

## 15. Can bail and bond terms and conditions be revoked?

Yes.

If you breach any of the conditions attached to the bail or bond, the court may subsequently vary or revoke the bail terms altogether. Where more charges are preferred against an accused person the court may vary or revoke the bond terms.

## 16. Who is a probation officer?

A probation officer is an officer of the court appointed under the Probation Offenders Act (Cap 64 Laws of Kenya) to provide the court with advisory information on an accused.

## 17. What is the role of a probation officer on matters of bail?

A probation officer is an officer of the court whose role is to provide advisory information on an accused when requested by the court. The advisory information may include the background of the accused, a statement from the victim of the offence, local administration and the community.

The purpose of the report is to inform the court on the suitability of granting or denying bail to the accused.

For more info, send an email to:  
**[ncaj@court.go.ke](mailto:ncaj@court.go.ke)**

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**[www.judiciary.go.ke](http://www.judiciary.go.ke)**

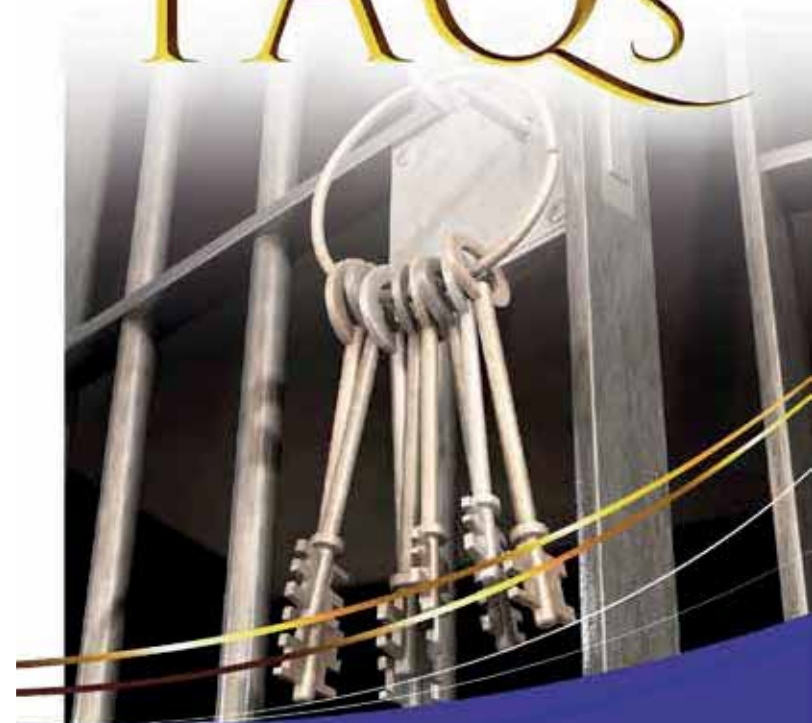
Prepared by the Bail and Bond Implementation Committee



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# BAIL & BOND ADMINISTRATION

# FAQs



## 1. What is bond?

A bond is an undertaking entered into by an accused person to comply with conditions set by the court as a condition for his/her release while awaiting or continuing with trial. There are two forms of bonds: personal bond (free bond) and bond with surety.

## 2. Who is surety?

A person who binds himself /herself to ensure that an accused person will attend court and comply with the conditions set by the court. A surety can be discharged from standing in for the accused. When a surety is discharged; an accused person is apprehended until he provides another surety to meet the set bail bond terms.

## 3. What is Personal Bond (Free Bond?)

Personal bond is a written agreement in which a person who has been arrested agrees to appear at all required court dates and promises to abstain from breaking the law while the personal bond is in force. Once the agreement is signed, the arrested person is released from custody.

## 4. What is bail?

Bail is an agreement between a suspect or accused person with the police/court that the accused person will attend court when required, and that should the accused person fail to appear, the court may issue warrants of arrest, and order forfeiture of the amount deposited.

## 5. What are my rights in relation to bail and bond?

It is your constitutional right to be released on bond or bail, on reasonable conditions, pending a charge or trial, unless there are compelling reasons not to be released. You shall not be remanded in custody if the offence you face is punishable by a fine only or by imprisonment for not more than six months.

## 6. Does being released on bail and bond mean an acquittal?

No.

It simply means that you are free as long as you abide by any conditions set by the police or court.

## Bail at the Police Station

### 7. Are there circumstances when one can be denied bail at a Police Station?

Yes.

#### What happens?

The police do not grant bail if there are compelling reasons not to. What amounts to “*compelling reasons*” depends on the circumstances of each case. A person denied bail will be remanded in custody while they wait to be charged.

### 8. Who can grant cash bail at a police station?

The Officer in Charge of the Police Station has power to release arrested person upon execution of bail to secure their court attendance. The amount paid is refundable and once furnished, an arrested person is entitled to be immediately released.

### 9. How does one get a refund of the police cash bail?

One is entitled to a refund of the whole amount deposited on his/her first appearance in court.

**Note that the bail amount is not equivalent to a fine or bribe.** In case no charge is preferred and the amount of cash bail has not been deposited with the court, you should go back to the OCS concerned to get a refund.

Before granting or denying bail, the views of victim(s) and public interest shall be considered.

Access to Bail and Bond is your Constitutional Right.



## Bail and Bond in court

### 10. What is the difference between bail and fine?

Bail is not a fine. Bail is meant to secure one's attendance to court and is refundable once the matter is concluded. A fine on the other hand is a form of penalty that is given when a person has either admitted the charge or has been tried and convicted of the offence. A fine once paid is not refundable unless there is a successful appeal.

### 11. When can the court grant or deny bail and bond?

Once you are charged, the court will order your release on bail or bond on reasonable terms, unless there are compelling reasons not to. The burden is on the prosecution to prove that indeed, there exists compelling reasons not to grant you bail and bond.

### 12. What are compelling reasons?

Compelling reasons entail undeniable factors that the court considers justifiable to deny bail to an accused person.

### 13. What forms of security can one offer for release?

There are various forms of security documents that the courts can ask you to furnish. The most common being land title deeds, salary payslips, car logbook, share certificates etc. These have to undergo a verification process to confirm if they are genuine and sufficient for the amount of security required.

### 14. Can bail and bond terms and conditions be reviewed?

Yes.

When the accused person is unable to meet the bond terms, he/she may apply to court for review. The accused may also orally request the court for review the terms in subsequent mentions of his/her case. The court may also request for a bail information report from a probation officer before reviewing bail terms.