

during his absence from the prison for the purpose specified in the order.

Penalty for non-attendance of witness

147.-(1) Any person summoned to attend as a witness who, without lawful excuse, fails to attend as required by the summons or who, having attended, departs without having obtained the permission of the court or fails to attend after adjournment of the court after being ordered to attend, shall be liable by order of the court to a fine not exceeding five hundred shillings.

(2) The fine imposed under subsection (1) may be levied by attachment and sale of any movable property belonging to the witness which is within the local limits of the jurisdiction of the court.

(3) In default of recovery of the fine by attachment and sale the witness may, by order of the court, be imprisoned as a civil prisoner for a term of fifteen days unless the fine is paid before the end of the said term.

(4) For good cause shown, the High Court may remit or reduce any fine imposed under this section by a subordinate court.

(e) Provisions as to Bail, Recognisances and Bonds

Bail Acts Nos. 12 of 1987; 13 of 1988; 10 of 1989 s. 2; 27 of 1991 s. 2; 12 of 1998 Sch.; 9 of 2002 Sch.

148.-(1) When any person 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 that officer or at any stage of the proceedings before that court to give bail the officer or the court, as the case may be, may, subject to the following provisions of this section, admit that person to bail; save that the officer or the court may, instead of taking bail from that person, release him on his executing a bond with or without sureties for his appearance as provided in this section.

(2) The amount of a bail shall be fixed with due regard to the gravity and other circumstances of the case, but shall not be excessive.

(3) The High Court may, subject to subsections (4) and (5) of this section, in any case direct that any person be admitted to bail or that the bail required by a subordinate court or a police officer be reduced.

(4) Notwithstanding anything in this section contained, no police officer or court shall, after a person is arrested and while he is awaiting trial or appeal, admit that person to bail if the Director of Public Prosecutions, certifies in writing that it is likely that the safety or interests of the Republic would thereby be prejudiced; and a certificate issued by the Director of Public Prosecutions under this section shall take effect from the date it is filed in court or notified to the officer in charge of a police station and shall remain in effect until the proceedings concerned are concluded or the Director of Public Prosecutions withdraws it.

(5) A police officer in charge of a police station or a court before whom an accused person is brought or appears, shall not admit that person to bail if—

- (a) that person is charged with—
 - (i) murder, treason, armed robbery, or defilement;

- (ii) illicit trafficking in drugs against the Drugs and Prevention of Illicit Traffic in Drugs Act, but does not include a person charged for an offence of being in possession of drugs which taking into account all circumstances in which the offence was committed, was not meant for conveyance or commercial purpose;
 - (iii) an offence involving heroin, cocaine, prepared opium, opium poppy (*papaver setigerum*), poppy straw, coca plant, coca leaves, cannabis sativa or cannabis resin (*Indian hemp*), methaqualone (*mandrax*), *catha edulis* (*khat*) or any other narcotic drug or psychotropic substance specified in the Schedule to this Act which has an established value certified by the Commissioner for National Co-ordination of Drugs Control Commission, as exceeding ten million shillings;
 - (iv) terrorism against the Prevention of Terrorism Act, 2002;
 - (v) money laundering contrary to Anti-money Laundering Act, 2006;
- (b) it appears that the accused person has previously been sentenced to imprisonment for a term exceeding three years;
 - (c) it appears that the accused person has previously been granted bail by a court and failed to comply with the conditions of the bail or absconded;
 - (d) it appears to the court that it is necessary that the accused person be kept in custody for his own protection or safety;
 - (e) the offence with which the person is charged involves actual money or property whose value exceeds ten million shillings unless that person deposits cash or other property equivalent to half the amount or value of actual money or property involved and the rest is secured by execution of a bond:

Provided that where the property to be deposited is immovable, it shall be sufficient to deposit the title deed, or if the title deed is not available such other evidence as is satisfactory to the court in proof of existence of the property; save that this provision shall not apply in the case of police bail.

(6) Where a court decides to admit an accused person to bail, it shall impose the following conditions on the bail, namely—

- (a) surrender by the accused person to the police of his passport or any other travel document; and
- (b) restriction of the movement of the accused to the area of the town, village or other area of his residence.

(7) A court may, in addition to the mandatory conditions prescribed in subsection (6), impose any one or more of the following conditions