to evaluate the following factors:

- a) the gravity of the offence;
- b) whether the length of the term of imprisonment is shorter than the length of time before which the appeal is likely to be heard;
- c) whether the accused is a first offender or has previous convictions;
- d) whether there are difficult points of law involved;
- e) the possibility of the accused repeating similar or other offences whilst on bail pending appeal; and
- f) whether the security imposed will ensure the attendance of the accused before the appellate court.

An appellant dissatisfied that a District Court or Magistrate's Court disallowed the

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<sup>3</sup> Section 248 Criminal Procedure Code

application or with the amount of bail set may apply<sup>4</sup> to the High Court for a revision of the order or the bail amount set.

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<sup>4</sup> Section 354(1) Criminal Procedure Code