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LEGAL AND JUDICIAL

Jamanat in Nepal: Bail, Guarantee & Release Explained

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Jamanat in Nepal (□□□□□) is an important legal mechanism under the **Muluki Faujdari Karyabidhi Sanhita, 2074 (National Criminal Procedure Code, 2074)**. In criminal proceedings, Jamanat may be relevant where the court permits an accused to remain out of detention subject to a guarantee or security, including property security or bank guarantee, according to the circumstances and the court's order.

Chapter-7 of the National Criminal Procedure Code, 2074 contains the principal provisions relating to **Thunchek (□□□□□□), Dharaut (□□□□), Jamanat (□□□□□), bail/bond, guarantee, bank guarantee and release**. Sections 67 to 80 establish the statutory framework governing detention and release during criminal proceedings. The official Nepal Law Commission publication contains the Code and the prescribed forms relating to Dharaut and Jamanat.

It is important to understand that Jamanat is not simply a payment made to the court. It is a legally regulated security arrangement carrying obligations and potential consequences if the accused fails to comply with the court's requirements.

This guide explains Jamanat under the statutory framework of the **National Criminal Procedure Code, 2074**, including when Jamanat may be ordered, how the amount is fixed, how property may be furnished, what happens if the accused fails to appear, how Jamanat may be challenged, and when the security can ultimately be released.

Adalat Lawyers presents this guide for informational purposes as a litigation-focused law firm in Nepal assisting clients with criminal cases, Thunchek, Dharaut, Jamanat, bail, detention and related court proceedings.

What Is Jamanat in Nepal?

Jamanat (□□□□□) is a form of guarantee or security recognized by the National Criminal Procedure Code, 2074.

Under **Section 68**, except in cases falling under Section 67, the court may take **Dharaut, Jamanat or bank guarantee** from an accused where there is a reasonable ground for proving the charge against the accused and keep the accused subject to the required court proceedings.

Section 74 further explains the legal mechanism for taking Jamanat.

When Jamanat or bank guarantee is taken, the court fixes the amount and takes security of property equal to that amount. The Code also expressly recognizes circumstances where another person provides their property as Jamanat for the accused.

Therefore, Jamanat involves more than simply saying:

“I guarantee the accused.”

The guarantee must comply with the statutory requirements, the relevant deed must be executed, and the person providing security can face financial consequences if the statutory conditions for recovery are triggered.

Jamanat, Dharaut and Bail: Are They the Same?

The terms **Jamanat, Dharaut and bail** are often used together in everyday legal discussion, but they should not automatically be treated as identical legal concepts.

Dharaut /□□□□

Dharaut generally refers to security furnished by the accused for release during criminal proceedings.

Jamanat/ □□□□□

Jamanat refers to a guarantee/security arrangement recognized under the Code.

Bail/Bond

Bail/bond involves release subject to the undertaking and conditions prescribed by the court.

Bank Guarantee

A bank guarantee is a bank-backed form of security expressly recognized by Section 68.

Recognizance

Section 69 provides for proceedings on recognizance in cases outside Sections 67 and 68.

Thunchek/

Thunchek commonly refers to the court's determination concerning detention or release during the criminal proceedings.

Thus, a person may say:

“ ”

In legal terms, however, the actual court order should be examined to determine whether the accused was released on Jamanat, Dharaut, bank guarantee, recognizance or another legally recognized arrangement.

What Does Chapter-7 Say About Jamanat?

Chapter-7 of the National Criminal Procedure Code, 2074 is titled **“Provisions Relating to Detention, Bail and Guarantee”** in the English version and **“ , ”** in the Nepali Code.

The principal provisions are:

- **Section 67** — detention of accused;
- **Section 68** — Dharaut, Jamanat or bank guarantee;
- **Section 69** — recognizance;
- **Section 70** — additional Dharaut, Jamanat or bank guarantee;
- **Section 71** — detention or Jamanat at any stage;
- **Section 72** — grounds for fixing the amount;
- **Section 73** — petition to appeal-hearing court;
- **Section 74** — deed and security requirements;
- **Section 75** — forfeiture of Dharaut;
- **Section 76** — return of Dharaut and release of Jamanat;
- **Section 77** — release after prolonged detention in specified circumstances;
- **Section 78** — maximum allowable detention; and
- **Sections 79–80** — formal orders and detention warrants.

Understanding these provisions together is essential for understanding **Jamanat in Nepal**.

Section 67: When Can the Court Detain an Accused?

Before discussing Jamanat, it is necessary to understand **Section 67**, because Section 68 specifically operates outside the Section 67 circumstances.

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 in the categories specified by the provision.

These include:

1. Offences punishable by life imprisonment

The provision covers an offence punishable by imprisonment for life.

2. Certain Schedule-1 or Schedule-2 offences punishable by more than three years

Section 67 also covers specified Schedule-1 or Schedule-2 offences punishable by imprisonment exceeding three years.

3. Attempt, abetment, conspiracy and accomplice liability

The provision also applies to attempt, abetment, criminal conspiracy or being an accomplice to the relevant offences.

The statutory classification of the offence is therefore critical.

A Jamanat application cannot be properly assessed without first identifying the **exact offence and applicable punishment**.

Other Circumstances for Detention Under Section 67

Section 67(2) identifies additional circumstances in which an accused may be remanded in detention.

These include circumstances where:

- the accused pleads guilty before the court;
- an accused 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;

- the accused failed to appear pursuant to an arrest warrant and cannot provide a satisfactory reason for the failure; or
- the accused was convicted and sentenced to imprisonment within the three years immediately preceding the present charge.

These factors demonstrate why **residence, appearance history and previous conviction** may be important in a Jamanat hearing.

Special Jamanat Consideration Under Section 67(3)

Section 67(3) provides a special rule concerning certain categories of accused.

Subject to the statutory limitation concerning offences punishable by imprisonment exceeding ten years, the court may release on Dharaut or Jamanat an accused who is:

- a child;
- infirm because of physical or mental disease;
- a woman whose pregnancy is more than seven months; or
- a person above seventy-five years of age.

Where such circumstances exist, the defence should bring the relevant facts and supporting evidence before the court.

Section 68: The Main Provision for Jamanat

Section 68. Bail/bond, guarantee or bank guarantee to be taken from the accused is central to Jamanat.

The provision states that, except in cases referred to in Section 67, where there is a reasonable ground for proving the charge against an accused, the court may take:

- Dharaut;
- Jamanat; or
- bank guarantee,

and keep the accused subject to the required proceedings.

The provision further requires a bank guarantee to be **unconditional and renewable** for the period specified by the court.

This means that Jamanat is a statutory mechanism available within the court's criminal procedure framework, rather than an informal agreement between the accused and another person.

What Happens If Jamanat Is Not Furnished?

Section 68(2) provides a direct consequence.

If the accused does not furnish the Dharaut, Jamanat or bank guarantee required under Section 68, the court shall remand the accused in detention.

Therefore, where the court has ordered Jamanat:

Court fixes Jamanat → required security is furnished → release can proceed.

If the required security is not furnished:

Court fixes Jamanat → security is not furnished → detention may follow.

This makes it important to prepare the appropriate security before or immediately after the court's order, depending on the procedural circumstances.

How Much Jamanat Is Required in Nepal?

There is **no single Jamanat amount applicable to every criminal case**.

Section 72 requires the amount of Dharaut, Jamanat or bank guarantee to be fixed **reasonably** after considering specific factors.

The court considers:

1. nature and gravity of the offence;
2. financial status and family condition;
3. age and physical condition;
4. previous conviction and sentence;
5. whether several offences were allegedly committed on the same occasion;
6. sentence imposed or imposable and compensation;

7. consequences resulting from the offence; and
8. whether the accused has pleaded guilty.

Therefore, the amount of Jamanat depends on the **particular case and circumstances**.

A person should not assume that the same amount applies to every accused or every criminal charge.

Section 72: Grounds for Fixing Jamanat Amount

Section 72 is particularly important when a party believes that the amount fixed by the court is excessive.

Nature and Gravity of the Offence

The seriousness of the alleged offence is considered.

Financial Status

The accused's financial position is expressly included.

Family Condition

The family circumstances of the accused are also relevant.

Age and Physical Condition

The court considers the accused's age and physical condition.

Previous Conviction

Previous conviction and sentence may affect the court's assessment.

Several Offences

The court may consider whether several offences were committed during the same occasion.

Sentence and Compensation

The potential sentence and compensation obligations can be considered.

Consequences of the Offence

The consequences arising from the alleged offence are relevant.

Guilty Plea

Whether the accused has pleaded guilty is also listed as a consideration.

The statutory framework therefore requires the amount to be **reasonable**, taking the prescribed factors into account.

Can Jamanat Amount Be Reduced?

Yes, potentially.

Section 72(2) allows a party to petition the **appeal-hearing court** where the amount of Dharaut, Jamanat or bank guarantee demanded is considered lesser or excessive and therefore unreasonable.

The appeal-hearing court may hear the issue and order the amount to be:

- increased;
- reduced; or
- modified.

A proper challenge should identify the legal and factual reasons why the amount is unreasonable.

For example, the defence may point to:

- financial circumstances;
- family condition;
- age or health;
- absence of relevant previous conviction;
- proportionality to the offence;
- compliance with court appearances; and
- other circumstances falling within Section 72.

The exact remedy should be assessed from the court order and procedural stage.

Can Jamanat Be Changed During the Case?

Yes.

Section 70 provides that if the Jamanat, Dharaut or bank guarantee originally taken later appears insufficient, the court may demand **additional security**.

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

Therefore, a Jamanat order can potentially change during the proceedings.

Can the Court Put an Accused in Detention After Initially Granting Jamanat?

Yes.

Section 71 provides that at any stage of the proceedings, while examining evidence, the court may, depending on the circumstances:

- remand the accused in detention under Section 67; or
- demand Dharaut, Jamanat or bank guarantee under Section 68.

The fact that the accused was initially released does not prevent later action under the statutory provisions.

This means that **Jamanat is not an absolute guarantee that the accused will remain out of detention until final judgment**.

The circumstances of the case may change.

Can a Person in Detention Later Receive Jamanat?

Potentially, yes.

Section 71(2) provides that if there are reasonable grounds establishing 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 release from detention.

The defence should therefore monitor the evidentiary position throughout the case.

A later application may become appropriate where the circumstances materially change.

What Is the Legal Meaning of “Guarantee” Under Section 74?

Section 74 is particularly important.

When guarantee or bank guarantee is taken, the court fixes the amount of the guarantee and takes **security of property equal to that amount**.

The Code expressly explains that, for purposes of Chapter-7, the term **“guarantee” includes bank guarantee**.

Therefore, guarantee under this Chapter is connected to identifiable security and formal documentation.

Can Property Be Given as Jamanat?

Yes.

Where Jamanat is required, Section 74 provides for property security corresponding to the amount of the guarantee.

The person furnishing the property must execute the prescribed deed.

The official Nepal Law Commission publication includes:

- **Schedule-30** the prescribed form for a person providing property as Jamanat; and
- **Schedule-31** the prescribed form where a person other than the accused provides property as Jamanat.

Thus, property Jamanat is expressly contemplated by the Code.

Can Someone Else Give Jamanat for the Accused?

Yes.

Section 74(4) specifically deals with circumstances where **another person furnishes their property as Jamanat for the accused**.

The guarantor agrees to ensure that the accused appears at the time and place specified by the court.

If the guarantor fails to ensure the accused's appearance, the statutory recovery mechanism can apply against the property furnished as Jamanat or other property belonging to the guarantor, according to the Code.

This is why anyone giving Jamanat for another person should understand the legal and financial consequences before signing the prescribed deed.

What Does the Jamanat Deed Contain?

The prescribed forms are important.

For a person providing their own property as Jamanat, the deed records the obligation connected with the accused's appearance and the consequences of non-compliance.

For a third-party guarantor, Schedule-31 provides for an undertaking that the accused will be produced at the time specified by the court and acknowledges the consequences if the guarantor fails to do so.

The exact document should be executed according to the form and requirements of the relevant court.

What Happens If the Value of Jamanat Property Decreases?

Section 74(5) contains an important rule.

If the value of property furnished as Jamanat subsequently decreases for any reason, the person who furnished the guarantee must provide property equal to the decreased value to the court.

Therefore, the obligation concerning property security can continue throughout the proceedings.

A guarantor should not assume that acceptance of the property at the beginning means no further responsibility exists.

What Happens If the Accused Fails to Appear?

Appearance is one of the most important obligations associated with Jamanat.

For bail/bond, Section 74 requires the prescribed deed to contain the condition concerning forfeiture if the person fails to appear at the time and place specified by the court.

Section 75 provides that where a person who has furnished Dharaut fails to appear before the court on the appointed date, the Dharaut shall be forfeited.

Where immovable property is involved, the statutory recovery/sale mechanism may apply.

The practical rule is simple:

Jamanat provides release, but it does not remove the accused's obligation to attend court.

Can Jamanat Be Released After Acquittal?

Yes, subject to the statutory provisions.

Section 76 provides for the return of Dharaut and release of Jamanat in specified circumstances.

Where an accused is ultimately **acquitted**, the Dharaut or Jamanat taken during the proceedings must, except where otherwise provided by the Act, be returned or released immediately.

Therefore, the person who furnished Jamanat should retain the relevant documentation until the proceedings and security-release process are completely concluded.

What If the Accused Is Later Detained?

Section 76(1) addresses this circumstance.

Where the court orders an accused to be detained in a case filed before it, the Dharaut or Jamanat furnished before detention is to be released as provided by the provision.

This prevents the same security from simply remaining tied up indefinitely after the accused has been placed in detention.

Can Jamanat Be Used in a Bank Guarantee?

Yes.

Section 68 expressly recognizes **bank guarantee** as a form of security.

However, the Code requires the bank guarantee to be:

- unconditional; and
- renewable for the period specified by the court.

Therefore, a bank guarantee should be prepared according to the exact terms of the court order.

An accused should not assume that any ordinary bank guarantee will automatically satisfy the court.

Jamanat and Recognizance Under Section 69

Jamanat should also be distinguished from **recognizance**.

Section 69 provides that where the accused's case does not fall under Sections 67 and 68, the accused is to be tried by keeping the accused on **recognizance to appear on the appointed days**.

This means that the statutory framework contains situations where an accused can remain out of detention without the same type of Jamanat contemplated by Section 68.

The exact treatment depends on the statutory classification of the case.

Can a Jamanat Order Be Challenged?

Yes.

Section 73 provides that a person dissatisfied with an order concerning:

- detention;
- bail/bond;
- Jamanat;

- guarantee; or
- bank guarantee

may make a petition to the **appeal-hearing court up to one level**.

The provision contains a special rule concerning questions about the illegality of detention in cases involving particularly serious offences.

Accordingly, a Jamanat or detention order should be reviewed promptly where the accused believes that the court applied the law incorrectly or that the security requirement is unreasonable.

Jamanat and Prolonged Detention

Section 77 deals with release from detention where the case has not been adjudicated within the specified period.

Where the case cannot be adjudicated within **one year from the first date fixed for examination of evidence** and the accused remains detained, the case may proceed with the accused released on Dharaut/Jamanat, subject to statutory exceptions.

The provision does not apply to certain persons detained under Section 67 for offences punishable by:

- life imprisonment; or
- imprisonment for ten years or more.

The court may also continue detention in circumstances involving a recidivist where it considers it reasonable.

Therefore, Section 77 may be relevant in prolonged criminal cases but must be applied according to the exact charge and detention basis.

Maximum Detention Period and Jamanat

Section 78 establishes the maximum allowable period of detention.

An accused should not be held in detention for a period exceeding the **maximum term of imprisonment that could be imposed if the charge were proved**, subject to the statutory framework.

Where detention has continued for a lengthy period, the defence should examine the applicable maximum sentence and calculate the relevant period carefully.

Why the Written Jamanat Order Matters

Section 79 requires the court to prepare a memorandum of order when:

- remanding an accused in detention;
- releasing an accused;
- taking bail/bond;
- taking Jamanat;
- modifying or altering security; or
- releasing an accused under Section 77.

The order must include the reason for the action.

Therefore, an accused or guarantor should obtain and preserve the written court order.

It is the written order not merely an oral understanding that determines the legal obligations.

Jamanat Process in Nepal: Step-by-Step

The **Jamanat process in Nepal** can generally be understood as follows.

Step 1: Identify the charge

Determine exactly what criminal offence has been alleged.

Step 2: Determine the punishment

The applicable maximum sentence is important for determining whether Section 67 may apply.

Step 3: Examine Section 67

Determine whether the accused falls within a statutory category where detention may be ordered.

Step 4: Consider Section 68

Where Section 67 does not apply, assess whether Jamanat, Dharaut or bank guarantee is appropriate.

Step 5: Present the Section 72 factors

The defence should provide relevant information concerning:

- financial status;
- family condition;
- age;
- health;
- previous conviction;
- potential sentence;
- compensation; and
- consequences of the alleged offence.

Step 6: Court fixes the security

The court determines the appropriate amount and form of security.

Step 7: Arrange Jamanat

The accused or guarantor provides the required security.

Step 8: Execute the prescribed deed

The relevant statutory deed is completed.

Step 9: Complete the release procedure

Once the court's requirements are satisfied, the release process proceeds.

Step 10: Attend every court date

The accused must comply with the court's appearance requirements.

What Documents May Be Needed for Jamanat?

The exact requirements depend on the court order and type of security, but commonly relevant documents may include:

- citizenship certificate;
- identity documents;
- property ownership documents;
- land registration documents;
- property valuation documents where required;
- family-related documents;
- medical documents where health is relevant;
- proof of residence;
- court order fixing Jamanat;
- bank documents where a bank guarantee is proposed; and
- documents required for execution of the prescribed deed.

The court may require additional documentation depending on the circumstances.

A lawyer should verify the required documents before the hearing to avoid unnecessary delay.

How Adalat Lawyers Can Help With Jamanat in Nepal

A Jamanat application is a criminal litigation matter that can directly affect an accused person's liberty.

At **Adalat Lawyers**, a Jamanat strategy can begin with reviewing:

The exact offence

The statutory charge must be identified accurately.

Section 67 applicability

The defence should determine whether the circumstances justify detention.

Evidence

The available evidence should be assessed against the statutory requirements.

Section 72 factors

Financial, family, age, health and other relevant circumstances should be presented properly.

Security options

The defence can examine whether the appropriate arrangement involves:

- Jamanat;
- Dharaut;
- property security;
- third-party guarantee;
- bank guarantee; or
- another legally available form of release.

Challenge to excessive security

Where appropriate, the defence can consider the statutory remedy concerning an unreasonable Jamanat amount.

Subsequent developments

If the circumstances or evidence change, Section 71 may become relevant.

The objective is to present a **structured, evidence-based and legally supported release argument** rather than relying on a generic request for bail.

Common Mistakes to Avoid in a Jamanat Case

1. Assuming every accused automatically gets Jamanat

The statutory detention provisions must first be considered.

2. Treating Jamanat as simply “paying bail”

Jamanat involves legal obligations and potentially significant consequences for the guarantor.

3. Ignoring the court's written order

The written order should be carefully reviewed.

4. Missing court dates

Failure to appear can result in forfeiture and other legal consequences.

5. Giving property without understanding the deed

A person furnishing property should understand the recovery provisions before signing.

6. Ignoring Section 72

Financial and family circumstances are expressly relevant to the amount.

7. Waiting too long to challenge an unreasonable order

The appropriate appellate/petition remedy should be examined promptly.

FAQs About Jamanat in Nepal

1. What is Jamanat in Nepal?

Jamanat (□□□□□) is a guarantee or security arrangement recognized under the National Criminal Procedure Code, 2074. Under Section 68, except in cases falling under Section 67, the court may take Dharaut, Jamanat or bank guarantee from an accused where there is a reasonable ground for proving the charge.

2. Is Jamanat the same as bail in Nepal?

Jamanat is commonly discussed as part of the broader **bail/release system**, but the statutory terminology distinguishes between Dharaut, Jamanat, bank guarantee and recognizance. The actual court order determines what security or undertaking has been imposed.

3. How much Jamanat is required in Nepal?

There is **no universal fixed Jamanat amount**. Under Section 72, the amount must be fixed reasonably after considering the nature and gravity of the offence, financial and family condition, age, physical condition, previous conviction, possible sentence, compensation, consequences and guilty plea.

4. Can property be used for Jamanat?

Yes. Section 74 provides for property security corresponding to the guarantee amount. The Code also provides prescribed forms for property Jamanat and third-party Jamanat. The property must satisfy the court's requirements.

5. Can another person give Jamanat for an accused?

Yes. Section 74(4) expressly addresses situations where another person furnishes their property as Jamanat for the accused. That person can face recovery consequences if the accused is not produced as required and the statutory conditions are met.

6. Can Jamanat be reduced if the court fixes too much?

Yes, potentially. Section 72(2) permits a party to approach the appeal-hearing court where the Jamanat, Dharaut or bank guarantee amount is considered excessive or otherwise unreasonable. The court may alter or modify the amount.

7. What happens if the accused does not furnish Jamanat?

Under **Section 68(2)**, an accused who fails to furnish the Dharaut, Jamanat or bank guarantee required under Section 68 may be remanded in detention.

8. What happens if the accused misses a court hearing after Jamanat?

Failure to appear can result in serious consequences. The relevant security may be subject to forfeiture or recovery under the statutory provisions. The Jamanat deed is specifically connected to the accused's obligation to appear as required by the court.

9. Can Jamanat be changed during the criminal case?

Yes. Section 70 allows additional security where the original Dharaut, Jamanat or bank guarantee later appears insufficient. Section 71 also allows the court to reconsider detention or security during the proceedings based on the circumstances.

10. How can Adalat Lawyers help with Jamanat in Nepal?

Adalat Lawyers can assess the charge, applicable punishment, evidence and detention basis; prepare a Jamanat/Dharaut strategy; present the Section 72 factors; assist with property or bank guarantee arrangements; and examine available remedies where detention or the security amount is legally challengeable.

Conclusion: Jamanat in Nepal

Jamanat in Nepal is governed by the statutory framework contained principally in **Chapter-7 of the National Criminal Procedure Code, 2074**.

The most important provisions are:

- **Section 67** — circumstances concerning detention;
- **Section 68** — Dharaut, Jamanat or bank guarantee;
- **Section 69** — recognizance;
- **Section 70** — additional security;
- **Section 71** — detention or Jamanat at any stage;
- **Section 72** — factors for fixing the amount;
- **Section 73** — petition to the appeal-hearing court;
- **Section 74** — Jamanat, bank guarantee and prescribed deeds;
- **Section 75** — forfeiture of Dharaut;
- **Section 76** — return of Dharaut and release of Jamanat;
- **Section 77** — release after specified prolonged detention;
- **Section 78** — maximum allowable detention;

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- **Section 79** — memorandum of order; and
- **Section 80** — detention warrant.

The most important practical point is that **Jamanat is not an automatic right in every criminal case and is not merely a cash payment for freedom**.

The court must first consider the statutory framework, particularly Section 67. Where Section 68 applies, the court may take Dharaut, Jamanat or bank guarantee. Section 72 then provides the factors that must be considered when fixing the amount, while Section 74 establishes the security and documentation requirements.

The official Nepal Law Commission publication confirms the statutory provisions and provides the prescribed forms relating to property Jamanat and third-party Jamanat, including Schedules 30 and 31.

A person furnishing Jamanat should understand that the security carries real legal consequences. The accused must comply with the court's appearance requirements, and property furnished as security can become subject to recovery where the statutory conditions are triggered.

For clients facing **Jamanat, Dharaut, Thunchek, detention, bail, bank guarantee or criminal proceedings in Nepal**, obtaining case-specific legal advice is important because the appropriate strategy depends on the exact offence, evidence, punishment and procedural stage.

Adalat Lawyers provides litigation-focused legal assistance in Nepal, including criminal litigation and matters involving **Jamanat, Dharaut, Thunchek, bail and detention**.