

**BAIL**

YOU HAVE A RIGHT TO BAIL, provided you meet the bail conditions

**What is Bail?**

Bail is a process by which a detained person is temporarily released until the conclusion of investigation or trial.

**Who grants bail?**

The POLICE can grant you bail during the first 24 (or 48 hours) following your arrest. The JUDGE or MAGISTRATE can grant you bail once you have been brought to court ("arraigned before the court").

**When are you entitled to bail?**

All offences are bailable with the exception of capital offences, but the granting of bail is within the discretion of the judge. The judge may refuse to grant you bail if he or she reasonably believes that you:

- may commit another offence,
  - may not return for the trial, or
  - may interfere with the investigation (e.g. through influencing witnesses, tampering with evidence or similar).
- The law requires the judge to exercise his or her discretion judiciously and judicially, bearing in mind your fundamental right of freedom.

**What are the conditions for bail?**

Once the judge has decided to grant bail, he or she will determine the conditions of bail which you must fulfil. Such conditions are imposed on you to ensure that you return for trial. They typically are:

- Production of a SURETY that is a person who guarantees to the court that you will return for trial or investigation;
- If the offence is minor in nature and you are a reliable citizen, holding residence or preferably property within the local community (jurisdiction of the court), the court may also grant you bail without a surety (self recognition);
- Typically, in addition to the surety or self recognition, the judge will order to secure bail through a BAIL BOND – that is a sum of money which becomes payable ONLY IF YOU DO NOT RETURN FOR TRIAL OR INVESTIGATION, or fail to fulfil any of the other bail conditions (e.g. to report on a regular basis to the police); and
- Under special circumstances, the judge may offer you an option to secure the bail through cash deposit (e.g. when your home residence is far from the court location).

- ALL OFFENCES ARE BAILABLE, with the exception of capital offences.
- BAIL IS FREE – thus (except for the case of the cash deposit) NO PAYEMENTS of any sort are required to obtain bail.
- If the police or a court clerk requests for payment, consult the judge, the court registrar, or a lawyer – DO NOT PAY unless they advise you to do so. Always insist on being given a receipt.

The judge accepts a person to stand surety when he or she believes that the surety will ensure your appearance for trial or investigation. Thus, judges accept as sureties persons who appear to be reliable and responsible, e.g.:

- Persons who enjoy a good reputation within their communities;
- Persons who have a residence, property and family ties within the jurisdiction of the court,
- Persons who are recommended by traditional rulers, local government officials, professional associations, religious leaders; and
- Persons who are able to honour the bail bond if you should not comply with the bail conditions.

Both WOMEN and MEN are equally eligible to stand surety – any refusal of a surety based on their gender violates the basic human right of equality.

**Where can you apply for bail?**

- At the police station; and
- At the court of arraignment at any stage of the trial.

**How can you apply for bail?**

You can apply for bail orally or in writing.



COURT USER GUIDE, NUMBER 1



**UNODC**  
United Nations Office on Drugs and Crime

**ARREST****What is arrest?**

You are being arrested when the police or any other law enforcement agency stops and holds you for a considerable time.

**Why can you be arrested?**

You are suspected to have committed a crime as a result of a complaint against you or an investigation by the police. You may be arrested while or immediately before or after you have been committing a crime.

**Who can arrest you?**

The power of arrest is vested in the police as well as other law enforcement agencies such as the:

- National Drug Law Enforcement Agency (NDLEA)
- Civil Defence Agency
- Economic and Financial Crimes Commission (EFCC)
- Independent Corrupt Practices Commission (ICPC)
- Nigerian Customs Service
- Nigerian Immigration Service
- Nigerian Prison Service
- State Secret Service (SSS).

Judicial officers can order the arrest of any person under certain conditions.

Any other private citizen or public sector agency has the power to arrest when they directly observe you committing an offence however suspect must be promptly handed over to the police.

**What do you do if the police arrest you?**

- DO NOT try to resist the arrest;
- Act confidently but remain calm and polite;
- Try to make it known to your family or friends that you have been arrested;
- Ask the police officer for the WARRANT OF ARREST;
- Arrests conducted without a valid warrant of arrest are illegal unless the arrest is conducted while committing a crime. [For instance, a police officer who finds you fighting with another person on the street, can arrest you without a warrant of arrest];
- A WARRANT OF ARREST is a document prepared by the police and signed by a judge or magistrate stating your offence and giving police the power to arrest you;
- If the police conducts the arrest without a warrant of arrest, make the police officer understand that you consider the arrest to be illegal but DO NOT RESIST the arrest;
- Although you have a right to remain silent, you MUST respond to questions concerning your personal details (name, address, date of birth, etc.);

- Ask the police officer the reason for your arrest;
- If the police officer is not in uniform, ask him to identify himself; Ask the police which police station he or she is taking you to;
- You may sue the police if they violate your rights or you may report a police officer to the human rights desk officer in the police station or the Police Service Commission;
- The National Human Rights Commission can also help you with legal services if you cannot afford a lawyer. The Commission has six zonal offices.

- DO NOT RESIST the arrest;
- An arrest conducted WITHOUT a valid warrant of arrest is illegal;
- Any statement/confession you make to the police under threat, torture or other inducement is null and void;
- If your rights have been violated by the Police, you can:
  - Sue the police in a court of law;
  - You can report the case to the Police Service Commission, the Public Complaints Commission; and/or
  - You can approach the National Human Rights Commission for help.

**At the Police Station:**

*When you arrive at the police station, ask the police officer to allow you to contact your family, friends and/or a lawyer, and tell them where you have been held and the reason for the arrest;*

- When the police officer wants to take your statement, remember: You have the right to remain silent, but often, it will be advisable to make a statement in order to be speedily released on bail;
- If you can write, you may write your own statement;
- If the police officer has failed to inform you of your right to remain silent, your statement cannot be used as evidence against you in court;
- If you feel reasonably composed, offer the police officer to write your own statement;
- If the police officer takes your statement, you have the right for the statement to be read out to you;
- Do not sign the statement until you are satisfied that the statement is accurate and fully reflects what you have been telling the police; If not written by you do not sign the statement unless you are convinced that what is written is correct.
- Any form of threat, physical violence, promises or favours issued by the police officer to induce you to make a statement, or sign a statement is ILLEGAL. A statement obtained in such a manner CANNOT be used against you as evidence in court

**DETENTION****What is detention?**

You are being detained if your movement is restricted after an arrest and you are kept in custody or in an arrest cell.

**Where can you be legally detained?**

You must be kept in a cell in a police station, the arrest cell of another law enforcement agency, the holding cell of a court or a prison cell. It is ILLEGAL to keep you in a private house or the house of a traditional ruler.

**How long can you be detained?**

- The police can detain you for a maximum of 24 HOURS. After that, they must bring you to court;
  - However, if the police cannot bring you to court within 24 hours, because the following day is a holiday or weekend, they must bring you to court within a maximum of 48 hours.
  - After the 24 (or 48) hour time limit, ONLY a judge or magistrate can order your further detention.
  - If the police is unable to bring you to court within the 24 (or 48) hours time limit, you must be released on police BAIL except for those cases where you are suspected of having committed a capital offence (such as murder, armed robbery or drug trafficking).
  - It is illegal for the police to keep you longer than 24 or 48 hours in custody without a court order.
- The police can detain you for a maximum of 24 HOURS. After that, they must bring you to court;
  - If the police is unable to bring you to court within the 24 (or 48) hours time limit, you must be released on police BAIL except for those cases where you are suspected of having committed a capital offence.

**What can you do to be released from detention?**

- You can apply for bail at any stage of the investigation;
- You can repeatedly apply for bail with the same court;
- You can appeal to a higher court against a decision of the court, if the court refused to grant you bail;
- In the case of compoundable offences – these are offences which are not serious in nature (e.g. simple theft, simple assault) – you can try to reach out to the victim (e.g. through a family member, or a friend) to find out whether he or she might agree to not further pursue the matter and inform the police or court accordingly.
- Even after conviction, you can appeal for bail once you have filed an appeal against your conviction.