

Teachings on Bail Applications

Bail applications is regulated in terms of Section 60-68 of the CPA 51 of 1977

Here are the general steps involved in a bail application:

Your Rights in terms of Section 35 constitution of the Republic of South Africa Act 108 of 1996 Arrested, detained, and accused persons.

Subsection 1. Everyone who is arrested for allegedly committing an offence has the right-

- a. to remain silent.
- b. to be informed promptly-
 - 1. of the right to remain silent; and
 - 2. of the consequences of not remaining silent.
 - 3. That you have a right to apply for Bail.
- c. not to be compelled to make any confession or admission that could be used in evidence against that person.
- d. to be brought before a court as soon as reasonably possible, but not later than-
 - 1. 48 hours after the arrest; or
 - 2. the end of the first court day after the expiry of the 48 hours, if the 48 hours expire outside ordinary court hours or on a day which is not an ordinary court day.
- f. to be released from detention if the interests of justice allow your release, subject to reasonable conditions.

In terms of Subsection (2) Everyone who is detained, including every sentenced prisoner, has the right-to be informed promptly of the reason for being detained.

- a. to choose, and to consult with, a legal practitioner, and to be informed of this right timely.
- b. If you don't have the funds available for an attorney, you may ask the court for a Legal Aid attorney to help you with your case free of charge.

1. Consult with an attorney: It is highly recommended to seek legal advice from a qualified attorney who specializes in criminal law. They will guide you through the bail application process and represent you in court.
2. Gather necessary documents: Your attorney will help you gather all the necessary documents needed for the bail application. This may include your identification documents, proof of residence, employment details, and any other relevant information.
3. Prepare an affidavit: Your attorney will help you in preparing an affidavit that outlines the reasons why you should be granted bail. This may include factors such as your ties to the community, lack of flight risk, and any other relevant information that supports your case.
4. Attend the bail hearing: Your attorney will stand for you in court during the bail hearing. The prosecution will present their arguments against granting bail, and your attorney will present your case for bail. The court will consider various factors, such as the seriousness of

the offense, the likelihood of you appearing for trial, and the interests of justice, in deciding if they are a candidate to be release out on Bail and may set bail conditions.

5. Bail conditions: If the court grants you bail, they may impose certain conditions that you must adhere to while awaiting trial. These conditions may include surrendering your passport, reporting to a police station regularly, or refraining from contacting certain individuals or the complaint in the case.

It is important to note that the bail application process may vary depending on the specific circumstances of your case and the jurisdiction in which you are applying for bail. It is always best to consult with a legal professional who can provide you with personalized advice based on your situation.