

**THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL, 2017**

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BILL

*further to amend the Code of Criminal Procedure, 1973.*

BE it enacted by Parliament in the Sixty-eighth year of the Republic of India as follows:

**1. Short title and application.-** (1) This Act may be called the Code of Criminal Procedure (Amendment) Act, 2017.

(2) The provisions of this Act shall apply to all persons arrested on or before the date of commencement of this Act.

**2. Amendment of section 2.-** In the Code of Criminal Procedure, 1973 (2 of 1974) (hereinafter referred to as the Code of Criminal Procedure), in section 2,-

(i) for clause (a), the following clause shall be substituted, namely:-

“(a)“bail” primarily means the judicial interim release of a person suspected of a crime or any person accused of an offence held in custody, upon a guarantee that the suspect or the accused, as the case may be, will appear to answer the charges at some later date; and includes grant of bail to a person suspected of a crime or any accused person by a court/police officer/ officer authorised by law for the time being in force; and the guarantee may include release without any condition, release on condition of furnishing security in the nature of a bond, with or without sureties, or release on condition of furnishing other forms of security, or release based on any other condition, as deemed sufficient by the court/police officer/ officer authorised by law for the time being in force;

(ii) after clause (u), the following clause shall be inserted, namely:-

“(ua) “security” for the purposes of bail includes a monetary bond, with or without sureties, or any other form of security to the satisfaction of court/police officer/ officer authorised by law for the

time being in force, to secure compliance with the conditions of bail.’

**3. Amendment of section 41.-** In section 41 of the Code of Criminal Procedure,—

(i) in sub-section (1), in clause (b), sub-clause (ii), after item (e), the following item shall be inserted, namely:-

“(f) when it is evident that the offence committed was related to or in furtherance of criminal activities of an organized gang or motivated by membership or allegiance of the accused person to an organized gang”;

(ii) after sub-section (1) the following sub-section shall be inserted, namely:—

“(1A) The police officer making the arrest shall furnish to the Magistrate, the facts, circumstances and reasons for the arrest and it shall be the duty of the Magistrate before whom such arrested person is produced, to satisfy himself that the requirements of this sub-section have been complied with in respect of the arrested person and shall record his satisfaction in writing as to the compliance of this sub-section; and in case the Magistrate is not satisfied that the requirements of this sub-section have been complied with, the Magistrate may release the arrested person on furnishing bond with or without sureties:

Provided further that non-compliance of the provisions of this sub-section shall expose the police officer or judicial officer, as the case may be, to the risk of disciplinary proceedings. The High Court may amend the rules in this regard.”.

**4. Amendment of section 41B.-** In section 41B of the Code of Criminal Procedure, after clause (c), the following clause shall be inserted, namely:—

“(d) Where a police officer arrests without warrant, any person accused of a non-bailable offence, he shall inform the person arrested orally as well as in writing that he is legally entitled to access free legal aid, apply for release on bail, and the procedure to be followed thereon, as far as possible in the language such accused person understands.”.

**5. Substitution of new section for section 58.-** For section 58 of the Code of Criminal Procedure, the following section shall be substituted, namely:-

**“58. Police to report apprehensions.-** The officers in charge of police station shall report to the District Magistrate, or, if he so directs, to the Sub-divisional Magistrate, the cases of all persons arrested without warrant along with reasons for making such arrest in accordance with section 41 (1) (b), within the limits of his station, even if such persons have been admitted to bail.”.

**6. Amendments of section 59.-** In section 59 of the Code of Criminal Procedure, for the words “his own bond, or on bail” the word “bail” shall be substituted.

**7. Amendment of section 81.-**In section 81 of the Code of Criminal Procedure, in sub-section (1), in the first proviso, for the word “bond”, the words “bail or security” shall be substituted.

**8. Substitution of new section for section 88.-** For section 88 of the Code of Criminal Procedure, the following section shall be substituted, namely:-

**“88. Power to take bond for appearance.-** When any person for whose appearance or arrest the officer presiding in any Court is empowered to issue summons or warrant, is present in the Court, such officer may require such person for his appearance in the Court, or any other Court to which the case may be transferred for trial, and for this purpose may require the person to furnish security for such appearance:

Provided that if the person furnishes non-monetary security mentioning therein members of his family, if any, their age(s) and address(es) with particulars of Aadhar Card or PAN Card, or any other document recognised by law, the Court may, on being satisfied, dispense with filing of sureties till the need arises:

Provided further that the method of release contained in this sub-section shall not be applicable to a person who has been previously convicted of cognizable and non-bailable offence.”.

**9. Amendment of section 167.-** In section 167 of the Code of Criminal Procedure, in sub-section (2),—

(i) for the words “for a term not exceeding fifteen days in the whole”, the words “for a term not exceeding fifteen days in the whole excluding the period for which the person accused of an offence is not available for investigation due to hospitalization or otherwise” shall be substituted;

(ii) in the first proviso, in Explanation II, for the words “clause” the words “paragraph” shall be substituted;

(iii) after the first proviso, the following proviso shall be inserted, namely:—

“Provided further that the Magistrate on receiving an application and after giving due notice to the Prosecutor shall re-consider the terms of bail, if the person accused of an offence is not able to furnish security within seven days from the date of passing of the order, modify the terms as he deems fit.”;

(iv) in the third proviso, for the word “further”, the word “also” shall be substituted.

**10. Amendment of section 170.-** In section 170 of the Code of Criminal Procedure,-

(i) in sub-section (2), for the words “takes security” and “to execute a bond”, the words “admits him to bail” and “to provide security” shall respectively be substituted;

(ii) in sub-section (3), for the word “bond” the word “security” shall be substituted;

(iii) in sub-section (4), for the words “The officer in whose presence the bond is executed” and “who executed”, the words “The officer to whom the security is furnished” and “who furnished” shall respectively be substituted.

**11. Amendment of section 171.-** In section 171 of the Code of Criminal Procedure,-

(i) for the words, “other than his own bond”, the words, “which is excessive” shall be substituted;

(ii) in the proviso, for the words, “to execute a bond”, “furnish security”; and “executes such bond”, the words “to furnish security” and “furnishes such security” shall respectively be substituted.

**12. Amendment of section 187.-** In section 187 of the Code of Criminal Procedure, in sub-section (1), for the words, “take a bond with or without sureties for his appearance”, the words, “admit him to bail on the condition that he appear” shall be substituted.

**13. Amendment of section 262.-** In section 262 of the Code of Criminal Procedure, in sub-section (2), after the word “Chapter”, the words “except for the offence under section 229A of the Indian Penal Code” shall be inserted.

**14. Amendment of section 325.-** In section 325 of the Code of Criminal Procedure, in sub-section (1), for the words “execute a bond”, the words “furnish security” shall be substituted.

**15. Amendment of section 360.-** In section 360 of the Code of Criminal Procedure, in sub-section (1), for the words “on his entering into a bond with or without sureties”, the words “furnishing security” shall be substituted.

**16. Amendment of section 424.-** In section 424 of the Code of Criminal Procedure, in sub-section (1), in paragraph (b), for the words “the execution by the offender of a bond, with or without sureties”, the words “furnishing of security” shall be substituted.

**17. Amendment of section 436.-** In section 436 of the Code of Criminal Procedure, in sub-section (1), —

(i) the “Explanation” shall be numbered as “Explanation I” thereof;

(ii) after the second proviso, the following Explanation shall be inserted, namely:-

“Explanation II: The amount for bail shall be fixed by the Court bearing in mind the financial condition of the person accused of an offence, nature of offense and the safety of victim or any other person”.

**18. Substitution of new section for section 436A.-** For section 436A of the Code of Criminal Procedure, the following section shall be substituted, namely:-

**436A. Maximum period for which an under-trial prisoner can be detained.-**

“(1) Where a person has, during the period of investigation, inquiry or trial under this Code for which the punishment specified is upto seven years, undergone detention for a period extending up to one-third of the maximum period of punishment specified for that offence under that law; he shall be released by the Court on his personal bond with or without sureties;

(2) Where a person has, during the period of investigation, inquiry or trial under this Code for which the punishment specified is more than seven years (not being an offence for which the punishment of death has been specified as one of the punishments under that law), undergone detention for a period extending up to one-half of the maximum period of punishment specified for that offence under that law; he shall be released by the Court on his personal bond with or without sureties:

Provided that the Court may, after hearing the Public Prosecutor and for reasons to be recorded by it in writing, order the continued detention of such person for a period longer than one-half of the said period or release him on bail.

Provided further that no such person shall in any case be detained during the period of investigation, inquiry or trial for more than the maximum period of imprisonment provided for the said offence under that law.

Explanation.—In computing the period of detention under this section for granting bail, the period of detention passed due to delay in proceeding caused by the person accused of an offence shall be excluded.

(3) The Secretary of District Legal Services Authority designated under sub-section (3) of section 9 of the Legal Services Authority Act, 1987 (Act No. 39 of 1987 ) shall be responsible for the compliance of this section.”.

**19. Amendment of section 437.—** In section 437 of the Code of Criminal Procedure, —

(i) in sub-section (1), clause (ii),—

(I) for the words, “but not less than” the words “but less than” shall be substituted;

(II) after the fourth proviso, the following proviso shall be inserted, namely:—

“Provided that in cases of economic offences the court shall give due regard to the amount alleged to have been involved and the number of persons cheated.”.

(ii) after sub-section (7), the following sub-section shall be inserted namely:—

“(8)The bail application shall be disposed of normally within one week.”

**20. Substitution of new section for section 437A.-** For section 437A of the Code of Criminal Procedure, the following section shall be substituted, namely:-

**“437A. Personal bond to require accused person to appear before next appellate Court.-**

- (1) Where the person accused of an offence is acquitted by the trial Court or the appellate Court as the case may be, the person so acquitted shall execute a personal bond for appearance before the higher Court, if so required, which shall remain in force for a period of one hundred and eighty days from the date of the judgment.
- (2) If such person fails to appear, the personal bond stand forfeited and the procedure under section 446 shall apply.”.

**21. Amendment of section 438.-** In section 438 of the Code of Criminal Procedure, —

(i) after sub-section (2), the following sub-section shall be inserted namely:-

“(2A) Any order made by the High Court or the Court of Sessions under this section shall be for a limited period of time as the Court may deem fit, or until the charge-sheet is filed, whichever is earlier.”;

(ii) after sub-section (3), the following sub-section shall be inserted, namely:-

“(4) On the date indicated in the interim order under sub-section (2), the court shall hear the Public Prosecutor and the complainant and after due consideration of their contentions, it may either confirm, modify or cancel the interim order made under sub-section (1).”.

**22. Insertion of new section 439A.-** After section 439 of the Code of Criminal Procedure, the following section shall be inserted, namely:-

**“439A. Bail Order**

(1) Whenever bail is denied, the court shall, briefly record reasons for such refusal and where conditional bail is granted by the court, the conditions imposed shall be reasonable.

(2) When bail is granted to a person who is in custody, a copy of the bail order shall be transmitted to the jail, with directions that the copy be delivered to such person.”

**23. Amendment of section 440.-** In section 440 of the Code of Criminal Procedure, after sub-section (2) the following sub-section shall be inserted, namely:-

“(3) Any person admitted to bail for a non-bailable offence, who for the reasons of indigence is unable to furnish security as directed by the Court for thirty days from the date of the order, may move the Court for reduction of the security amount and the Court after giving sufficient notice to the Prosecutor may consider the application.”.

**24. Amendment of section 441.-** In section 441 of the Code of Criminal Procedure, after sub-section (4) the following sub-sections shall be inserted, namely:-

“(5) If such person is released on bail with non-monetary security on the basis of any document recognized by law, the person shall deposit such security with the officer or Court.

(6) The Court may accept surety of a person not being resident of the area over which the Court has territorial jurisdiction, subject to verification of the surety by the investigating officer or any officer authorized by the officer-in-charge of the police station.”.

**25. Amendment of section 443.-** In section 443 of the Code of Criminal Procedure, for the word “sureties”, at both the places, the word “security” shall be substituted.

**26. Amendment of section 444.-** In section 444 of the Code of Criminal Procedure, in sub-section (3), after the words, “sufficient sureties”, the words “or provide other security” shall be inserted.

**27. Amendment of section 446.-** In section 446 of the Code of Criminal Procedure,-

(i) in sub-section (1), —

(a) after the words, “production of property”, and “been transferred” the words, “or for compliance with any other

condition” and “that the person has violated the bond or” shall respectively be inserted;

(b) for the Explanation, the following Explanation shall be substituted, namely:-

“Explanation.—A condition to appear, or produce property, or comply with any other condition before a Court shall be construed as including a condition for appearance, or as the case may be, for production of property, or compliance with any other condition before any Court to which the case may subsequently be transferred.”;

(ii) in sub-section (5), for the word, “bond” the word, “security” shall be substituted.

**28. Substitution of new section for section 447.-** For section 447 of the Code of Criminal Procedure, the following section shall be substituted, namely:-

**“447. Procedure in case of insolvency or death of surety or when a bond is forfeited.—**

When any surety to a bond or security under this Code becomes insolvent or dies, or when any bond or security is forfeited under provisions of section 446, the Court by whose order such bond or security was taken, or a Magistrate of the first class may order the person from whom such bond or security was demanded to furnish fresh security in accordance with the directions of the original order, and if such bond or security is not furnished, the Court of Magistrate may proceed as if there had been a default in complying with such original order.”

**29. Substitution of new section for section 448.-** For section 448 of the Code of Criminal Procedure, the following section shall be substituted, namely:-

**“448. Bond required from minor.-**

When the person required by any Court, or officer to furnish a security is a minor, such Court or officer may accept, in lieu thereof, a security furnished by a surety or sureties only.”

**30. Amendment of Second Schedule.-** In Second Schedule to the Code of Criminal Procedure, —

(i) in Form No. 45, the reference of “section 43A” shall be omitted;

(ii) after Form No. 45, the following Form shall be inserted, namely:—

**FORM NO. 45A**  
[See section 437A]

I .....[name], of .....[place] having been acquitted in case no. .... / appeal no. .... by the ..... Court, hereby undertake to appear before the appellate Court, as and when I am required to appear in the Court.

This bond shall remain in force for a period of one hundred and eighty days from the date of judgment.

Dated, this.....day of .....20....

(Signature)

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