

Information on Bail

A Resource for Litigants In Person



TABLE OF CONTENTS

What is bail? ----- page 3

I've been arrested. Can I apply for bail? ----- page 3

I want to stand bail for someone who has been charged with a criminal offence. How can I do this? ----- page 3

What can be used to stand bail? ----- page 3

Types of bail ----- page 4

Can the Court deny bail to a defendant? ----- page 5

What are the factors the Court MAY consider when deciding whether to deny bail? ----- page 6

What are some things the Court will consider in determining the suitability of a bailor/surety? ----- page 6

The Judge, Master or District Court Judge (Magistrate) gave me bail. Do I still have to come to Court? ----- page 7

Can I use my property to stand bail for two or more persons? ----- page 7

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What is bail?

Bail is the temporary release from custody of an accused person charged with a criminal offence. It is granted on the condition that the accused agrees to appear in court when required.

This booklet will help you learn more information and answer questions you may have about bail.



I've been arrested. Can I apply for bail?

Anyone charged with a criminal offence can apply for bail. You can apply for bail at the time of your arrest or at any point during your Court matter.

I want to stand bail for someone who has been charged with a criminal offence. How can I do this?

If you stand bail for someone who has been charged with a criminal offence, it means you are guaranteeing the Court that they will attend all their court hearings. When you stand bail for someone else, you will be known as a bailor or surety and may be required to give a form of security.

What can be used to stand bail?

The bailor or surety can use money or property as security to stand bail. This can be:

- Real Property (e.g., land alone, land and building)
- Cash
- Bonds or Shares



Types of bail:

- ▶ **Own Bail** — This is where the Court permits you to stand your own bail when you are charged with an offence. You are the only person required to sign the Bail Bond. You may also be required to put up your own money or property as security.
- ▶ **Cash Bail** — This is where the Court grants bail by requiring a sum of money be paid into Court. This is done by certified/manager's cheque.
- ▶ **Bail with a named surety** — This is where the Court approves a named bailor/surety in Court, using a valid Trinidad and Tobago National Identification Card, Drivers' Permit or Passport only.
- ▶ **Bail with surety** — This is where the Court grants bail however the bailor or surety is not approved at the time the bail order is made. The bailor or surety may be required to provide some form of security.
- ▶ **Bail with surety to be approved by the Registrar** — This is where the Court requires that the person who is accepted as the surety or bailor must be approved by the Registrar.



Can the Court deny bail to a defendant?

Yes, the Court can deny bail to a defendant in the following circumstances:

- where the Court is satisfied that there are substantial grounds for believing that the defendant, if released on bail would—
 - i. fail to surrender to custody;
 - ii. commit an offence while on bail; or
 - iii. interfere with witnesses or otherwise obstruct the course of justice, whether in relation to himself or any other person;
- where the Court is satisfied that the defendant should be kept in custody for his own protection or, where he is a child or young person, for his own welfare;
- where the defendant is in custody because of the sentence of a Court or any authority acting under the Defence Act;
- where the Court is satisfied that it has not been practicable to obtain sufficient information for the purpose of making a bail decision;
- where, having been released on bail in or in connection with the proceedings for the offence, the defendant is arrested for failure to surrender to custody;
- where the defendant is charged with an offence alleged to have been committed while he was released on bail; or
- where his case is adjourned for inquiries or a report and it appears to the Court that it would be impossible to complete the inquiries or make the report without keeping him in custody.

The Court may also deny bail to a defendant, where Parliament through the passage of laws limits the power of a Master or Magistrate to grant bail, or requires certain factors to be considered before deciding whether to grant bail.



What are the factors the Court MAY consider when deciding whether to deny bail?

The Court may deny bail where it is satisfied that there are substantial grounds for believing that the defendant, if released on bail, would: (i) fail to surrender to custody; (ii) commit an offence while on bail; (iii) interfere with witnesses or obstruct justice.

When making this decision, the Court may consider:

- the nature and seriousness of the offence;
- the probable manner of dealing with the defendant for the offence;
- the character, antecedents, associations and social ties of the defendant;
- the defendant's record with respect to the fulfilment of his obligations under previous grants of bail;
- except in the case of a defendant whose case is adjourned for inquiries or a report; the strength of the evidence of his having committed the offence or having failed to surrender to custody; and
- any other factor which appears to be relevant.

What are some things the Court will consider in determining the suitability of a bailor/surety?

In considering the suitability, the Court shall require the bailor/surety to provide a statutory declaration and will consider the following in relation to the bailor/surety:

- their profession, occupation, trade or business;
- their character and previous convictions, if any; and
- their proximity, whether of kinship, place or residence or otherwise, to the accused person and any other relevant consideration.



The Judge, Master or District Court Judge (Magistrate) gave me bail. Do I still have to come to Court?

Yes! Bail is an agreement given to the Court indicating that you will surrender to custody or attend all Court hearings.

If you do not come to court, the Judge, Master or District Court Judge (Magistrate) may issue a warrant for your arrest and the Court may also find you guilty of an offence.

If you are a bailor/surety and the accused does not come to Court, you can be liable to pay a sum of money to the Court.

Can I use my property to stand bail for two or more persons?

Unless the approval of the Court is first obtained, it is an offence for a person to stand surety using property which is already being used as security for another other person.

A person found guilty of this offence may be liable on summary conviction to imprisonment for two years and to a fine of three thousand dollars.



For general information on bail, you may contact a court office near you. Should you require legal advice, you may talk to an attorney-at-law or visit the office of the Legal Aid and Advisory Authority.

