

## CONDITIONAL BAIL

The Criminal Justice and Public Order Act 1994 gives the police the power to impose conditions on bail.

- Surrendering passport
- Report at regular intervals to the police station
- Get another person to stand surety for him.

## Introduction

A person can be released on bail at any point after arrest. It means they are at liberty until the next stage in the case.

Can be granted:

- By police – if suspect is released without charge – **s37 PACE Act 1984 Policing and Crime Act 2017**, the police only have the power to bail a suspect under s.37 for 28 days.
- By police – if suspect has been charged, until first appearance at Magistrates' Court - **s38 PACE Act 1984**.
- By police – **s4 Criminal Justice Act 2003** – street bail.
- By court – **Bail Act 1976** at any time.

*Implications of granting bail in indictable offences, where defendant is already on bail – **R v Weddell (2008); Jonathan Vass; Samuel Omar***  
*Criticisms that bail was being given too freely resulted in many amendments: **Criminal Justice Act 2003**.*

## LEARN ALL THESE AMENDMENTS

REMEMBER: **Article 6 ECHR** – right to a fair trial and innocent until proven guilty.

Decision to grant bail made by custody officer under **s38 PACE 1984** as amended by Criminal Justice and Public Order Act 1994

REMEMBER: **s4 Bail Act 1976** offers a presumption in favour of bail.

# Bail

Bail need not be granted if there are substantial grounds for believing that the defendant, if released, will:

- Fail to surrender to custody;
- Commit an offence while on bail;
- Interfere with witnesses or otherwise obstruct the course of justice.

Legal Aid, Sentencing and Punishment of Offenders Act 2012 in domestic violence cases, bail can be refused if it was believed that the defendant would interfere with an “associated person”.

### Factors to be considered when deciding whether or not to grant bail:

- The nature and seriousness of the offence;
- The character, past record, associations and community ties of the defendant;
- The defendant's record on surrendering to bail on previous occasions;
- The strength of the evidence against him.

**New exception under LASPO Act 2012** – bail can be refused if there is “no real prospect” of conviction at trial.

## ADVANTAGES

- Maintaining employment of defendant
- Facilitates trial preparation
- Reduction of number of defendants on remand = less cost
- Upholds defendant's human right

## DISADVANTAGES

- Alarming statistics on number of offences committed while on bail
- Risk of defendant absconding
- Risk of defendant interfering with witnesses

