

BA-LLB 9th Sem
Criminal Procedure Code
BL-902

Security for Keeping the Peace and Good Behavior

Introduction

Chapter VIII related to Security for Keeping the Peace and for Good Behavior Under section 106 to 124. The main object of this chapter is “Prevention is better than cure”. Section 106 to 110 contain the substantive law related with prevention of crime and section 111 to 124 contain the procedural law. Section 106 to 110 mention that five type of person against whom has been taken sureties and bounds.

Section 106	Section 107	Section 108	Section 109	Section 110
Convicted person	Other cases	Seditious matters	Suspected person	Habitual offenders
Court of session or court of magistrate first class	Executive magistrate	Executive magistrate	Executive magistrate	Executive magistrate
Sec 153A, sec 153B, sec 154, chapter VIII	Breach of peace, Public Tranquility	Sedition matters sec 124A sec 153 A or sec 153 B sec 295 A	Suspected person (committing cognizable offence)	Habitual offence (robbery, thief, forger receiver of stolen property etc)
Three year	One year	One year	One year	Three year

Security for keeping the peace on conviction sec 106(1) :-According to this section ,When a person is convicted either by Court of Session or by a Court of first class Magistrate of offence specified below ,or abetting any such offence and the court is of the opinion that it is necessary to take security from such a person for keeping the peace ,at the time of passing the sentence .it may order him to execute a bond with or without sureties for keeping the peace for such period not exceeding three year .

On conviction of which of the offence security may be asked Section 106 (2): - The offences are: -

- a) Any offence punishable under chapter VIII of I.P.C.,1860 other than offence punishable under sec 153-A, or sec 153-B or sec154 thereof.
- b) Any offence which consists of, includes assault or using criminal force or committing mischief.
- c) Any offence of criminal intimidation

d) Any other offence which caused or was intended or known to be likely to cause a breach of the peace.

When the bond so execute shall become void Sec 106(3):- According to section this section the bond execute under section(1) shall become void ,when the conviction is set aside on appeal or otherwise.

Who may give order to execute bond: -Court of session or court of Magistrate of the first class may order the person .Section 106(4) may also be made by an Appellate Court or by a court when exercising its power of revision.

Madhulimaya vs S.D.M. Monghyr 1977 in this case the court held that any court or magistrate makes an order of security for keeping the peace on conviction.

Security for keeping the peace in other cases sec 107(1):-when an Executive magistrate receives information that any person is likely to commit a breach of the peace or disturb the public tranquility or do any wrongful act that may probably occasion a breach of the peace ,etc and he is of the opinion that there is sufficient ground for proceeding ,he require such person to show cause why he should not be ordered to execute a bond (with or without sureties) for keeping the peace for a period up to one year.

Section 107(2): - The person informed against or the place where the breach of the peace is apprehended should be with in the jurisdiction of the magistrate
The main object of this section is to stay the disturbance of peace and order with immediate effect. The Executive Magistrate has been empowered to take action under this section. The objectives of this section are preventive not punitive.

Security for good behaviour from person disseminating Seditious matters sec 108: -

1) the proceedings can be taken against a person who –

a) Intentionally disseminates (attempts or abets)-

I) Any matter the publication of which is punishable –

- under sec 124 A (sedition).IPC
- Under sec 153 A (promoting enmity between classes etc IPC
- Under sec 295A (Maliciously insulting the religious beliefs) IPC

II) Any matter concerning a judge which amounts to criminal intimidation, defamation.

b) Makes, produces, publishes, etc any obscene matter referred to in section 292 IPC
(Intention is immaterial).

2) No proceeding shall be taken against the editor, proprietor, printer or publisher except by the order or under the authority of the State Government.

The Magistrate may require such person to show cause why he shall not be ordered to execute a bond with or without sureties for his good behavior for such period, not exceeding one year.

Security for good behaviour from suspected person sec 109: -When a person takes precautions to conceal his presence with a view to committing a cognizable offence within the local limits of the jurisdiction of an Executive Magistrate. The Magistrate may require such person to show cause why he should not be ordered a bond (with or without sureties) for good behavior for a period not exceeding one year.

The words 'concealing his presence' are very wide in this section, and sec 109 are sufficiently wide to cover not only the concealment of bodily presence in a house or grove etc but also the concealment of appearance by wearing a mask or covering the face or disguising by wearing a uniform. etc.

Security for good behaviour from habitual offender (Section-110):- When Executive Magistrate receives information that there is within his local jurisdiction person who-

I) Habitual robber, house -breaker, thief or forger.

II) Habitual receiver of stolen property.

III) Habitual protector or harbors of thieves or habitual abettor in the concealment or disposal of stolen property.

IV) Habitual kidnapper abductor, extortioner, cheat or a person habitually committing mischief, offences relating to coin stamps etc.

V) Habitual offender or abettor of a breach of the peace.

VI) Habitual offender committing or attempting to commit or abetting the commission of offences under the acts like -

- Drugs and Cosmetics Act 1940
- FERA 1973,
- Employees Provident Fund Acts 1952 etc
- The Custom Act 1962

Such Magistrate may require him to show cause why he should be ordered to execute a bond with sureties for his good behaviour for such period not exceeding three years.

Bhuneshwar Kher v. Emp AIR 1927 Pat-In this case the court held that the word 'Habit' and habitually has been defined. Habit means character.

Order to be made sec 111: -When a Magistrate acting under sec 107 sec 108 sec 109 or sec 110, It is necessary to require any person to show cause under such section, he shall make an order in writing, setting forth the substance of the information received, the amount of

the bond to be executed ,the term for which it is to be in force, and the number ,character and class of sureties if any required.

Zahir Ahmad vs Ganga Prasad AIR 1974: - All Criminal cases the court held that sec 111 are mandatory and non -compliance with them can not be treated as irregularity.

Procedure in respect of person present in Court sec 112: -If such person is present in court ,the order shall be read over to him or if he desires ,the substance there of shall be explained to him.

Summons or warrant in case of person is not present sec 113: -If such person is not present in court, the Magistrate shall issue summons requiring or If such person is in custody, a warrant directing the officer to bring him before the court.

Copy of order to accompany summons or warrant sec 114: -Every summons or warrant issued in sec 113 shall be accompanied by a copy of order made under sec 111 and delivered to the person.

Power to dispense with personal attendance sec115:- The Magistrate ,seeing the sufficient cause may dispense with the personal attendance and may permit him to appear by a pleader .

Inquiry as to truth of information sec 116:-After a notice Magistrate to make inquiry as to truth of the information upon which action has been taken and to take such further evidence as may appear necessary .This can be done by the Magistrate only when an order in section 111 has been read or explained in sec112 to a person present in court or when any person appears or he brought before Magistrate in compliance with or execution of ,a summons or warrant issued under sec 113.

Order to give security sec 117:-If such inquiry as completed under section 116 and it is proved that it is necessary to get the person execute a bond with or without sureties, Magistrate shall make order that the person concerned should give surety .

Discharge of person informed against sec 118:-If the result is in favour of the person .He will be discharge from the custody .if he is in custody

Commencement of period for which security is required sec119:-According to this section if any person in respect of whom an order requiring security is made under section 106 or sec 117 is at the time of such order is made ,sentenced to or undergoing a sentence of imprisonment ,the period for which such security is required shall commence on the expiration of such sentence and in other cases such period commence on the date of such order unless the Magistrate fixes a later date .

Contents of bond sec 120:- when the bond to be executed by any such person shall bind him to keep the peace or to be good behaviour ,as the case may be and in the latter case the

commission or attempt to commit or the abetment of any offence punishable with imprisonment is a breach of bond.

Power to reject sureties sec 121:-In this section Magistrate to refuse any surety to accept which is to reject ,which was previously accepted by or his predecessor on the ground that the same is an unfit person for the purposes of the bond.

Imprisonment in default of security sec 122:-when a person fails to give security ,he shall be committed to prison or if he is already in prison , he is to be detained in prison , until such security period expires or until within such period he gives the security .

Power to release persons imprisoned for failing to give security sec 123:- The District Magistrate, and the Chief Judicial Magistrate has to power persons for failing to give security ,if he thinks that it can be done without hazard to the community. It is open to the High Court or Court of session or the District Court Magistrate or Chief Judicial Magistrate to reduce the amount of security .

Security for unexpired period of bond sec 124:-when a person who appearance a summons or warrant has been issued under the proviso to sub section (3) of sec 121 or sub section (10) of sec 123 appears .He brought before the Magistrate or court ,Magistrate or Court must cancel the bond and order the person to give a fresh security for the unexpired of the term of the bond.

Exercise –

Q-1 Discuss the security for keeping the peace on conviction under section 106?

Q-2 In which section habitual offender has been defined ?

Q-3 When can a Magistrate dispense with the personal attendance under section 107?

Q-4 What is the object of sec 110 taking security for good behaviour from habitual offenders?

Reference:-

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- M.D Chaturvedy ,The code of Criminal Procedure ,1973.Fifth Edition ,2015
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- Bare act Code of Criminal Procedure ,1973

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