

## Sample bail application under section 436 Cr.P.C.

In the court of .....

Criminal Case No. ....of.....(year)

State v .....(name of the accused)

Crime No..... Offence u/s .....

Police Station .....

An application u/s 436 Cr.P.C for release on personal bond

The applicant humbly submits as under:

1. That he was arrested by the police on ..... for the alleged offence.
2. That the said offence is bailable.
3. That a bail application has moved before this Hon'ble court on.....and the applicant was directed to produce surety of.....
4. That he is a poor person and cannot furnish the surety amount.
5. That as per the provisions of section 436 Cr.P.C., a person who "is unable to give bail within a week of the date of his arrest" must be presumed indigent and released "on his executing a bond without sureties for his appearance."

### PRAYER

In view of the foregoing it is most respectfully prayed that this Hon'ble Court may kindly release the applicant on personal bond on such terms and conditions as this Hon'ble Court may deem fit and proper in the interest of justice.

Place: ..... Applicant  
Date: ..... Through Advocate/  
Superintendent .....prison

**Contact your lawyer immediately, if you have been unnecessarily detained in prison.**

## About CHRI

The **Commonwealth Human Rights Initiative** (CHRI) is an international, independent non-profit organisation headquartered in India. Its objectives are to promote the practical realisation of human rights in the Commonwealth. In addition to a broad human rights advocacy programme, CHRI advocates access to information and access to justice.

### Prison Reforms Programme

As part of its access to justice programme, the prison reforms programme focuses on increasing transparency of a traditionally closed system and exposing malpractice. A major area is focused on highlighting failures of the legal system that result in terrible overcrowding and unconscionably long pre-trial detention and prison overstay, and engaging in interventions to ease this. Another area of concentration is aimed at reviewing the prison oversight systems that have completely failed. We believe that attention to these areas will bring improvements to the administration of prisons as well as have a knock on effect on the administration for justice overall.



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**RIGHT TO BE  
RELEASED ON BAIL  
UNDER SECTIONS  
436/436A Cr.P.C.**

**ARE YOU AN UNDER-TRIAL?**

**ARE YOU IN PRISON?**



**KNOW YOUR RIGHTS**

**You are an under-trial prisoner if you have:-**

- Been detained in prison during the period of investigation, inquiry or trial of your case, or
- Not been granted bail and are still in jail, or
- Been granted bail but are unable to provide surety/bail bonds.

**You have a right to be released on bail/personal bond**

**(a) under section 436 Cr.P.C., if you have been:-**

- Accused for a bailable offence,
- Given bail but are unable to furnish surety, and
- In custody for 7 days from the date of your arrest.

*Example:* You are accused of causing hurt u/s 323 I.P.C., were arrested on 1 April 2009 and have been unable to furnish bail. You **must** be released on bail/personal bond without sureties by 8 April 2009.

**(b) under section 436A Cr.P.C., if you have:-**

- Not been accused of an offence attracting death punishment, and
- Served the maximum period of imprisonment prescribed for the offence for which you are accused.

*Example:* You are accused of committing theft u/s 379 IPC and have been in prison for 3 years or more. It is your **right** to be released on bail/personal bond u/s 436A Cr.P.C.

**You can be considered for release under section 436A Cr.P.C., if you have:-**

- Not been accused of an offence punishable with death sentence, and
- Served one half of the maximum period of imprisonment prescribed for the offence for which you are accused.

*Example:* You are accused of committing dacoity u/s 395 I.P.C. and have been in prison for 10 or more years. You are eligible to apply for bail u/s 436A Cr.P.C.

**Note:** Where the maximum prescribed punishment is life imprisonment, the half period shall be 10 years in accordance with section 57 I.P.C.

**The concerned court may, after hearing the public prosecutor:-**

- Order release on personal bond with or without sureties, or
- Release the person on bail, after recording the reasons, or
- Order continued detention, after recording the reasons in writing.

**Note: In no case can a person be detained beyond the maximum period of imprisonment prescribed for the offence.**

- ◆ **Bailable Offence:** An offence shown as bailable under the relevant law or the First Schedule of Cr.P.C. When accused of such offence, a person has a right to be released on bail.
- ◆ **Surety:** A promise to fulfill an undertaking; or a promise to answer for the debt/default of another.
- ◆ **Personal Bond:** A formal written agreement by which a person undertakes to perform/abstain from doing a certain act. Failure to do so, may attract monetary penalty.

**You can apply for bail under sections 436/436A:-**

- By contacting your lawyer to file a fresh application for bail, or
- If you cannot afford a lawyer then apply for free legal aid to the District Legal Services Authority or State Legal Services Authority, or
- By contacting the Superintendent of Jail or write a letter to the Inspector General (Prisons).

**Sample bail application under section 436A Cr.P.C.**

In the court of .....

Criminal Case No. ....of.....(year)

State v .....(name of the accused)

Crime No..... Offence u/s .....

Police Station .....

An application u/s 436A Cr.P.C for grant of bail upon completion of half term/maximum term of imprisonment.

The applicant humbly submits as under:

1. That he was arrested by the police on ..... for the alleged offence.
2. That the maximum prescribed punishment for the offence alleged to have committed is .....years.
3. That he has spent.....years in prison as an under-trial. This period is one half/maximum period of punishment prescribed for that offence.
4. That as per the provisions of section 436A Cr.P.C. he should be considered for release/must be released on bail with or without sureties/personal bond.

PRAYER

In view of the foregoing it is most respectfully prayed that this Hon'ble Court may kindly release the applicant on bail/ bond on such terms and conditions as this Hon'ble Court may deem fit and proper in the interest of justice.

Place:

Applicant

Date:

Through Advocate/  
Superintendent.....prison