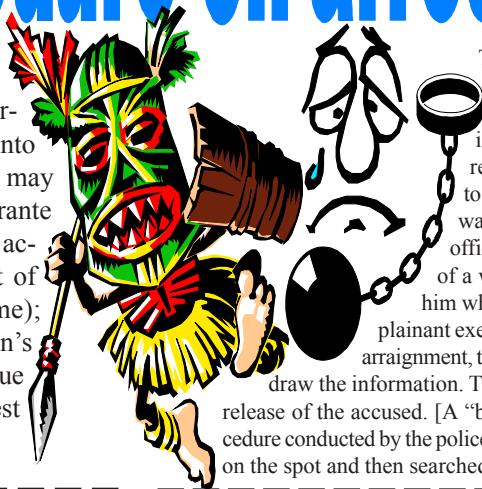


Procedure on arrest and bail

Rule 113 and 114

1. The accused is arrested and placed into custody. The arrest may be made (a) in flagrante delicto (while the accused is in the act of committing a crime); (b) through a citizen's arrest; or (c) by virtue of a warrant of arrest issued by a judge.

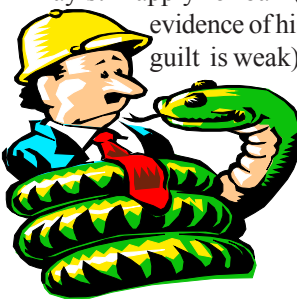


The authorities (police, NBI, etc) have ten days from issuance of the warrant within which to arrest the accused. If no arrest is made within that period of time, the reason must be stated in a report ("return") to the judge. The court may then issue an alias warrant which is valid until recalled. An officer of the law arresting someone by virtue of a warrant need not have such warrant with him when making the arrest. If the private complainant executes an affidavit of desistance before the arraignment, the public prosecutor files a motion to withdraw the information. The court recalls the warrant, or orders the release of the accused. [A "buybust" operation is an entrapment procedure conducted by the police against drug pushers, who can be arrested on the spot and then searched, even without a warrant.]

2. The accused posts bail in the amount fixed by the court or that recommended by the prosecutor, and is then released. The accused may file a motion to reduce the amount of bail but then the court requires the posting of cash bail.

Forms of Bail: (a) cash deposit; (b) surety bond; (c) property bond; (d) recognizance or voluntary promise to appear during the hearings (the accused may be released to the custody of a responsible person)

3. Even if the offense is punishable by either death or reclusion perpetua, the accused may still apply for bail (if the evidence of his guilt is weak).



4. The court holds a hearing on the petition for bail to determine if the evidence of guilt is strong or weak.

5. Bail shall not bar the accused from challenging the validity of his arrest, the legality of the warrant, or assailing the regularity or the absence of preliminary investigation, before his arraignment.



WARRANTLESS ARRESTS/ INQUEST

A police officer or a private person may arrest a person without a warrant if such person (1) has committed or attempts to commit an offense in his presence; (2) an offense has been committed and he has probable cause to believe based on personal knowledge of facts or circumstances that the person to be arrested has committed it; (3) is an escaped con-

vict. In warrantless arrests, the fiscal conducts an inquest, not a preliminary investigation. If the accused is held by the police for more than 18, 24 or 36 hours without charges being filed, they will be liable for violation of Art. 125 of the Revised Penal Code (delay in the delivery of prisoners). If the accused however signs a waiver, he is entitled to a pre-

liminary investigation which must be finished in fifteen days. he may however still apply for bail. If the accused does not sign a waiver and charges are filed, he may ask for a preliminary investigation within 5 days of learning of the filing of the information.

