

Bail

If a plea of not guilty is entered, the Court will consider bail.

Offences for Which a Magistrate Cannot Grant Bail (First 90 Days)

Section 16 of the Crime Control and Criminal Justice Act provides that a Magistrate cannot grant bail during the first 90 days after charge for certain serious offences, including:

- Murder, attempted murder, or conspiracy to murder
- Robbery or burglary involving a firearm
- Aggravated assault with a firearm
- Kidnapping
- Certain drug trafficking offences involving quantities above statutory limits
- Carnal knowledge of a girl under sixteen
- Incest
- Offences under the Firearms Act
- Certain gang-related offences
- Illegal entry under the Immigration Act
- Certain Customs offences

If charged with one of these offences, the Magistrate is legally prohibited from granting bail during the initial 90-day period.

What Is Bail?

Bail is an order of the Court permitting the release of a defendant from custody pending the conclusion of criminal proceedings. A defendant on bail remains presumed innocent unless proven guilty.

The Court may impose:

- A surety
 - A monetary amount
 - Reporting conditions
 - Behavioural conditions
 - Any other lawful condition considered necessary
-

Sureties

A **surety** is a person who guarantees that the defendant will:

- Attend court on all scheduled dates; and
- Comply with all bail conditions.

Surety Requirements

A surety must provide:

- Valid identification
- Proof of address
- In some cases, proof of employment or business ownership

The Court must be satisfied that the surety is financially capable of meeting the bail amount if forfeited.

If the bail sum is forfeited and remains unpaid, enforcement proceedings may be initiated against the surety, which may include committal to custody in accordance with the law.

Signed Bail

Where bail does not exceed \$5,000, the surety generally does not pay the amount upfront. Payment is required only if the defendant breaches bail conditions.

For higher amounts, the Court may:

- Require multiple sureties; or
 - Require collateral.
-

Collateral

Collateral is property or cash pledged to secure a defendant's compliance with bail conditions.

If land is used:

- The land must be registered with the Lands Department.
- The original land certificate must be presented.

- The property must be appraised.
- A Deed of Encumbrance must be registered for bail of \$10,000 and above.

An encumbrance places a legal claim on the property until the case concludes.

Upon conclusion of the matter, the landowner may apply in writing to the Clerk of Court for documentation to remove the encumbrance at the Lands Department.

Breach of Bail Conditions

If a defendant fails to attend court or breaches bail conditions:

1. The surety will be summoned to explain the absence.
2. The Court may grant time to locate the defendant.
3. The Court may revoke bail and issue a bench warrant for arrest.
4. The Court may order forfeiture of the bail sum.

The surety may be required to pay the full amount or enter a court-approved payment arrangement.

Withdrawal as Surety

A surety wishing to withdraw must:

- Appear in court with the defendant; and
- Provide reasons for withdrawal.

If approved, the defendant will be taken into custody until another surety is approved.
