

LEGAL AND JUDICIAL

Dharaut in Nepal: Bail Amount, Process & Rules

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Dharaut in Nepal (दरौत) is one of the most important mechanisms for obtaining release from detention during a pending criminal case. Under **Chapter-7 of the Muluki Faujdari Karyabidhi Sanhita, 2074** ([National Criminal Procedure Code, 2074](#)), the court may, depending on the nature of the offence and circumstances of the accused, order detention, take **Dharaut, Jamanat or bank guarantee**, or proceed with the accused on recognizance.

Sections **67 to 80** of the National Criminal Procedure Code, 2074 are particularly important. The official Nepal Law Commission repository contains the current published text of the Criminal Procedure Code, including Chapter-7 and the prescribed forms relating to Dharaut and Jamanat.

[Adalat Lawyers](#) presents this guide based on the statutory framework of the National Criminal Procedure Code, 2074. The purpose is to explain what Dharaut means, when the court may order it, how the amount is determined, what property can be used, what happens if the accused fails to appear, and what remedies are available against an excessive Dharaut order.

What Is Dharaut in Nepal?

Dharaut (दरौत) is security furnished by an accused in connection with release during criminal proceedings.

Under Section 68 of the National Criminal Procedure Code, 2074, 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 and remand the accused on the required terms.

The Code therefore does not treat Dharaut as a completely separate concept from the broader bail system. Dharaut operates within the statutory framework governing **detention, bail/bond, guarantee and release**.

In practical terms:

Court considers the case → determines whether detention is required → if release is legally available, the court may fix Dharaut/Jamanat/bank guarantee → accused furnishes the required security → court processes release.

However, this should not be misunderstood as meaning that every accused person can obtain release simply by offering money.

The first question is always whether the case falls within the detention provisions of **Section 67**.

Dharaut and Thunchek: Why the Distinction Matters

In Nepalese criminal practice, people commonly use the term **Thunchek** (थुन्चेक) for the court's determination concerning detention or release of an accused during the criminal proceedings.

At the Thunchek stage, the court may consider whether:

- the accused should remain in detention;
- Dharaut should be taken;
- Jamanat should be taken;
- a bank guarantee should be furnished;
- the accused should be released on recognizance; or
- another legally permissible arrangement should apply.

Therefore, **Dharaut is one possible outcome of the Thunchek process; it is not synonymous with every Thunchek order.**

This distinction is particularly important in serious criminal cases because Section 67 identifies circumstances in which the court may remand an accused in detention.

Section 67: When Can the Court Order Detention?

Section 67 is the starting point for determining whether Dharaut is available.

Under **Section 67(1)**, where an accused is charged with specified offences and the evidence available at the relevant time shows that the accused appears to be guilty or there is a reasonable basis to believe that the accused is guilty, the court may remand the accused in detention for trial, recording the reason for detention.

The provision covers:

1. Offences punishable by life imprisonment

Where the alleged offence carries a sentence of imprisonment for life, Section 67 may apply.

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

Section 67(1)(b) applies to offences under Schedule-1 or Schedule-2 punishable by imprisonment exceeding three years.

3. Attempt, abetment, conspiracy or accomplice liability

Section 67(1)(c) also covers attempt, abetment, criminal conspiracy or being an accomplice to the offences specified in the relevant clauses.

This means that the **exact offence charged and its statutory punishment** are fundamental when determining whether the court is dealing with a Section 67 detention case.

Other Grounds for Detention Under Section 67

Section 67(2) provides additional circumstances where an accused may be remanded in detention.

These include:

- where the accused pleads guilty before the court;
- where 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;
- where the accused failed to appear within the time specified in an arrest warrant and, after being arrested and produced before the court, fails to provide a satisfactory reason for the failure; or
- where the accused was convicted and sentenced to imprisonment within the three years immediately preceding the present charge.

These provisions demonstrate that the court may consider not only the alleged offence but also the accused's **attendance, residence and previous criminal history**.

Special Rule for Certain Accused Persons

Section 67(3) provides a special provision for certain categories of accused.

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

- a child;
- infirm due to physical or mental disease;
- a woman with pregnancy of more than seven months; or
- a person above seventy-five years of age.

Where such circumstances exist, the defence should place the relevant facts and supporting documents before the court.

The statutory limitation must, however, be carefully considered according to the exact offence and punishment.

Section 68: The Main Legal Provision on Dharaut

Section 68. To take Dharaut, Jamanat or bank guarantee from the accused is the principal provision governing Dharaut.

The provision states, in substance, that **except in cases falling under Section 67**, where there is a reasonable ground for proving the charge against the accused, the court may take:

- Dharaut;
- Jamanat; or
- bank guarantee,

and keep the accused on the required court date/attendance arrangement.

The Code further provides that a **bank guarantee must be unconditional and renewable for the period specified by the court.**

This provision is extremely important because it shows that Dharaut is generally considered in cases outside the detention circumstances of Section 67.

What Happens If the Accused Cannot Furnish Dharaut?

Section 68(2) provides that an accused who does not furnish the Dharaut, Jamanat or bank guarantee required under Section 68 shall be remanded in detention.

Therefore, there is a practical two-stage process:

Stage 1. Court fixes security

The court determines that release can take place subject to Dharaut, Jamanat or bank guarantee.

Stage 2. Security must actually be furnished

The accused must comply with the court's order.

If the required security is not furnished, detention may follow under Section 68(2).

This is why families should understand **not only the amount ordered but also the type of security accepted by the court.**

Is There a Fixed Dharaut Amount in Nepal?

No single fixed Dharaut amount applies to every criminal case.

Section 72 requires the court to fix the amount **reasonably**, taking specified circumstances into account.

This means that two accused persons facing different offences or materially different circumstances may receive different Dharaut amounts.

A lawyer should therefore avoid treating Dharaut as a standard price for release.

The relevant question is:

What amount is reasonable under Section 72 considering the offence and circumstances of this particular accused?

Section 72: How Is the Dharaut Amount Determined?

Section 72 is one of the most important provisions for understanding **Dharaut amount in Nepal.**

The court must consider the relevant statutory factors and fix the amount reasonably.

The Code identifies the following matters.

1. Nature and Gravity of the Offence

The court considers the nature and seriousness of the alleged offence.

A serious offence may justify a different security assessment from a less serious allegation.

2. Financial Status and Family Condition

The court considers the **financial status and family condition of the accused or offender**.

This is particularly important because the law expressly requires these circumstances to be considered when fixing the amount.

3. Age and Physical Condition

The age and physical condition of the accused may also be relevant.

Where illness or physical condition is material, appropriate medical evidence should be presented.

4. Previous Conviction

The court considers whether the accused was previously convicted of an offence and sentenced.

A relevant previous conviction can affect the court's assessment.

5. Several Offences on the Same Occasion

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

6. Potential Sentence and Compensation

The sentence that may be imposed and the compensation that may have to be borne by the accused are relevant considerations.

7. Consequences of the Offence

The consequences resulting from the alleged offence may be considered.

8. Guilty Plea

Whether the accused has pleaded guilty is also included among the statutory considerations.

The law therefore requires a **reasoned and reasonable approach to the amount**, rather than a purely arbitrary figure.

Can You Challenge an Excessive Dharaut Amount?

Yes.

Section 72(2) provides that where a party considers the Dharaut, Jamanat or bank guarantee amount demanded to be lesser or excessive and therefore unreasonable, an application may be made to the **appeal-hearing court**.

The appellate court may hear the issue and order the amount to be:

- increased;
- reduced; or
- otherwise modified.

This provision can be important where an accused believes that the court has fixed an amount that does not reasonably reflect the statutory factors.

A properly prepared challenge should identify **why the amount is unreasonable**, rather than merely stating that the accused cannot afford it.

Section 73: Challenging a Dharaut or Thunchek Order

Section 73 provides a separate petition mechanism.

A person dissatisfied with an order concerning:

- Thunchek/detention;
- Dharaut;

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- Jamanat; or
 - bank guarantee

may make a petition to the court hearing the appeal **up to one level**, subject to the statutory proviso.

The proviso provides an additional route concerning the legality of a detention order in cases involving offences punishable by life imprisonment or imprisonment for five years or more, as specified by the provision.

Therefore, if the court orders detention or fixes a disputed Dharaut amount, the defence should promptly examine whether a petition under Section 72(2), Section 73, or another appropriate legal remedy is available.

Can the Court Demand Additional Dharaut Later?

Yes.

Section 70 states that if the Dharaut, Jamanat or bank guarantee initially taken from an accused later appears to be insufficient, the court may demand **additional Dharaut, Jamanat or bank guarantee**.

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

Therefore, the original security arrangement can be reconsidered during the proceedings.

Can the Court Change a Previous Dharaut Order?

Yes.

Section 71 provides that the court can, during the examination of evidence and regardless of the stage of the proceedings, remand an accused in detention under Section 67 or demand Dharaut, Jamanat or bank guarantee under Section 68.

The fact that the accused was not detained at the beginning does not prevent the court from later taking action under Section 67.

Similarly, the fact that security was not initially demanded does not permanently prevent the court from demanding it later.

This is why **bail and Dharaut are not necessarily permanent arrangements throughout the entire criminal case.**

Can a Detained Accused Later Be Released?

Yes, where the statutory circumstances support it.

Section 71(2) provides that if the court obtains reasonable grounds to establish 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 the accused's release from detention.

This means that the evidentiary position can become relevant even after an initial detention order.

A defence lawyer should therefore monitor developments in the evidence rather than assuming that the first Thunchek order determines the accused's position for the entire case.

Dharaut on Property: Can Land or Other Property Be Used?

Yes, subject to the statutory requirements and court order.

Section 74 establishes the process for taking Dharaut, Jamanat or bank guarantee.

The prescribed forms published by the Nepal Law Commission specifically contemplate **cash or property being furnished as Dharaut**. Schedule-29, corresponding to Section 74(1), includes the prescribed undertaking concerning appearance and forfeiture of the Dharaut if the person does not appear as required.

Where property is used as security, the court must follow the relevant statutory procedure and documentation.

This makes it important to verify:

- who owns the property;
- what property is being offered;
- whether the property can legally be furnished;
- the value of the property;

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- whether the court accepts it as sufficient security; and
 - what documents are required.

Can Another Person Give Property as Jamanat?

Yes.

Section 74 contemplates a situation where **another person furnishes their property as guarantee for the accused**.

The person providing the property must execute the prescribed documentation and accept the statutory consequences.

If the accused fails to appear at the time and place specified by the court, the guarantee may become subject to recovery according to the Code.

Accordingly, a family member or other guarantor should understand that giving property as Jamanat is a legally significant commitment.

It should not be treated as a simple formality.

What Happens If the Value of the Guaranteed Property Falls?

Section 74 provides that if the value of property furnished as guarantee subsequently decreases for any reason, the person who furnished the guarantee must submit property equal to the decreased value to the court.

This is an important provision that property owners should understand.

The obligation does not necessarily end merely because the property was accepted when the guarantee was originally furnished.

If its value subsequently decreases, the statutory requirement concerning replacement or additional property can arise.

What Documents Are Used for Dharaut?

The Code contains prescribed schedules for the relevant deeds.

Schedule-29, related to Section 74(1), contains the form for the person furnishing Dharaut. It records the court's order, the amount or property being furnished and the undertaking to appear at the time specified by the court, with consent to forfeiture up to the amount payable if the person fails to appear.

The Code also contains:

- **Schedule-30** concerning the person giving property as Jamanat; and
- **Schedule-31** concerning another person furnishing property as guarantee.

The exact documentation should be completed according to the court's prescribed requirements.

What Happens If the Accused Does Not Appear?

This is one of the most important Dharaut rules.

Under **Section 75. Forfeiture of Dharaut**, if a person who has furnished Dharaut does not appear before the court on the appointed date, the Dharaut is subject to forfeiture.

Where immovable property has been furnished, the statutory mechanism allows property corresponding to the amount payable to be sold or recovered, with the remaining property returned as provided by law.

Therefore:

Dharaut gives release, but it also creates a legally enforceable appearance obligation.

Missing a court date without addressing the matter properly can have serious consequences.

Can Dharaut Be Returned?

Yes, subject to the Code.

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

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

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

This is one reason why the accused and guarantor should retain copies of:

- the court order;
- Dharaut deed;
- property documents;
- receipts; and
- release/final orders.

What Happens If the Criminal Case Takes More Than One Year?

Section 77 addresses prolonged detention.

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

The important exception is that the provision does not apply to an accused detained under Section 67 for an offence punishable by:

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

The court may also continue detention where the statutory circumstances concerning a recidivist apply.

Therefore, Section 77 must always be examined against the exact charge and basis of detention.

Maximum Period of Detention Under Section 78

Section 78 establishes another important safeguard.

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**, notwithstanding other provisions of the Chapter.

For a detention challenge, the defence should carefully calculate and document:

- the date of detention;
- the statutory offence;
- the maximum possible sentence;
- the procedural history;
- dates fixed for evidence; and
- any applicable exceptions.

This can be particularly important in cases involving prolonged criminal proceedings.

Section 79: The Court Must Record the Order

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

- an accused is remanded in detention;
- an accused is released;
- Dharaut is taken;
- Jamanat is taken;
- bail/guarantee is modified;
- security is altered; or
- an accused is released under Section 77.

The memorandum must be accompanied by the reason for the order.

For the defence, obtaining and reviewing the **actual written order** is therefore extremely important.

The reasons recorded by the court can determine what legal remedy may be appropriate.

Section 80: Detention Warrant and Legal Grounds

Section 80 provides that where a person is held in detention under the Act, the competent authority must hold the person in accordance with a detention warrant in the prescribed form.

The warrant must be accompanied by the reason and legal ground for detention and must be based on the detention order made under Chapter-7.

Thus, detention is connected to a formal judicial order and stated legal basis.

Dharaut Process in Nepal: Step-by-Step

For practical purposes, the **Dharaut process in Nepal** can be understood through the following sequence.

Step 1: Identify the exact criminal charge

The first step is to identify the precise offence alleged against the accused.

Step 2: Check the statutory punishment

The maximum punishment can determine whether Section 67 is engaged.

Step 3: Examine the evidence

The court considers the evidence available at the relevant stage under the applicable statutory framework.

Step 4: Determine whether detention under Section 67 applies

If Section 67 applies, the court may order detention where its statutory requirements are satisfied.

Step 5: Consider Section 68

Where Section 67 does not apply, the court may consider Dharaut, Jamanat or bank guarantee where there is a reasonable ground for proving the charge.

Step 6: Present Section 72 circumstances

The defence should place relevant financial, family, age, health and other circumstances before the court.

Step 7: Furnish the ordered security

The accused or guarantor must comply with the court's order.

Step 8: Execute the prescribed deed

The relevant statutory deed must be completed.

Step 9: Obtain release

Once the required legal and administrative steps are completed, the accused may be released according to the order.

Step 10: Attend every required hearing

The accused must comply with the appearance obligation to protect the Dharaut/Jamanat from forfeiture.

How to Argue for a Reasonable Dharaut Amount

A strong Dharaut argument should be based on the factors expressly identified by Section 72.

The defence may present evidence concerning:

Stable residence

Demonstrate a genuine and permanent connection to Nepal where relevant.

Family responsibility

Explain the accused's family circumstances.

Financial condition

Provide a realistic picture of the accused's financial capacity.

Health and age

Where relevant, submit medical or age documentation.

Criminal history

Accurately explain previous convictions or the absence of relevant previous convictions.

Nature of the allegation

Address the seriousness and actual circumstances of the alleged offence.

Potential sentence

Explain the statutory punishment relevant to the charge.

Court attendance

Where the accused has complied with previous court orders, this may be relevant to the overall assessment.

The purpose is to assist the court in determining a **reasonable** amount within the statutory framework.

What If the Accused Cannot Afford the Dharaut?

If the court has fixed Dharaut and the accused cannot furnish it, the problem should be addressed immediately.

Section 68(2) states that an accused who fails to furnish the required security may be remanded in detention.

Depending on the circumstances, the defence may examine whether:

- the amount can be challenged under Section 72(2);
- a petition can be made under Section 73;
- an alternative form of security can be proposed;
- a guarantor can provide property;
- a bank guarantee is legally and practically available; or
- changed circumstances justify reconsideration under Section 71.

The appropriate remedy depends on the exact order.

Dharaut vs Jamanat vs Bank Guarantee

Term	General Meaning
Dharaut (दरौत)	Security furnished for release subject to the court's order
Jamanat (जमानत)	Guarantee/security arrangement for the accused
Bank Guarantee	Bank-backed security subject to the statutory and court requirements
Recognizance	Appearance undertaking under Section 69 in appropriate cases
Thunchek (ठुन्चेक)	

□□□□)Court's determination concerning detention/release during proceedings **Thuna** (□□□□)
Detention/custody

The precise legal effect always depends on the **court order and applicable statutory provision**.

Why Legal Representation Matters in a Dharaut Case

A Dharaut hearing can directly affect an accused person's liberty.

A lawyer should not approach the matter merely by asking:

"How much money can we deposit?"

The more important questions are:

- Does Section 67 apply?
- Is detention legally justified?
- Does Section 68 permit Dharaut?
- What does the available evidence show?
- What are the relevant Section 72 factors?
- Is the amount reasonable?
- Can property be furnished?
- Can a third party provide Jamanat?
- Is a bank guarantee practical?
- Is an appeal-hearing court petition available?
- Has the accused been detained for an excessive period?
- Has the evidentiary position changed?

At **Adalat Lawyers**, these questions form part of a case-specific criminal litigation assessment.

The objective is to present the court with a structured legal basis for release and, where appropriate, to challenge detention or an unreasonable security amount.

FAQs About Dharaut in Nepal

1. What is Dharaut in Nepal?

Dharaut (धारात) is security furnished by an accused for release during criminal proceedings where the court permits release subject to Dharaut. Section 68 of the National Criminal Procedure Code, 2074 provides for Dharaut, Jamanat or bank guarantee in cases outside the Section 67 detention framework.

2. How much is Dharaut in Nepal?

There is **no fixed Dharaut amount for every criminal case**. Under Section 72, the court must fix the amount reasonably after considering factors including the nature and gravity of the offence, financial and family condition, age and physical condition, previous conviction, possible sentence, compensation and consequences of the offence.

3. Can I get Dharaut in every criminal case?

No. Section 67 identifies circumstances where an accused may be remanded in detention, particularly for specified serious offences and other statutory circumstances. Section 68 applies to cases outside Section 67 where the statutory requirements for Dharaut, Jamanat or bank guarantee are satisfied.

4. What happens if I cannot pay the Dharaut amount?

If the court requires Dharaut, Jamanat or bank guarantee and the accused fails to furnish it, **Section 68(2) provides for detention**. Depending on the circumstances, the defence may consider challenging an excessive amount under Section 72(2), petitioning under Section 73 or seeking another legally available arrangement.

5. Can land or property be used for Dharaut?

Yes, subject to the court's requirements. Section 74 provides the statutory framework for security and the prescribed deeds contemplate property being furnished as Dharaut or Jamanat. The court must be satisfied with the security and the relevant documentation must be completed.

6. Can another person give Jamanat for an accused?

Yes. Section 74 contemplates another person furnishing their property as guarantee for an accused. However, the guarantor may face recovery consequences if the accused fails to appear as required. Anyone furnishing property should therefore understand the legal commitment before signing the deed.

7. Can the Dharaut amount be reduced?

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

8. Can the court increase Dharaut later?

Yes. Section 70 allows the court to demand additional Dharaut, Jamanat or bank guarantee if the original security subsequently appears insufficient. Failure to provide the additional security may result in detention.

9. What happens if the accused misses a court date after furnishing Dharaut?

Under **Section 75**, Dharaut may be forfeited if the person who furnished it fails to appear before the court on the appointed date. Where immovable property was furnished, the statutory recovery and sale provisions may apply to the amount payable.

10. How can a lawyer help with Dharaut in Nepal?

A criminal lawyer can examine the charge, punishment, evidence and detention basis; prepare the Thunchek/Dharaut argument; present the Section 72 factors; arrange or challenge the proposed security; advise on property Jamanat or bank guarantee; and consider an appropriate petition where detention or the Dharaut amount is legally challengeable.

Conclusion: Dharaut in Nepal

Dharaut in Nepal is governed principally by the detention and bail framework contained in **Chapter-7 of the National Criminal Procedure Code, 2074**.

The most important provisions are:

- **Section 67** — detention of an accused in specified circumstances;
- **Section 68** — Dharaut, Jamanat or bank guarantee;
- **Section 69** — recognizance;
- **Section 70** — additional Dharaut, Jamanat or bank guarantee;

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- **Section 71** — power to reconsider detention or security during proceedings;
 - **Section 72** — grounds for fixing the amount;
 - **Section 73** — petition to the appeal-hearing court;
 - **Section 74** — deeds and security requirements;
 - **Section 75** — forfeiture of Dharaut;
 - **Section 76** — return of Dharaut and release of Jamanat;
 - **Section 77** — release in specified cases of prolonged detention;
 - **Section 78** — maximum allowable detention period;
 - **Section 79** — memorandum of the court's order; and
 - **Section 80** — detention warrant.

The key point is that **Dharaut is not a fixed amount and is not automatically available in every criminal case**. The court first considers the applicable statutory framework, particularly whether the case falls under Section 67. Where Section 68 applies, the court may take Dharaut, Jamanat or bank guarantee, and Section 72 provides the factors for fixing the amount reasonably.

The Nepal Law Commission's official publication of the National Criminal Procedure Code also contains the prescribed forms concerning Dharaut and Jamanat, including Schedule-29 relating to Dharaut and the appearance/forfeiture undertaking.

For an accused facing a **Thunchek, Dharaut or Jamanat hearing**, the most effective approach is to analyze the exact charge, statutory punishment, evidence, personal circumstances and procedural history before deciding the appropriate legal strategy.

Adalat Lawyers can assist with criminal litigation matters involving **Dharaut, Jamanat, Thunchek, detention, bail/bond, bank guarantee, bail-amount challenges and related appellate proceedings in Nepal**.

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