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Air HQ/23412/PS

12 Apr 06

HQ WAC, IAF
HQ SWAC, IAF
HQ CAC, IAF
HQ EAC, IAF
HQ SAC, IAF
HQ TC, IAF
HQ MC, IAF
AFCC HQ ANC

(For SOA)

(For SAASO)

(For AFCC)

**BAIL OF AIR FORCE PERSONNEL ARRESTED FOR
OFFENCES COMMITTED IN THE DISCHARGE OF
OFFICIAL DUTY**

1. At times, FIRs/ Criminal Complaints are filed against AF personnel alleging commission of offence(s) by them in the discharge of their official duty. The detailed provisions are outlined in Para 685 of Regs for the AF, 1964 and AFO 227/77 for the defence of officers/airmen charged with civil offences committed in the discharge of their duty.
2. Whilst adequate statutory safeguards are in place under Section 45 & 197 (2) of the Criminal Procedure Code, 1973, to prevent the unscrupulous elements from launching frivolous prosecution, or arrest of the AF personnel on flimsy grounds, it is felt that enough provisions do not exist to provide aid, advice and support to Air Force personnel for seeking bail from the Criminal Court, whenever a complaint is made against them for having committed any bailable or non-bailable offence. Consequently, the affected Air Warrior sometimes feels that the organization has not provided adequate support to him.

3. In terms of Para 146 of AFO 227/77, no legal or administrative sanction exists requiring or permitting any officer/airman to stand surety/bail in his official capacity. The apparent rationale behind the said provision is that the organization, as such, should not be brought in bad light if the accused, for any reason, happens to violate the conditions of the bail. However, AF personnel are not precluded from standing bail/surety in their personal capacity.

4. It has, therefore, been decided that following steps must be taken, whenever an AF personnel is arrested/likely to be arrested, for any act/omission in relation to the performance of his official duty : -

(a) The Commanding Officer must provide full Adm support to such an Air Force personnel so as to enable him to secure bail from the Court at the earliest.

(b) The assistance of the concerned APM must be obtained for this purpose.

(c) If a surety is required, the Commanding Officer should persuade a suitable officer/airman to stand surety for such personnel, if no individual volunteers to act as a surety.

(d) The initial expenditure for engaging the Counsel etc. may be borne out of NPF, which may subsequently be reimbursed from the Public Fund after sanction is accorded by the CFA.

(e) The Stn Legal Officer/Oi/c Legal Cell must be involved in the case from the very outset. His aid and advice may be obtained at every stage for securing the bail of the accused AF personnel.

(f) The Commanding Officer must contact the family of the accused AF personnel and assure them that utmost is being done to get such personnel released on bail.

(g) The Commanding Officer should take the assistance of CJA at Command HQ / Deptt of JAG (Air) at this HQ, on such issue and in consultation with them, take all necessary steps to secure the bail of the AF personnel.

5. It is again emphasized that it is the responsibility of the AOC/ Stn Cdr/ CO of the concerned Stn/ Unit to take such appropriate measures, as necessary, to ensure that AF personnel, accused of offence(s) in relation to his official duty, is not detained in custody longer than the minimum period, required under the legal provisions.

6. Please acknowledge.

(HS Garkal)
Air Marshal
AOA

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