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LEGAL AND JUDICIAL

Bail in Nepal: Thunchek, Dharaut and Jamanat Explained

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Bail in Nepal is governed by the **Muluki Faujdari Karyabidhi Sanhita, 2074 (National Criminal Procedure Code, 2074)**, particularly the provisions dealing with detention, bail/bond, guarantee, bank guarantee and recognizance. The Ministry of Home Affairs publishes the Code in its official legal-document repository.

For an accused person and their family, terms such as **Thunchek (□□□□□), Dharaut (□□□□), Jamanat (□□□□), bail/bond, guarantee and bank guarantee** are extremely important. Whether an accused remains in detention or is released during the criminal proceedings depends on the offence charged, the applicable punishment, the evidence available, the statutory circumstances for detention and the factors considered by the court.

This guide explains the relevant provisions **based on Sections 67 to 80 of Chapter-7** of the National Criminal Procedure Code, 2074, using the statutory framework provided in the Code rather than treating bail as an automatic entitlement in every criminal case.

Adalat Lawyers is a litigation-focused law firm in Nepal assisting clients with criminal litigation, detention, bail, Dharaut, Jamanat, guarantee and related court proceedings.

> **Legal note:** This article is general legal information, not case-specific legal advice. The exact offence, charge sheet, evidence, applicable substantive law and latest court order should be reviewed by a qualified Nepalese lawyer before taking action.

What Is Bail in Nepal?

In Nepal, **bail** generally refers to the release of an accused during the pendency of a criminal case subject to a legally recognized security or undertaking.

Depending on the circumstances, the court may deal with:

- **Bail/bond**

- **Dharaut (□□□□)**
- **Jamanat (□□□□□) / guarantee**
- **Bank guarantee**
- **Recognizance**
- **Detention (□□□□)**

The terminology used in practice can vary, but the legal question is essentially whether the accused should remain detained or be released subject to the conditions and security permitted by the Criminal Procedure Code.

Chapter-7 is particularly important because Sections **67, 68 and 69** establish the principal framework for detention, bail/bond, guarantee, bank guarantee and recognizance, while Sections **70–80** deal with subsequent modification, appeals, security deeds, forfeiture, release and detention-related matters.

What Is Thunchek (□□□□□□) in Nepal?

Thunchek (□□□□□□) is a commonly used legal term in Nepal in connection with the court's determination of whether an accused should be **detained or released on Dharaut, Jamanat, bail/bond, guarantee or another permissible arrangement** while the case proceeds.

The Thunchek stage can therefore be extremely important.

The court examines the statutory provisions and the circumstances of the individual case before determining whether the accused should remain in detention or be released subject to security.

The first major provision is **Section 67 — To hold the accused in detention**.

Under Section 67(1), where the evidence available at the relevant time indicates that the accused appears guilty, or there are reasonable grounds based on the evidence to believe that the accused is guilty, the court may remand the accused in detention for trial, recording the reason for detention, where the alleged offence falls within the specified categories.

These categories include serious offences punishable by **imprisonment for life**, specified Schedule-1 or Schedule-2 offences punishable by imprisonment exceeding **three years**, and attempt, abetment, criminal conspiracy or accomplice liability relating to the offences covered by the relevant clauses.

Therefore, **the maximum punishment attached to the particular offence is a critical starting point in a Thunchek/bail analysis**.

Section 67: When Can the Court Detain an Accused?

Section 67 is central to understanding **Thunchek in Nepal**.

Section 67(1): Serious Offences

The court may remand an accused in detention for trial in the circumstances specified by Section 67(1).

The provision identifies:

1. Offences punishable by life imprisonment

If the alleged offence is punishable by imprisonment for life, Section 67 may apply where the statutory evidentiary requirement is satisfied.

2. Specified offences punishable by more than three years

Section 67(1)(b) concerns offences under Schedule-1 or Schedule-2 punishable by imprisonment for a term exceeding three years.

This makes the **classification of the offence and its prescribed punishment** extremely important.

3. Attempt, abetment, conspiracy or accomplice liability

Section 67(1)(c) extends the provision to attempt, abetment, criminal conspiracy or being an accomplice to the offences covered by clauses (a) and (b).

Accordingly, the defence should examine not only the factual allegation but also the precise statutory charge.

Section 67(2): Other Circumstances for Detention

Section 67(2) provides additional circumstances in which the court may remand an accused in detention.

These include situations where:

- the accused pleads guilty before the court;
- the accused is charged with an offence punishable by imprisonment for one year or more, has no permanent abode in Nepal, and there is a possibility of absconding and not subsequently being apprehended;
- the accused failed to appear within the required period pursuant to an arrest warrant and, after being arrested and produced before the court, fails to provide a satisfactory reason for the failure to appear; or
- the accused was convicted and sentenced to imprisonment within the three years immediately preceding the present charge.

These provisions demonstrate why **previous court attendance, residence, criminal history and procedural conduct** can matter significantly during a Thunchek hearing.

Section 67(3): Special Circumstances

Section 67(3) provides a special provision concerning certain accused persons.

Subject to the statutory limitation contained in that subsection, the court may release on bail/bond or guarantee an accused who is:

- a **child**;
- infirm due to physical or mental disease;
- a woman with pregnancy of more than seven months; or
- a person aged above **seventy-five years**.

However, Section 67(3) contains an important limitation concerning offences punishable by imprisonment exceeding ten years.

Therefore, age, health, pregnancy and similar circumstances should be specifically presented to the court with appropriate supporting evidence where applicable.

What Is Dharaut (□□□□)?

Dharaut (□□□□) is commonly used in Nepal in relation to the security furnished for release of an accused during criminal proceedings.

Under the statutory framework, the court may require **bail/bond, guarantee or bank guarantee** depending on the circumstances.

Section 68 is therefore especially important.

Section 68: Bail/Bond, Guarantee or Bank Guarantee

Section 68 provides that, except in cases referred to in Section 67, the court may ask the accused to furnish:

- bail/bond;
- guarantee; or
- bank guarantee,

where there is a reasonable ground for proving the charge against the accused.

The bank guarantee must be **unconditional and renewable** at such times as may be specified by the court.

If the accused fails to furnish the required bail/bond, guarantee or bank guarantee, Section 68(2) provides that the court shall remand the accused in detention.

This creates an important practical distinction:

A court may order release subject to Dharaut, but the accused must actually furnish the required security before release can be completed.

What Is Jamanat (□□□□)?

Jamanat (□□□□) generally refers to a guarantee or security arrangement designed to ensure that the accused complies with the court's requirements, particularly the obligation to appear before the court.

Section 74 governs the deed to be executed when bail/bond, guarantee or bank guarantee is taken.

Where a guarantee is furnished, the court fixes the amount of the guarantee and takes security of property equal to that amount.

The Code also allows another person to furnish property as a guarantee for the accused.

This means that **Jamanat can involve significant legal responsibility for the person furnishing the guarantee** .

A guarantor should therefore understand the consequences before providing property as security.

Bail, Dharaut and Jamanat: What Is the Difference?

In everyday legal discussion, these words are sometimes used interchangeably, but their precise legal treatment depends on the court order.

Bail/Bond

An undertaking or security arrangement for release subject to the court's requirements.

Dharaut

A commonly used Nepali term for security furnished for release.

Jamanat

Commonly used for a guarantee/security arrangement ensuring compliance or appearance.

Bank Guarantee

A bank-backed security recognized by Section 68, subject to the court's requirements.

Recognizance

A less security-intensive mechanism under Section 69 for appropriate cases outside Sections 67 and 68.

Detention / Thuna

The accused remains in custody while the criminal case proceeds.

The exact terminology should always be read together with the **actual court order**.

Section 69: Release on Recognizance

Not every criminal case requires Dharaut or Jamanat.

Section 69 — To remand on recognizance provides that, in cases other than those referred to in Sections 67 and 68, the case shall be tried by remanding the accused on recognizance to appear on the appointed days when the accused appears before the court.

Recognizance is therefore an important part of the statutory framework.

The accused must understand that release on recognizance does not mean that the case disappears. The criminal proceedings continue and the accused must comply with the obligation to appear when required.

How Does the Court Decide the Bail or Dharaut Amount?

One of the most important provisions is **Section 72 Grounds for fixation of amount of bail/bond, guarantee or bank guarantee**.

The law requires the amount to be fixed **reasonably**, having regard to specified matters.

The court considers:

1. Nature and gravity of the offence

The seriousness of the alleged offence is a central consideration.

2. Financial status and family condition

The court must consider the accused's financial status and family condition.

This is important because the law expressly identifies financial and family circumstances as relevant considerations.

3. Age and physical condition

The accused's age and physical condition may be relevant to the determination.

4. Previous conviction

The court may consider whether the accused has previously been convicted and sentenced.

5. Several offences on the same occasion

The court may consider whether the accused allegedly committed several offences on the same occasion.

6. Potential sentence and compensation

The sentence that may be imposed and compensation that may have to be borne by the accused can be considered.

7. Consequences of the offence

The consequences resulting from the alleged offence are also among the statutory considerations.

8. Guilty plea

The court may consider whether the accused has pleaded guilty.

Section 72 therefore establishes that **Dharaut is not supposed to be fixed without regard to the circumstances of the accused and the offence**.

Can an Excessive Dharaut Amount Be Challenged?

Yes.

Section 72(2) provides a mechanism where a party believes that the amount of bail/bond, guarantee or bank guarantee demanded is **lesser or excessive and therefore not reasonable**.

A petition may be made to the appeal-hearing court, which may hear the matter and order alteration or modification of the amount.

This is important where the defence believes that:

- the amount is excessive;
- the accused's financial circumstances were not properly considered;
- the statutory factors were not adequately addressed;
- the amount is unreasonable in the circumstances; or
- a different form or amount of security should be considered.

The appropriate remedy depends on the exact court order and procedural position.

Can the Court Increase the Bail Amount Later?

Yes.

Section 70. Additional bail/bond, guarantee or bank guarantee may be demanded provides that if the security originally taken subsequently appears insufficient, the court may demand additional bail/bond, guarantee or bank guarantee.

If the accused fails to furnish the additional security, the court may remand the accused in detention.

Therefore, obtaining release once does not necessarily mean that the security arrangement can never be reconsidered.

Can the Court Change Detention to Bail Later?

Yes.

Section 71. Power to remand in detention or on guarantee at any stage of proceedings is important in this respect.

During examination of evidence, regardless of the stage of the case, the court may, considering the circumstances:

- remand the accused in detention under Section 67; or
- demand bail/bond, guarantee or bank guarantee under Section 68.

The fact that an accused was previously released does not prevent the court from later taking action under the statutory provisions.

Similarly, the fact that the accused was previously detained does not necessarily mean that release can never be considered.

Can a Detained Accused Be Released Later?

Section 71(2) provides an important safeguard.

If the court has reasonable grounds to prove that an accused detained under Section 67 or 68 is **not guilty of the offence**, the court may, at any stage of the proceedings, hear the matter and order the release of that accused from detention.

Therefore, a detention order during trial should not automatically be treated as a final determination of guilt.

The evidentiary position can change as the case progresses.

What Is Section 73 and How Can a Detention Order Be Challenged?

Section 73. Petition may be made to appeal hearing court provides a remedy for a person who is not satisfied with an order of detention, bail/bond, guarantee or bank guarantee made under Chapter-7.

The person may make a petition to the court hearing the appeal **up to one level**, subject to the statutory proviso.

The proviso further addresses questions concerning the illegality of a detention order in cases involving offences punishable by life imprisonment or imprisonment for a term of five years or more.

Accordingly, if the accused or defence considers the Thunchek order legally incorrect or the Dharaut/Jamanat amount unreasonable, the appropriate appellate remedy should be examined promptly.

What Happens When Jamanat or Bail Is Furnished?

Section 74 governs the execution of the necessary deed.

When bail/bond is taken, the court causes a deed to be executed in the prescribed form, containing the condition that the amount of bail/bond will be forfeited if the person fails to appear at the time and place specified by the court.

For a guarantee, the court fixes the guarantee amount and takes property security equal to that amount.

Where another person furnishes property as guarantee, a separate deed is executed containing the applicable condition concerning the accused's appearance.

This makes the **court appearance obligation extremely important**.

What Happens If the Accused Fails to Appear?

Section 75. Forfeiture of bail/bond deals with this situation.

If a person who has furnished bail/bond fails to appear in court, the bail/bond furnished by that person may be forfeited.

Where immovable property has been furnished as bail/bond, property equal to the amount payable may be sold or recovered according to the statutory mechanism, with the remaining property returned as provided by law.

Therefore:

Dharaut/Jamanat is not simply money paid to obtain temporary freedom. It carries a legal obligation to appear before the court.

When Is Bail or Guarantee Returned?

Section 76. Amount of bail/bond may be returned and guarantee released provides for release of security in specified circumstances.

Where the court remands an accused in detention in a case filed before the court, bail/bond or guarantee previously furnished before detention may be released.

Except where otherwise provided by the Act, bail/bond or guarantee taken during proceedings is to be immediately returned or released if the accused is ultimately **acquitted**.

This makes it important to preserve the relevant court order, deed and security documentation.

What Happens If the Criminal Case Takes More Than One Year?

Section 77. To release from detention where case not adjudged within specified period addresses prolonged detention.

Where a case cannot be adjudicated within **one year from the first date fixed for examination of evidence** concerning an accused who has been detained for trial, and the accused remains detained, the case may proceed and be adjudicated by remanding the accused on bail/bond or guarantee.

However, the law contains significant exceptions.

The provision does not apply to a person accused of an offence punishable by:

- imprisonment for life; or
- imprisonment for a term of ten years or more,

where the person is detained under Section 67.

The court may also, where it considers reasonable, continue detention of a recidivist.

Therefore, Section 77 must be applied carefully to the exact offence and detention basis.

What Is the Maximum Period of Detention?

Section 78. Maximum allowable period of detention provides that, notwithstanding other provisions of the Chapter, an accused should not be held in detention for a period exceeding the maximum term of imprisonment that could be imposed if the charge against that accused were proved.

This provision can become particularly important in prolonged criminal proceedings.

A defence lawyer should therefore carefully examine:

- the date detention began;
- the offence charged;
- the maximum sentence prescribed;
- subsequent detention orders;
- dates fixed for evidence;
- procedural developments; and
- any applicable statutory exception.

Why Is the Detention Order Important?

Section 79. Memorandum of order to be executed requires the court to execute a memorandum of order when:

- remanding an accused in detention;
- releasing an accused from detention;
- taking bail/bond;
- taking a guarantee;
- modifying or altering bail/bond or guarantee; or
- releasing an accused under Section 77.

The memorandum must be accompanied by the reason for the order.

This is important because the **reasons recorded by the court can become highly relevant when considering a challenge or subsequent application**.

What Is a Detention Warrant?

Section 80. Warrant for detention to be given provides that when a person is held in detention pursuant to the Act, the competent authority shall hold the person in detention by giving a detention warrant in the prescribed form, accompanied by the reason and legal ground of detention, pursuant to the detention order made under Chapter-7.

Accordingly, detention is connected to a formal legal order and stated legal grounds.

How to Strengthen a Bail Application in Nepal

A good **bail application in Nepal** should be based on the statutory framework and the facts of the particular case.

The defence should consider presenting relevant material concerning:

Residence

Evidence of permanent residence can be relevant where the possibility of absconding is an issue.

Family circumstances

Section 72 expressly identifies family condition as a consideration.

Financial circumstances

The accused's financial position is also expressly relevant to the fixing of bail/bond or guarantee.

Age and health

Relevant medical or age documentation should be produced where appropriate.

Previous conviction

The defence should accurately address the accused's criminal history.

Attendance

Where the accused has previously complied with court appearances, that fact may be relevant to the argument against detention or excessive security.

Strength of the prosecution case

The available evidence should be carefully examined against the statutory threshold applicable to detention.

Appropriate security

If the court is considering Dharaut or Jamanat, the defence should be prepared to explain why the proposed security is appropriate and reasonable.

What Should You Do After Getting Bail?

Obtaining **Dharaut or Jamanat** is only one stage of the criminal case.

The accused should:

1. Carefully read the court's order.
2. Understand every condition attached to release.
3. Keep the next hearing date recorded.
4. Attend court whenever required.
5. Maintain communication with the lawyer.
6. Avoid conduct that could create further criminal or procedural complications.

7. Preserve copies of all court orders and security documents.
8. Immediately inform counsel if circumstances change.

The most important obligation is **appearance before the court when required**.

Failure to appear can result in forfeiture and potentially further detention-related consequences.

Why Choose Adalat Lawyers for Criminal Bail and Thunchek Matters?

A **Thunchek, Dharaut or Jamanat** proceeding can have an immediate impact on a person's liberty.

At **Adalat Lawyers**, criminal litigation strategy should begin with identifying the exact statutory offence and then determining how Chapter-7 applies to the facts.

The legal assessment may include:

- examination of the FIR and complaint;
- analysis of the charge;
- review of the applicable punishment;
- assessment of Section 67 detention grounds;
- preparation of the bail/Dharaut argument;
- analysis of Section 72 factors;
- preparation concerning Jamanat or guarantee;
- property-security review;
- bank-guarantee considerations;
- challenge to an excessive security amount;
- petition under Section 73 where appropriate;
- review of prolonged detention under Section 77; and
- consideration of Section 71 where circumstances have changed.

The objective is not merely to ask the court to release the accused. The objective is to present a **legally grounded and fact-specific argument for the least restrictive lawful arrangement available in the circumstances** .

FAQs About Bail, Thunchek, Dharaut & Jamanat in Nepal

1. What is Thunchek in Nepal?

Thunchek (□□□□□) is the commonly used term for the court's determination concerning detention or release of an accused during criminal proceedings. Chapter-7, particularly Sections 67–73, provides the statutory framework governing detention, bail/bond, guarantee, bank guarantee and related challenges.

2. What is Dharaut in Nepal?

Dharaut (□□□□) commonly refers to security furnished for the release of an accused during the criminal case. Depending on the court's order, this can involve bail/bond, guarantee, property security or bank guarantee.

3. What is Jamanat in Nepal?

Jamanat (□□□□□) generally refers to a guarantee or security arrangement under which an accused is released subject to the obligation to comply with the court's requirements, particularly appearance. Section 74 provides the statutory framework for guarantee and property security.

4. Can every accused get bail in Nepal?

No. Section 67 identifies circumstances in which the court may remand an accused in detention, particularly in specified serious offences and other statutory circumstances. Where Section 67 does not apply, Sections 68 and 69 provide mechanisms involving bail/bond, guarantee, bank guarantee or recognizance.

5. How much is Dharaut in Nepal?

There is **no single fixed Dharaut amount for every criminal case**. Section 72 requires the amount to be fixed reasonably after considering matters including the nature and gravity of the offence, financial and family condition, age and physical condition, previous conviction, possible sentence, compensation and consequences of the offence.

6. Can property be given as Jamanat?

Yes, subject to the court's order and statutory requirements. Section 74 provides for property security in connection with a guarantee and also contemplates another person furnishing property as guarantee for the accused. The person providing the property should understand the potential recovery consequences.

7. Can an excessive bail amount be challenged?

Yes. Section 72(2) allows a petition where the amount of bail/bond, guarantee or bank guarantee is considered lesser or excessive and therefore unreasonable. Section 73 also provides a petition mechanism concerning detention, bail/bond, guarantee or bank guarantee orders, subject to its statutory provisions.

8. Can someone detained in jail later get bail?

Potentially, yes. Section 71 permits the court to reconsider detention or require bail/bond, guarantee or bank guarantee at different stages of proceedings based on the circumstances. The evidentiary and procedural position may change during the case.

9. What happens if the accused does not attend court after getting Jamanat?

Failure to appear can have serious consequences. Under Section 75, bail/bond may be **forfeited** if the person who furnished it fails to appear. Where property has been furnished as security, the statutory recovery mechanism may apply.

10. How can I get bail in a criminal case in Nepal?

The first step is to have the exact offence, punishment, evidence, detention order and procedural stage reviewed by a criminal lawyer. The defence can then determine whether the appropriate application is for **Dharaut, Jamanat, bail/bond, guarantee, bank guarantee, recognizance, modification of the security amount, release from detention, or a petition to the appeal-hearing court**.

Conclusion: Bail in Nepal, Thunchek, Dharaut & Jamanat

The law relating to **bail in Nepal** cannot be reduced to the simple question of whether an accused can pay money.

Under Chapter-7 of the **National Criminal Procedure Code, 2074**, the court must apply specific statutory provisions concerning detention, bail/bond, guarantee, bank guarantee and recognizance.

Section 67 deals with detention in specified circumstances.

Section 68 deals with bail/bond, guarantee and bank guarantee.

Section 69 deals with recognizance.

Section 70 allows additional security to be demanded.

Section 71 permits reconsideration of detention or security during proceedings.

Section 72 establishes the grounds for fixing the amount.

Section 73 provides a petition mechanism concerning detention and security orders.

Section 74 governs the deeds and security for bail/bond and guarantee.

Section 75 addresses forfeiture.

Section 76 addresses return or release of security.

Section 77 deals with release in specified cases of prolonged detention.

Section 78 establishes the maximum allowable period of detention.

Sections 79 and 80 address the formal memorandum and detention warrant.

Most importantly, the actual outcome depends on the **specific offence, evidence, statutory punishment, personal circumstances and court order**.

For legal assistance concerning **Thunchek, Dharaut, Jamanat, bail, detention, guarantee, bank guarantee or criminal litigation in Nepal**, consult **Adalat Lawyers**, a litigation-focused law firm in Nepal, for a case-specific assessment.

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Official reference: The Ministry of Home Affairs provides access to the *Muluki Faujdari Karyabidhi Sanhita, 2074* document.