

**THE AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW & PARLIAMNTARY AFFAIRS SECRTARIAT,
MUZAFFARABAD.**

Dated the 20th February, 1980.

No. 1025/LD/80. The following Ordinance made by the President on the 20th day of February, 1980, is hereby published for general information:-

(ORDINANCE XXIX OF 1980)

AN

ORDINANCE

further to amend the Code of Criminal Procedure, 1898

WHEREAS it is necessary further to amend the Code of Criminal Procedure, 1898 (Act V of 1898), for the purposes hereinafter appearing;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by sub-section (1) of Section 41 of the Azad Jammu and Kashmir Interim Constitution Act, 1974, the President is pleased to make and promulgate the following Ordinance :-

1. **Short title and Commencement.**- (1) This Ordinance may be called the Code of Criminal Procedure (Amendment) Ordinance, 1980.

(2) It shall come into force at once.

2. **Insertion of New Section 382-A, 382-B and 382-C, Act V of 1898.**- In the Code of Criminal Procedure, 1898 (Act V of 1898), as in force in Azad Jammu and Kashmir, hereinafter referred to as the said Code, after Section 382, the following new Sections 382-A, 382-B, and 382-C shall be inserted:-

"382-A. Postponement of Execution of Sentences of Imprisoned under Section 476 or for a Period of Less than one Year:- Notwithstanding anything contained in Section 383 or 391, where the accused –

(a) is awarded any sentence of imprisonment under Section 476, or

(b) is sentenced in cases other than these provided for in Section 381, to imprisonment whether with or without fine or whipping, for a period of less than one year, the sentence shall not, if the accused furnishes bail to the satisfaction of the Court for his appearance at such time

and place as the Court may direct, be executed, until the expiry of the period prescribed for making an appeal against such sentence or, if an appeal is made within that time, until the sentence of imprisonment is confirmed by the Appellate Court, but the sentence shall be executed as soon as practicable after the expiry of the period prescribed for making an appeal, or, in case of an appeal, as soon practicable after the receipt of the order of the Appellate Court confirming the sentence.

382-B. Period of Detention to be Considered while Awarding Sentence of Imprisonment.- Where a Court decides to pass a sentence of imprisonment on an accused for an offence, it shall take into consideration the period, if any, during which such accused was detained in custody for such offence.

382-C. Scandalous or False and Frivolous Pleas to be Considered in Passing Sentence.- In passing a sentence on an accused for any offence, a Court may take into consideration any scandalous or false and frivolous plea taken in defence by him or on his behalf."

3. **Amendment of Section 497, Act V of 1898.**- In the said Code in Section 497, in sub-section (1), in the second proviso, for the full stop at the end a colon shall be substituted and thereafter the following provision shall be added, namely :-

"Provided further that the Court shall, except where it is of opinion that the delay in the trial of the accused has been occasioned by an act or omission of the accused or any other person acting on his behalf, direct that any person shall be released on bail :-

- (a) who, being accused of any offence not punishable with death, has been detained for such offence for a continuous period exceeding one year and whose trial for such offence has not concluded ; or
- (b) who, being accused of an offence punishable with death has been detained for such offence for a continuous period exceeding two years and whose trial for such offence has not concluded."

4. **Amendment of Second Schedule, Act V of 1898.**- In the Code of Criminal Procedure, 1898 (Act V of 1898), as in force in the Azad Jammu and Kashmir, in the Second Schedule, for the heading 'Offences Against other Laws' and the entries thereunder the following heading and entries shall be substituted, namely:-

VOLUME VI (1980)

1	2	3	4	5	6	7
If punishable with death imprisonment for life, imprisonment exceeding 7 years, amputation of hand or foot or both hand and foot or with whipping exceeding 80 stripes with or without any other of the said punishment.	May arrest without warrant	Warrant	Not bailable	Not compoundable	--	Zilae Adalat
If punishable with imprisonment for 3 years upwards, but not exceeding 7 years or with whipping not exceeding 80 stripes with or without imprisonment.	Ditto	Ditto	Ditto except in cases under the Arms Act, 1878, Section 19, which shall be bailable.	Ditto	--	Zilae Adalat
If punishable with imprisonment for 1 year and upwards but less than 3 years or with whipping not exceeding 40 stripes with or without imprisonment.	Shall not arrest without warrant	Summons	Bailable	Ditto	--	Tehsili Adalat
If punishable with imprisonment for less than 1 year, or with whipping not exceeding 10 stripes with or without imprisonment, or with fine only.	Ditto	Ditto	Ditto	Ditto	--	Tehsili Adalat

(Mohammad Hayat Khan)
President
Azad Jammu and Kashmir.

Sd/- (Khalil Ahmed Qureshi)
Secretary Law