

”bailable of taking bail
from him. thus,



**ASSIGN
BUSTER**

" Bailable offence" means an offence which shown as bailable in the First Schedule, or which is made bailable by any other law for the time being in force, and ' non-bailable' offence, means any other offence. Bailable offences are less serious than non-offences. The word ' bail' means release of a person from legal custody.

Therefore, when a person is granted bail, he is released from restraint. But it may be noted here that in the case of a bailable offence bail can be claimed as a matter of right. As the bailable offence are less grave and serious than those which are non- bailable therefore, if an offence is punishable with imprisonment for less than three years or with fine only, it is bailable on the other hand, a non- bailable offence is one which punishable with a death penalty, or life imprisonment, or imprisonment for three years or more. In bailable offence bail is granted as a matter of Course either by the police officer in charge of the accused the Court. As soon as the accused is prepared to give bail, the police officer or the Court, before whom he offers to give bail, is bound to release him on such terms as to bail may appear reasonable to the police officer or the court, as the case may be. Again the officer or the Court, can even discharge the accused an executing a bound, instead of taking bail from him. Thus, one of the basic rights and privileges provided by the criminal procedure and administration of India is the right to bail. The criminal procedure code has not provided any test to determine whether an offence is liable or non-lailable one.

Anyhow, serious offences are treated as non-bailable. No doubt, non-bailable offences are those in which it is not all open to the police Officer to release the accused on bail but this does not mean that those accused can never be

released on bail in any case. They can be realized on application for bail by an order or Court of the Law after giving reasonable opportunity to the public prosecutor. Sometimes bail may be given in non-bailable offence of consideration to the necessity of release of an accused harmless nature or his physical health. In this case the magistrate has certain discretionary powers to release on bail. Cognizable offence and Non-Cognizable Offence:-

In a cognizable offence a police officer may arrest without warrant.

In a non-cognizable offence, a police officer has no authority to arrest without warrant. For arrest in a cognizable offence, a police officer has to follow the provisions of the First schedule or any other law for the time being in force. In a Non-Cognizable offence, Police officer may arrest only on an order from the magistrate. Thus a cognizable offence is investigated without any permission from the magistrate whereas a non-cognizable offence cannot be investigated by a public officer without an order or sanction from the Magistrate. Non-cognizable offence is thus more trivial and less serious than cognizable ones. The seriousness of the offence is to be determined in relation to the maximum punishment provided for the offence. It may be relevant to note that offence under the laws other than the Indian penal Code which are punishable with imprisonment for the years or more have been shown in the first schedule as cognizable and those punishable with less than three years have been shown as non-cognizable.

Examples of Cognizable offence are rape, homicide, dacoit etc. Example of non-Cognizable offence is simple hurt, procuring miscarriage etc. In case of non-Cognizable offence a Police Officer can arrest without warrant but such officer has no power to investigate without the authority given by a

judicial magistrate. Sometimes the magistrate directs the police Officer to conduct investigation in a non-Cognizable offence. Proceeding in non-Cognizable cases start by means of a complaint but no complaint need be made in a cognizable case. Summons case and Warrant case: Summons case means a case relating to an offence and not to being a warrant case. But a warrant cases, in turn is defined to mean a case relating to an offence punishable with death, imprisonment for life or imprisonment for a term exceeding two years.

In a summons case no charge need be framed, only the particulars of the offence of which he is accused must be conveyed to him. Here the Magistrate has discretion to convict an accused person if he pleads guilty. Again in a summons case, the accused may be acquitted of the complainant does not appear, or on death of the complainant. However in a warrant-case, a charge is to be framed against the accused.

Only after the charge is framed the accused may plead guilty, and the magistrate may in his discretion, convict him. Here a Magistrate can discharge the accused if the complaint is absent, or if no charge is framed or if the offence is compoundable and non-cognizable. A warrant-case cannot be converted into a summons case in the course of the trial. But, a summoned case can be converted into a warrant case. When the charge reveals both a warrant case and a summons case, the former is to be preferred. Again the trial procedure of warrant case is elaborate than that provided for a summoned case. Lastly, a case assumes the character of summons case of warrant case according to the nature and measure of punishment which the law attaches to the offence.