

Sample Bail Essay

Describe how matters relating to the granting of bail to a person awaiting trial are decided. [18]

This is a **genuine** student's answer to the question we have planned. Using your plan (the mark scheme) decide what mark it would be given and why.

Mark: _____ **Level:** _____

Level	Description	Marks
4	Good, well-developed knowledge with a clear understanding of the relevant concepts and principles.	15-18
3	Adequate knowledge showing reasonable understanding of the relevant concepts and principles.	11-14
2	Limited knowledge showing general understanding of the relevant concepts and principles	6-10
1	Very limited knowledge of the basic concepts and principles..	0-5

Bail is whether D should stay in custody or free. Under s.4 of the Bail Act 1976 D should be granted bail.

Both the police and the courts can grant bail. The police can give bail to a D who has been charged with an offence, to make sure they appear at court.

The police can also refuse bail and if D doesn't turn up the police can arrest him. If the police refuse bail they must bring the defendant in front of the Magistrates Court. If the Magistrate can't deal with the whole case then they will decide whether to remand or give bail.

Most people get unconditional bail. The courts and the police can also give him conditions to stick to, to make sure he turns up e.g. surety.

When deciding whether D gets bail, the court looks at the background of D and what he has done. But if he wouldn't be put in prison for it at the end, then he can only be locked up if he didn't stick to it before or the court has reason to think he won't this time.

To protect the public, D might not get bail if he committed the offence while on bail or if D is an adult and charged with a drugs offence

People who are repeat offender have a limited chance of getting bail, especially those who are charged with murder, attempted murder, manslaughter, rape or attempted rape and have already served a sentence for a similar offence. (s25 Criminal Justice and Public Act - which has been amended). After Gary Weddell it is also harder for a murderer to get bail if they think he might harm someone else.

D is still innocent until proven guilty and so should be given bail because it's fairer.

Student Feedback

Remember, a teacher doesn't just give a mark – they also give a comment which aims to tell the student what they have done well, and what they can improve.

A

An absolutely great thing that they are doing....

B

Better if they would...

Improving your responses.

Example:

Extract from Essay	Improved response
To protect the public, D might not get bail if he committed the offence while on bail or if D is an adult and charged with a drugs offence	To protect the public, the presumption of bail may be rebutted under s.14 <u>Criminal Justice Act 2003</u> , which says that D's right may be revoked if he committed the current offence whilst on bail for another offence. s.19 also allows the court to rebut the presumption, where D is aged over 18 and charged with a drugs related offence. If D refuses treatment the court may rebut the presumption as pose a higher risk of reoffending.

Student Task:

Now, have a go at writing the following sections, aiming to improve the mark by at least one level.

Most people get unconditional bail	
The police can also refuse bail and if D doesn't turn up the police can arrest him	
The courts and the police can also give him conditions to stick to, to make sure he turns up e.g. surety.	
If the police refuse bail they must bring the defendant in front of the Magistrates Court. If the Magistrate can't deal with the whole case then they will decide whether to remand or give bail.	
When considering whether to grant bail, the court looks at the background of D and what he has done..	
People who are repeat offender have a limited chance of getting bail	
After Gary Weddell it is also harder for a murderer to get bail if they think he might harm someone else.	