

SUPPLEMENTARY REPORT "ON THE VARIOUS ASPECTS OF SECTIONS 54 AND 167 OF THE CODE OF CRIMINAL PROCEDURE, 1898 AND THE PROVISIONS RELATING TO BAIL".

In the light of the discussion in the meeting of the Hon'ble Mr. Moudud Ahmed, Minister-in-charge for Law, Justice and Parliamentary Affairs with the Law Commission held on 17 March, 2003, the Commission seeks to substitute para 7 of the report "On the Various Aspects of Sections 54 and 167 of the Code of Criminal Procedure, 1898 and the Provisions Relating to Bail" dated July 14, 2000 by the following:

"7. A new section being section 498A may be inserted after section 498 as follows:-

498A. Direction for grant of bail to persons apprehending arrest.- (1)

When any person has reason to believe that he may be arrested on an accusation of having committed a non-bailable offence, he may apply to the High Court Division or the Court of Session for a direction under this section; and that Court may, if it thinks fit, direct that in the event of such arrest, he shall be released on bail.

(2) When the Court makes a direction under sub-section (1), it may include such conditions in such directions in the light of the facts of the particular case, as it may think fit, including-

- (a) a condition that the person shall make himself available for interrogation by a police officer as and when required;
- (ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;
- (iii) a condition that the person shall not leave Bangladesh without the previous permission from the Court;

(iv) such other conditions as may be imposed under sub-section (3) of section 497, as if the bail were granted under that section.

(3) Notwithstanding anything in the foregoing sub-sections, no bail under this section shall be granted to any person where the apprehended accusation relates to an offence punishable with death, imprisonment for life or imprisonment for a term of not less than ten years unless there appear reasonable grounds for believing that such person has not been concerned in such offence.

(4) The Court shall, in all cases, before granting bail under this section, direct notice of the application for the same to be given to the Attorney-General if the application is filed to the High Court Division and to the Public Prosecutor if the application is filed to the Court of Sessions:

Provided that where the Court is satisfied that the purpose of granting bail under this section will be defeated by the delay, the Court may grant an interim bail under this section for such period as may be required for service of the notice under this sub-section.

(5) If such person is thereafter arrested without warrant by a police officer on such accusation, and is prepared either at the time of arrest or at any time while in the custody of such officer to give bail, he shall be released on bail, and if a Magistrate taking cognizance of such offence decides that a warrant should issue at the first instance against that person, he shall issue a bailable warrant in conformity with the direction of the Court under sub-section (1).

(6) In case of violation of any of the conditions imposed under sub-section (2), the Court granting bail under this section or the Court in which the

case against the applicant is pending may, after giving the applicant an opportunity of being heard, cancel the bail granted under this section.”

(Justice A.K.M. Sadeque)
Member

(Justice Naimuddin Ahmed)
Member

(Justice A.T.M. Afzal)
Chairman