

imprisonment for life, give notice of the application for bail to the Public Prosecutor unless it is, for reasons to be recorded in writing, of opinion that it is not practicable to give such notice.

<sup>1</sup>[Provided further that the High Court or the Court of Session shall, before granting bail to a person who is accused of an offence triable under sub-section (3) of section 376 or section 376AB or section 376DA or section 376DB of the Indian Penal Code (45 of 1860), give notice of the application for bail to the Public Prosecutor within a period of fifteen days from the date of receipt of the notice of such application.]

<sup>1</sup>[(1A) The presence of the informant or any person authorised by him shall be obligatory at the time of hearing of the application for bail to the person under sub-section (3) of section 376 or section 376AB or section 376DA or section DB of the Indian Penal Code (45 of 1860).]

(2) A High Court or Court of Session may direct that any person who has been released on bail under this Chapter be arrested and commit him to custody.

## STATE AMENDMENT

**Assam.—**

**439-A. Power to grant bail.**—(1) Notwithstanding anything contained in this Code, no person—

(a) who, being accused or suspected of committing an offence under any of the following Sections, namely, —Sections 120B, 121, 121A, 122, 123, 124A, 153A, 302, 303, 304, 307, 326, 333, 363, 364, 365, 367, 368, 392, 394, 395, 396, 399, 412, 431, 436, 449 and 450 of the Indian Penal Code, 1860, Sections 3, 4, 5 and 6 of the Indian Explosive Substances Act, 1908, and Sections 25, 26, 27, 28, 29, 30 and 31 of the Arms Act, 1959, is arrested or appears or is brought before a court; or

(b) who, having any reason to believe that he may be arrested on an accusation of committing an offence as specified in clause (a), has applied to the High Court or the Court of Sessions for a direction for his release on bail in the event of his arrest, shall be released on bail or as the case may be, directed to be released on bail, except on one or more of the following grounds, namely: —

(i) that the Court including the High Court or the Court of Session for reasons to be recorded in writing is satisfied that there are reasonable grounds for believing that such person is not guilty of any offence specified in clause (a);

(ii) that such person is under the age of sixteen years or a woman or a sick or an infirm person;

(iii) that the court including the High Court or the Court of Sessions for reasons to be recorded in writing is satisfied that there are exceptional and sufficient grounds to release or direct the release of the accused on bail.”

[Vide Assam Act 3 of 1984, s. 5.]

**440. Amount of bond and reduction thereof.**—(1) The amount of every bond executed under this Chapter shall be fixed with due regard to the circumstances of the case and shall not be excessive.

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1. Ins. by Act 22 of 2018, s. 23 (w.e.f. 21-4-2018).