

Answer: 1

Cúirt Choiriúil Speisialta (Special Criminal Court) is a special criminal court in Ireland that has no jury; cases of terrorism and organized crimes are litigated in this court.¹ The establishment of this court was done under Article 38 of the Irish constitution.² The mentioned article establishes the fact that wherever required a special court could be formed where ordinary courts are inadequate or effective administration of crimes. Supreme Criminal Court was established by virtue of Offenses against the State Act 1939.³

In the May of the year 1972, the pursuant proclamation was made to s 35(2) [Offenses against the State Act 1939] by the government of Ireland (the exercise of power).⁴ This political movement led to the establishment of the Special Criminal Court. The first initiative following the establishment of the subjected judicial body was the prevention of the state's army from the subversion of Ireland's neutrality during the period of World War II and the times of emergency. However, the court was incepted with the aim of handling crimes related to terrorism but its relevance evolved to serve to hear cases related to organized crimes. The s 35(4-5) established the provision of reversing the Special Criminal Court (or in other words terminating the court) in case the government considers the performance of ordinary court appropriate; history has not witnessed any such rescinding proclamation, which could terminate the Special Criminal Court.⁵

The structure of the court includes three judges that are directly appointed by the state's government. These judges are from the ordinary courts; mostly one from the High Court, one from the District Court and one from the Circuit Court. These judges work together as a panel but no jury. The verdicts of this special court are based upon the majority vote that is 2 out of 3. The verdict of this court could be challenged in the Court of Criminal Appeal.⁵

¹ Daly, Y.M., 2021. Ireland: Curtailment of the right to silence through statutory adverse inferences. *New Journal of European Criminal Law*, 12(3), pp.347-364.

² Mohr, T., 2021. Religion and the Constitution of the Irish Free State. In *Law and Religion in Ireland, 1700-1970* (pp. 327-356). Palgrave Macmillan, Cham.

³ Cluskey, F., 2020. The Irish Response. In *International Terrorism: Challenge and Response* (pp. 180-186). Routledge.

⁴ Behan, C., 2018. "We are all convicted criminals"? Prisoners, Protest and Penal Politics in the Republic of Ireland. *Journal of Social History*, 52(2), pp.501-526.

⁵ Kastner, P., 2020. A Resilience Approach to Transitional Justice?. *Journal of Intervention and Statebuilding*, 14(3), pp.368-388.

If the cases heard by the Special Criminal Court are categorized the categories' could be as follows

- The cases that fall in the category of paramilitary crimes
- The cases that fall in the category of subversive crimes
- Organized Crimes.

Answer: 2

It is a “Gangland Style Killing” (organized crime), which is going to be prosecuted at the Special Criminal Court⁶. Organized crimes are considered non-bailable usually due to the severe nature of the crime. As the case is being heard in the Special Criminal Court the bail could not be allowed without the permission of the Director of the Public Prosecution.

There are several considerations based on which the bail could be refused by the court. These areas follow:

- If the pieces of evidence are furnished in the court that establish the seriousness of the crime.⁷
- If the accused is likely to flee.⁸
- If any bail bond is breached by the accused earlier.⁸
- Gardai's object in court against the bail.⁸
- What is the strength of the case against the accused?⁸
- If it is speculated that the trial would be reasonably speedy.⁸
- If the Attorney general opposes the bail.⁸
- If there are any previous convictions at the accused.⁸

Even if the special court finds it, suitable to grant the bail, it is based upon independent surety. Independent surety is required when the court considers that the accused would not fulfil his promise of showing up in the court. In this case, the independent surety is introduced when someone else makes him or herself responsible for the accused appearing in the court. Mostly if in

⁶ Hamilton, C., Daly, Y. and Butler, M., Deirdre Healy is a Lecturer in Criminology at the UCD Sutherland School of Law, University College Dublin.

⁷ Courts, N.I., 2019. Judicial Statistics.

⁸ O'Reilly, M.F., 2018. The Role of Criminal Record in Bail. In *Uses and Consequences of a Criminal Conviction* (pp. 83-104). Palgrave Macmillan, London.

case of the independent surety an accused fails to show up in the court of the due date the “independent surety” is needed to pay the sum of money to the court.⁹

Chester "Snake" Turley is required to present the person as an independent surety in the court who must comply with the following otherwise the court would not accept the person as an independent surety (the bail would not be granted in this case).

- The accused’s solicitor could not be presented as a bail person in the court, the person must be independent.⁹
- An underage person (below 18 years of age) could not be accepted as a bail person by the court.
- Anyone who is in custody could not be presented as a bail person in court.⁹
- Anyone who has conviction records could not be presented in court.⁹
- The people with recent bankruptcy history could not be presented at the court as bail persons.⁹

Note: As the nature of the crime seems very critical and the crime falls in the category of organized crimes the bail of the accused seems difficult.

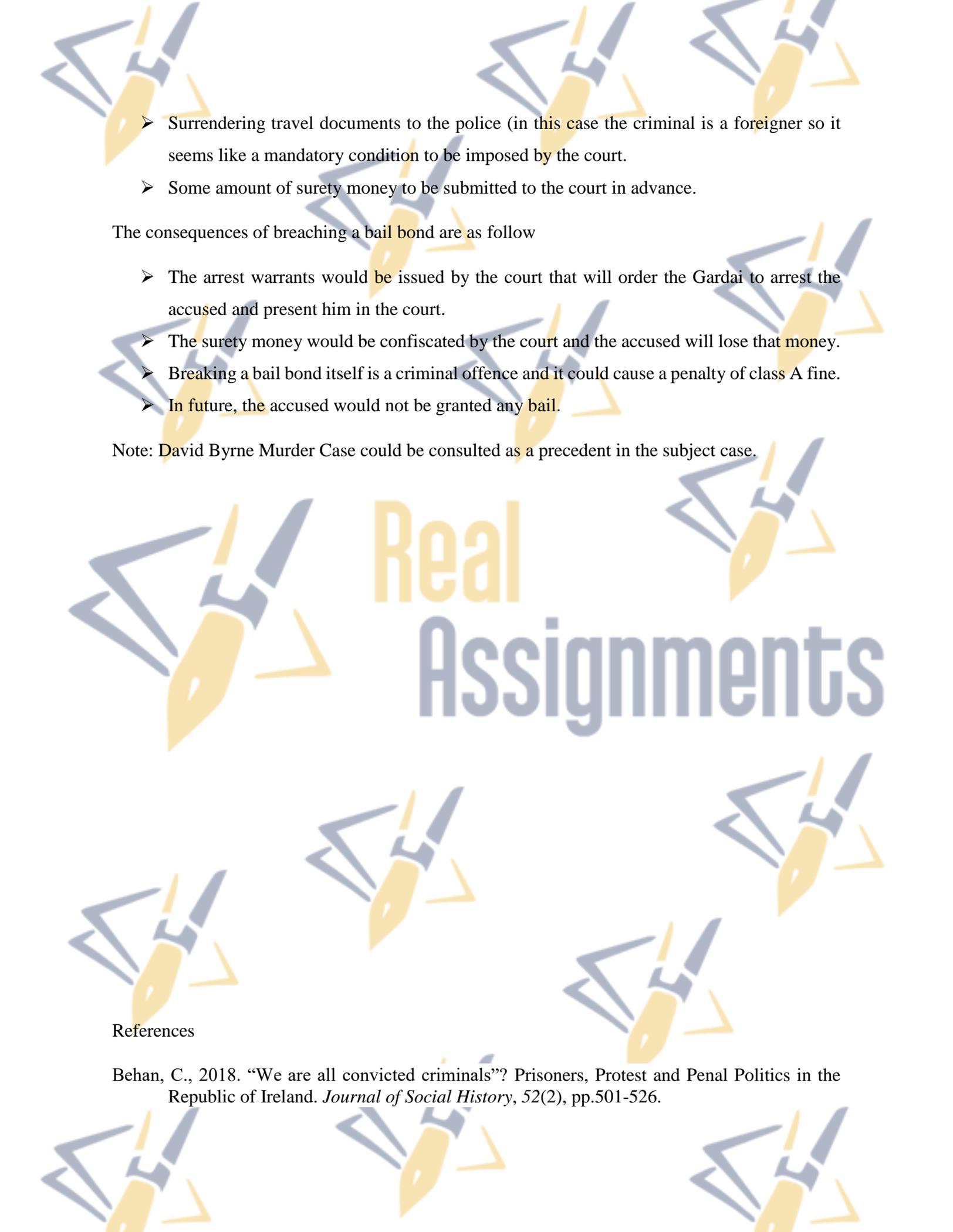
Answer: 3

Several bail conditions could be imposed; these areas followed by the court:¹⁰

- The condition of residence i.e. the accused must live at the address decided by the court.
- Doorstep condition i.e. the accused will present himself to the police when required on the doorstep of the determined premises.
- Condition of curfew.
- Condition of electronic monitoring in certain cases.
- No permission to contact directly or indirectly with certain people related to the case.
- Reporting at the police station when required.
- Condition of not going to some places or entering some properties related to the case.

⁹ Seetahal, D.S. and Ramgoolam, R., 2019. Prosecution and bail. In *Commonwealth Caribbean Criminal Practice and Procedure* (pp. 52-70). Routledge.

¹⁰ Naughton, C.M., Redmond, S. and Coonan, B., 2019. Evaluation of the bail supervision scheme for children (pilot scheme).

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- Surrendering travel documents to the police (in this case the criminal is a foreigner so it seems like a mandatory condition to be imposed by the court.
 - Some amount of surety money to be submitted to the court in advance.

The consequences of breaching a bail bond are as follow

- The arrest warrants would be issued by the court that will order the Gardai to arrest the accused and present him in the court.
- The surety money would be confiscated by the court and the accused will lose that money.
- Breaking a bail bond itself is a criminal offence and it could cause a penalty of class A fine.
- In future, the accused would not be granted any bail.

Note: David Byrne Murder Case could be consulted as a precedent in the subject case.

Real Assignments

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