

HIGH COURT OF HIMACHAL PRADESH, SHIMLA-171001.

No.HHC/VIG/Under-Trial/Instructions/01- Q 8257
Dated: Shimla, the 9th September, 2014.
10

From

The Registrar (Vigilance),
High Court of Himachal Pradesh,
Shimla(H.P.)

To

All the Judicial Officers,
in Himachal Pradesh (By name).

Sub:- **Guidelines with regard to furnishing of bail bonds in criminal cases and disposal thereof as per provision laid down under Section 437-A of Cr. P.C. - Compliance thereof.**

Sir,

As you are aware, per mandate of Section 437-A of the code of Criminal Procedure, before conclusion and disposal of trial an accused is required to execute bail bonds, undertaking thereby to put in appearance before the higher court on receipt of a notice during the course of proceedings in an appeal or petition filed against the judgment delivered by the trial Court. However, a plain reading of Section 437-A Cr.P.C. demonstrates that failure on part of the accused to furnish such bonds is neither punitive nor does it prevent the Court from deciding the case finally. There are even no consequences of the failure on part of the accused to furnish bail bonds. The provision ibid has been incorporated to facilitate the service of the accused promptly in an appeal or petition, if ultimately filed in the Court higher in hierarchy against the judgment passed by the trial Court.

2. In the cases where pending trial the accused is on bail, he can be directed to furnish fresh bail bonds or to extend the bonds already

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executed by him at the time, when released on bail, for further period of six months from the date of judgment passed in the trial. Therefore, in case where the accused is on bail, there is no difficulty in obtaining the bonds as envisaged under Section *ibid*. Similarly, where in pending trial cases, the accused is in custody and ultimately convicted, also there is no issue of effecting of service upon the convict. It is only in those cases where the accused during the course of trial though is in custody, and ultimately acquitted and irrespective of having been called upon to furnish the bail bonds in terms of the provisions 437-A, fails to do so, on being released from the custody, he may abscond or avoid the service of notice issued in case an appeal/petition is preferred in the Court higher in hierarchy against the judgment of acquittal.

3. In exceptional case/(s), depending upon the circumstances, in case, an accused is called upon by the Court to furnish the bail bonds and he fails to execute the same, appropriate proceedings are required to be initiated against the said accused in accordance with law and it is open to the Court seized of the matter to set in motion the machinery provided under the Code, including taking recourse to coercive methods in order to ensure the presence of the accused in higher Court. Besides, it is the responsibility of the State Government to serve the accused persons in criminal case with all promptness by making frantic efforts. The learned trial Court should proceed further in the trial even if accused has failed to furnish the bail bonds in terms of Section 437-A *ibid*, because keeping further proceedings in the trial Court in abeyance till such bonds are furnished, would not only be against the concept of speedy trial but also violative of Article 21 of the Constitution of India, which guarantees the right to life and liberty to each and every citizen of India.

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