

CONDITIONAL BAIL SCOPE AND LIMITS

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CONDITIONAL BAIL

- Conditional bail refers to the release of an accused from custody while awaiting trial under specific conditions set by the court. These conditions are imposed to ensure the person's compliance with the legal process and to mitigate potential risks associated with their release.
- Conditions may include directions to reside in a particular locality or to abstain from visiting a particular locality or to report to the police or other authority at specified intervals.

CONTOURS OF CONDITIONAL BAIL

The contours or specifics of conditional bail can vary depending on the circumstances of the case and the court's discretion, but they commonly include:

1. Standard Conditions.
2. Additional Conditions.
3. Case-Specific Conditions.
4. Revocation of Bail.

1. Standard Conditions

- Appearance in Court.
- Non-interference.
- Travel Restrictions.
- Surrender of Passport.
- Regular Reporting.
- Avoidance of Criminal Activity.

2. Additional Conditions.

- Residence.
- Curfew.
- Electronic Monitoring.
- Surety or Bail Bond.
- Treatment Programs.

3. Case-Specific Conditions

- **Restrictions on Assets:** In financial cases, restrictions might be placed on access to certain assets or bank accounts.
- **Firearm Surrender:** In cases involving violence, the accused might be prohibited from possessing firearms.
- **No-Contact Orders:** Specific restrictions against contacting certain individuals involved in the case.

4. Revocation of Bail

- If the conditions are violated, the court may revoke the bail and order the individual back into custody until trial.
- These conditions are determined by the judge or magistrate based on factors such as the severity of the alleged crime, flight risk, past criminal history and potential danger to the public. The goal is to balance the accused individual's rights with the safety of the community and the integrity of the legal process.

PERMISSIBLE RESTRICTION FOR CONDITIONAL BAIL

1. Personal Conduct Restrictions:

- Travel Restrictions.
- Reporting Requirements.
- Avoidance of Certain Individuals.
- Refraining from Illegal Activities.

2. Supervision and Monitoring:

- Electronic Monitoring.
- Regular Meetings.
- Third-Party Supervision.
- House Arrest.

3.Surrender of Documents or Items:

- Passport Surrender.
- Firearm Surrender.

4.Financial Assurances:

- Bail Bond or Surety.
- Financial Restrictions.

5.Specific Case Conditions:

- Treatment Programs.
- Rehabilitation.

6. Residency Requirements:

- Specify the address.
- Consent of person if residence is elsewhere.

7. No Contact Orders:

- Forbidding contact with victim.
- At house/workplace.

MEDIA TRIAL IN BAIL MATTERS VIS-À-VIS PUBLIC

1. Impact on Fair Trial:

1. Prejudice.
2. Judicial Independence.

2. Public Opinion:

1. Influence on Judicial Process.
2. Transparency and Accountability.

3. Ethical Considerations:

1. Presumption of Innocence.
2. Privacy and Dignity.

4. Legal Implications:

1. Contempt of Court
2. Sub Judice.
3. Disclosure of name/details of victim.

5. Balancing Act:

- Ensuring the right of the public to information and the right of accused to fair trial is a delicate balance. Courts sometimes issue gag orders or reporting restrictions to mitigate the impact of media coverage on ongoing cases.

PERCEPTION

1. From the Public:

- **Safety Concerns:** Some may view conditional bail skeptically, fearing that releasing an accused, even under conditions, could pose a risk to public safety.
- **Trust in Legal System:** Conditional bail might be seen as a measure to ensure that individuals facing charges can await trial outside of jail, demonstrating trust in the legal system's ability to monitor them adequately.
- **Fairness and Human Rights:** Many perceive conditional bail as a way to uphold the presumption of innocence and an individual's right to liberty until proven guilty. It is seen as a means to prevent unnecessary pretrial detention.

2. Legal and Judicial Perspectives:

- **Balancing Rights:** Courts often view conditional bail as a way to balance the right of the accused with the need to ensure appearance in court and protect the community from potential risks.
- **Case-Specific Decisions:** Judges consider the specifics of each case when setting bail conditions, aiming to prevent flight risk, potential danger, or interference with the legal process.
- **Effectiveness of Monitoring:** The perception may depend on the efficacy of monitoring systems in ensuring compliance with bail conditions. Strong monitoring can instill confidence in the effectiveness of conditional release.

3. Criticisms and Challenges:

- **Inequality in Access:** Some argue that conditional bail conditions can disproportionately affect those with fewer resources, as they might struggle to meet certain conditions (e.g., financial requirements, access to suitable residences).
- **Effectiveness Concerns:** There might be skepticism about the effectiveness of bail conditions in preventing further crimes or ensuring the appearance of the accused in court.
- **Media Influence:** Public perception can be influenced by media portrayal, which might sensationalize instances where individuals on conditional bail violate their terms.

Case laws

1. *Ayub v. State of M.P (2004) 13 SCC 457 :*

Grant of bail to accused by imposing a condition to deposit Rs. 2,50,000/-, the alleged amount of misappropriation was held to be arbitrary as it vitiated the very nature of trial. The conditional order granting bail by the lower Court was modified.

2. *Moto Ram v. State of Madhya Pradesh AIR 1978 SC 1594 :*

It was specifically laid down that condition to deposit a particular amount of money for grant of bail is unjust, irregular and improper.

3. *Motiram v. State of MP 1978 (4) SCC 47 :*

There should not be insistence on local surety for accused persons from other states. It was suggested that wherever possible friend or relatives who can be surety should be arranged. The surety system must be effective but not onerous.

4. *Sanjay Chandra v. Central Bureau of Investigation, (2012) 1 SCC 40 :*

It was held that objective of imposing condition is to secure the attendance of accused during pendency of trial and should not be punitive.

5. *Puranmal Jat vs State of Rajasthan (2023) SCC*

Online SC 1418 :

Bail in NDPS case was granted by imposing Location Sharing as a bail Condition.

6. *MURSALEEN TYAGI versus THE STATE OF UTTAR PRADESH 2023 livelaw (SC) 700 :*

Grant of bail can be subject to onerous conditions only in exceptional circumstances and not ordinarily.

Thank You!!!