

BAIL

APPELLATE & TRIAL DIVISION
ATTORNEY'S GENERAL CHAMBERS OF MALAYSIA

RELEVANT PROVISIONS:

- Section 387 to 394 of the CPC.

Question:

What is the purpose of bail?

TYPES OF BAIL:

- 1) Bail pending investigation/inquiry.
- 2) Bail pending trial.
- 3) Bail pending appeal (stay of execution).

CLASSIFICATIONS OF OFFENCES:

- 1) **UNBAILABLE OFFENCES.**
 - Offence where bail cannot be granted in any situation.
 - For eg: S.41B DDA, S.12 (FIPA) 1971.

Continue...

2) NONBAILABLE OFFENCES (S.388 CPC)

- Any other offence which does not falls under bailable offence.
- Bail is of the discretion of court. Amount and condition of bail is based on the gravity of the offence charged (**Lim Kiap Khee v PP [1988] 1 MLJ 198**).
- 3 types of accused person may be released on bail: **Proviso to S.388 (1) CPC**.

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3) BAILABLE OFFENCES.

- An offence shown as bailable in Column 5 of the First Schedule to the CPC or made bailable by any other law for the time being in force: S. 2 (1) of the CPC.
- The accused person shall be released on bail as of right: S.387 (1) CPC.
- Conditions cannot be imposed for bailable offence.

Consideration In Setting The Amount Of Bail:

- The nature and severity of the offence and the severity and degree of punishment which conviction might entail.
- The likelihood of accused absconding.
- The danger of the offence being continued or repeated.
- The danger of the witnesses being tampered with.
- Case: **Che Su Binti Daud v PP [1978] 1 MLJ 162**

Can bail be revoked?

Bailor's Responsibility

- To ensure the attendance of the accused before the court.
- Case of **Datuk Harun Bin Haji Idris & Ors v PP [1978] 1 MLJ cliiii.**

Bail Pending Appeal

Appeal against acquittal

- Appeal by the PP.
- S.315 CPC, S.56A and S.88 CJA 1964.
- Upon application by the PP.
- Discretion of the court.

Appeal against conviction.

- Appeal by the accused upon conviction.

Any question?

