

What is bail?

Produced by the Paralegal Advisory Service (PAS) 2004



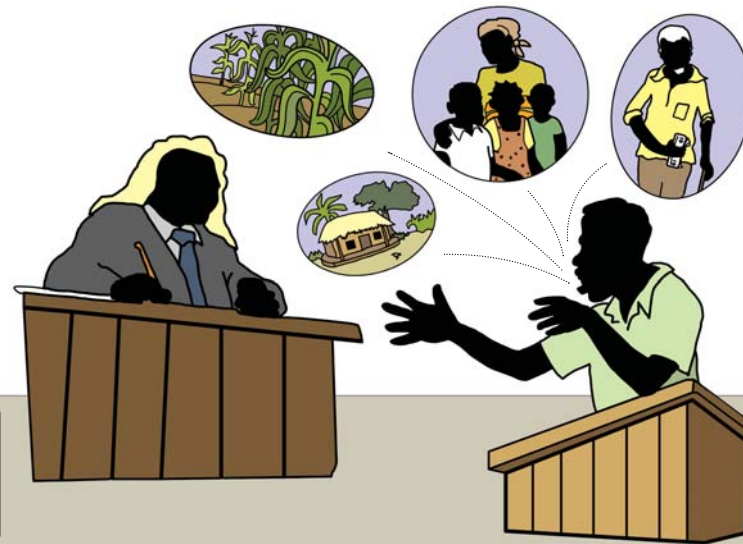
1 What is 'bail'?
Bail is provisional release while waiting for trial.



2 Who grants bail?
The court and / or senior police officers (sub-Inspector upwards).

4 Is bail always granted?
It should be unless the offence is so serious and there is a real risk that a person will run away or frighten witnesses or commit further offences or disturb public order, then the police or prosecution can raise objections.

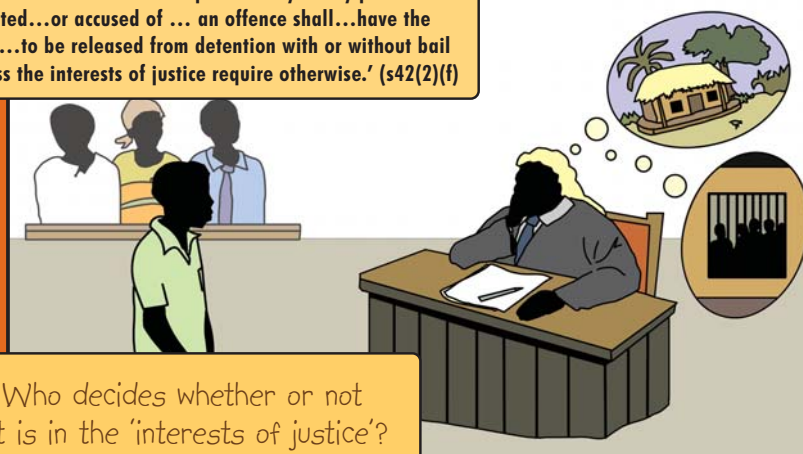
3 When should I get bail?
As soon as possible after arrest at the police station or at your first appearance at court.



5 And then the person is refused bail?
No you can meet the objections by satisfying the court that for instance:

- o You have a fixed address and can prove strong community links (by calling the TA or a teacher or other respected member of the community)
- o You can provide someone who will pay some money to the court to ensure you appear for trial (stand surety)
- o You can go and live far away (with relatives).

6 So most people should get bail?
Yes, the constitution states quite clearly 'every person arrested...or accused of ... an offence shall...have the right...to be released from detention with or without bail unless the interests of justice require otherwise.' (s42(2)(f))



7 Who decides whether or not it is in the 'interests of justice'?
The court.

8 If bail is refused – is that it?
No you can reapply to the court if there is a change of circumstances from the last time – for instance a relative provides you with an address to stay at or comes up with a sum of money to stand as surety. You can also appeal to the High Court or Supreme Court.



9 If bail is granted, what happens?
You go home and carry on with your life until the date when you must return to the court for the next hearing.

