

492. Power to appoint Public Prosecutors. (1) The Provincial Government may appoint, generally, or in any case, or for any specified class of cases, in any local area, one or more officers to be called Public Prosecutors.

(2) The District Magistrate, or subject to the control of the District Magistrate, the Sub-Divisional Magistrate, may, in the absence of the Public Prosecutor, or where no Public Prosecutor has been appointed, appoint any other person, not being an officer of police below such rank as the Provincial Government may prescribe in his behalf to be Public Prosecutor for the purposes of any case.

493. Public Prosecutor may plead in all Courts in cases under his charge; Pleaders privately instructed to be under his direction. The Public Prosecutor may appear and plead without any written authority before any Court in which any case of which he has charge is under inquiry, trial or appeal, and if any private person instructs a pleader to prosecute in any Court any person in any such case, the Public Prosecutor shall conduct the prosecution and the pleader so instructed shall act therein, under his directions.

494. Effect of withdrawal from prosecution. Any Public Prosecutor may, with the [...] consent of the Court, before the judgment is pronounced, withdraw from the prosecution of any person either generally or in respect of any one or more of the offences for which he is tried, and upon such withdrawal:

(a) if it is made before a charge has been framed, the accused shall be discharged in respect of such offence or offences;

(b) if it is made after a charge has been framed, or when under this Code no charge is required, he shall be acquitted in respect of such offence or offences;

495. Permission to conduct prosecution. (1) Any Magistrate inquiring into or trying any case may permit the prosecution to be conducted by any person other than an officer of police below the rank to be prescribed by the Provincial Government in this behalf but no person other than the Advocate-General, Standing Counsel, Government Solicitor, Public Prosecutor or other officer generally or specially empowered by the Provincial Government in this behalf, shall be entitled to do so without such permission.

(2) Any such officer shall have the like power of withdrawing from the prosecution as is provided by section 494 and the provisions of that section shall apply to any withdrawal by such officer.

(3) Any person conducting the prosecution may do so personally or by a pleader.

(4) An officer of police shall not be permitted to conduct the prosecution if he has taken any part in the investigation into the offence with respect to which the accused is being prosecuted.

CHAPTER XXXIX - OF BAIL

496. In what cases bail to be taken. When any person other than a person accused of a non-bailable offence is arrested or detained without warrant by an officer in charge of a police-station or appears or is brought before a Court, and is prepared at any time while in the custody of such officer or at any stage of the proceedings before such Court to give bail, such person shall be released on bail: Provided that such officer of Court, if he or it thinks fit, may, instead of taking bail from such person, discharge him on his executing a bond without sureties for his appearance as hereinafter provided:

Provided further that nothing in this section shall be deemed to affect the provisions of section 107, sub-section (4), or section 117, sub-section (3).

497. When bail may be taken in cases of non-bailable offence. (1) When any person accused of non-bailable offence is arrested or detained without warrant by an officer-in-charge of a police station, or appears or is brought before a Court, he may be released on bail, but he shall not be so released if there appears reasonable grounds for believing that he has been guilty of an offence punishable with death or [imprisonment for life or imprisonment for ten years].

Provided that the Court may direct that any person under the age of sixteen years or any woman or any sick or infirm person accused of such an offence be released on bail:

Provided further that a person accused of an offence as aforesaid shall not be released on bail unless the prosecution has been given notice to show cause why he should not be so released.

[Provided further that the Court shall, except where it is of opinion that the delay in the trial of the accused has been occasioned by an act or omission of the accused or any other person acting on his behalf or in exercise of any right or privilege under any law for the time being in force, direct that any person shall be released on bail--

(a) who, being accused of any offence not punishable with death, has been detained for such offence for a continuous period exceeding one year and whose trial for such offence has not concluded; or

(b) who, being accused of an offence punishable with death, has been detained for such offence for a continuous period exceeding two years and whose trial for such offence has not concluded.

Provided further that the provisions of the third proviso to this subsection shall not apply to a previously convicted offender for an offence punishable with death or imprisonment for life or to a person who, in the opinion of the Court, is a hardened, desperate or dangerous criminal or involved in terrorism.]

(2) If it appears to such officer or Court at any stage of the investigation, inquiry or trial, as the case may be, that there are no reasonable grounds for believing that the accused has committed a non-bailable offence, but that there are sufficient grounds for further inquiry into his guilt, the accused shall, pending such inquiry, be released on bail, or, at the discretion of such officer or Court, on the execution by him of a bond without sureties for his appearance as hereinafter provided.

(3) An officer or a Court releasing any person on bail under sub-section (1) or sub-section (2) shall record in writing his or its reasons for so doing.

(4) If, at any time after the conclusion of the trial of a person accused of a non-bailable offence and before judgment is delivered, the Court is of opinion that there are reasonable grounds for believing that the accused is not guilty of any such offence, it shall release the accused, if he is in custody on the execution by him of a bond without sureties for his appearance to hear judgment delivered.

(5) A High Court or Court of Session and, in the case of a person released by itself, any other Court may cause any person who has been released under this section to be arrested and may commit him to custody.

498. Power to direct admission to bail or reduction of bail. The amount of every bond executed under this Chapter shall be fixed with due regard to the circumstances of the case, and shall not be excessive; and the High Court or Court of Session may, in any case, whether there be an appeal on conviction or not direct that any person be admitted to bail, or that the bail required by a police-officer or Magistrate be reduced.

[498-A. No bail to be granted to a person not in custody, in Court or against whom no case is registered etc. Nothing in section 497 or section 498 shall be deemed to require or authorise a Court to release on bail, or to direct to be admitted to bail any person who is not in custody or is not present in Court or against whom no case stands registered for the time being and an order for the release of a person on bail, or direction that a person be admitted to bail shall be effective only in respect of the case that so stands registered against him and is specified in the order or direction.]

499. Bond of accused and sureties. (1) Before any person is released on bail or released on his own bond, a bond for such sum of money as the police officer or Court, as the case may be, thinks sufficient shall be executed by such person and, when he is released on bail, by one or more sufficient sureties conditioned that such person shall attend at the time and place mentioned in the bond, and shall continue so to attend until otherwise directed by the police officer or Court, as the case may be.

(2) If the case so requires, the bond shall also bind the person released on bail to appear when called upon at the High Court, Court of Session or other Court to answer the charge.

500. Discharge from custody. (1) As soon as the bond has been executed, the person for whose appearance it has been executed shall be released ; and, when he is in jail, the Court admitting him to bail shall issue an order of release to the officer in charge of the jail, and such officer on receipt of the order shall release him.

(2) Nothing in this section, section 496 or section 497 shall be deemed to require the release of any person liable to be detained for some matter other than that in respect of which the bond was executed.

501. Power to order sufficient bail when that first taken is insufficient. If, through mistake, fraud or otherwise, insufficient sureties have been accepted, or if they afterwards become insufficient, the Court may issue a warrant of arrest directing that the person released on bail be brought before it and may order him to find sufficient sureties, and, on his failing so to do, may commit him to jail.

502. Discharge of sureties. (1) All or any sureties for the attendance and appearance of a person released on bail may at any time apply to a Magistrate to discharge the bond, either wholly or so far as relates to the applicants.

(2) On such application being made, the Magistrate shall issue his warrant of arrest directing that the persons so released be brought before him.

(3) On the appearance of such person pursuant to the warrant, or on his voluntary surrender, the Magistrate shall direct the bond to be discharged either wholly or so far as relates to the applicants, and shall call upon such person to find other sufficient sureties, and if he fails to do so, may commit him to custody.

CHAPTER XL - OF COMMISSIONS FOR THE EXAMINATION OF WITNESSES

503. When attendance of witness may be dispensed with. (1) Whenever, in the course of an inquiry, a trial or any other proceeding under this Code it appears to a District Magistrate, a Court of Sessions or the High Court that the examination of a witness is necessary for the ends of justice and the attendance of such a witness cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable, such Magistrate or Court may dispense with such attendance and may issue a commission to any District Magistrate or Magistrate of the first class, within the local limits of whose jurisdiction such witness resides, to take the evidence of such witness.

[(2) * * * * *]

[(2-A) When the witness resides in an area in or in relation to which the President has Extra-Provincial jurisdiction within the meaning of the Extra-Provincial Jurisdiction Order, 1949, (G.G.O. No. 5 of 1949) the commission may be issued to such Court or Officer, in the area as may be recognized by the President, by notification in the official Gazette as a Court or officer to which or to whom commission may be issued under this sub-section and within the local limits of whose jurisdiction the witness resides.]

(2-B) When the witness resides in the United Kingdom or any other country of the Commonwealth [...], or in the Union of Burma, or any other country in which reciprocal arrangement in this behalf exists, the commission may be issued to such Court or Judge having authority in this behalf in that country as may be specified by the Central Government by notification in the Official Gazette.

(3) The Magistrate or officer to whom the commission is issued, [x x x] shall proceed to the place where the witness is or shall summon the witness before him, and take down his evidence in the same manner, and may for this purpose exercise the same powers, as in trials of [...] cases under this Code.

[(4) Where the commission is issued to an officer as is mentioned in sub-section (2A) he may in lieu of proceeding in the manner provided In sub-section (3), delegate his powers and duties under the