

MONCHAI CHANINTARALEELA : SCOPE OF JUDICIAL DISCRETION IN  
PROVISIONAL RELEASE. THESIS ADVISOR : ASSO.PROF. PITOON KONGSOMBOON,  
THESIS-CO ADVISOR : Dr.CHIRANIT HAVANOND, 234 pp. ISBN 974-583-951-5

Provisional Release is a legal measure for the protection of right and liberty of both the alleged offender and the defendant. Everyone charged with a penal offence has the right to be presumed innocent until proved guilty in a public trial. Provisional release is a measure that will preserve such right. It also protects the accused and the defendant from being forced to incriminate themselves and helps minimize the chance that they will be punished before proven guilty. Given the importance of provisional release, it should be noted that the right of the society to maintain peace and public order must also be taken into consideration. In certain circumstances, it is necessary to keep the accused in custody in order to prevent them from escaping or creating injury or danger to the public.

As for the results of the research, it is discovered that the provisional release measure at present cannot adequately safeguard the rights and liberty of the people. Although in practice the court would in most cases allow provisional release by having bail or other valuable securities, but the scope and boundary of court's discretion in this matter are not quite clear. In addition the court often rely on bail or other securities as condition for release. It is the opinion of the writer that provisional release should always be granted except in certain circumstances and that excessive bail should be prohibited. The law should be amended accordingly and, in particular, the supreme court should be allowed to review this matter so that guidelines and precedents be established for lower courts to follow.