

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF, VS. FERNANDO ALANO, ACCUSED

G.R. No. L-1801. May 14, 1948

Ponente: PERFECTO, J.

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PERFECTO, J.:

Detained since March 7, 1946, in connection with treason case No. 813, petitioner comes to its, complaining that the People's Court acted with grave abuse of discretion in denying his petition for bail and prays that he be released on bail. His petition, wrongly entitled as one for a writ of certiorari is, by its nature,, one for a writ of habeas corpus, the proper proceeding for a person claiming to be absolutely or provisionally released from confinement.

Petitioner alleges that he is entitled to be bailed because (a) the law presumes him to be innocent until the contrary is conclusively proved, (b) he has been undergoing along confinement, while facing a protracted trial of his case, (c) of the 14 counts of the amended information filed against him, 10 have been dropped or dismissed, upon petition of the prosecution itself, after it had closed its evidence, (d) many other treason indictees, facing more serious charges, and some others who have been convicted in the first instance have been granted bail by the same People's Court, and (e) the prosecution's allocation, opposing petitioner's first petition for bail, that the evidence of guilt is strong, is belied by the fact that later on the prosecution itself had to ask for the dismissal of 10 of the 14 counts of the information.

The cases of Pio Duran, Teofilo Sison, Lucio Santos, Exequiel Genecoran, Alfonso Turrillo, Fernando Chengan, Sergio Osmeña, Jr., Jose P. Laurel, Jorge B. Vargas, Benigno S. Aquino, Medardo Muñoz, Vicente Anglo, Hilarion Dizon, Vicente Preysler, David Cose, Mariano Abad, Paulino Anulad and Aquilino Carrasco, are mentioned by petitioner in support of his allegation to the effect that other treason indictees, facing more serious charges, or convicts in the first instance have been granted bail by the People's Court.

In all criminal cases, except for capital offenses, where the evidence of guilt is strong, the accused is entitled, as a fundamental right constitutionally guaranteed, to be bailed. In cases of capital offense, the accused is bailable in the discretion of the court, as has been already declared by this Court in *Teehankee vs. Rovira*, 43 Off. Gaz., 513. The discretion of the court in such cases is neither absolute nor beyond control, and must be exercised taking into consideration the purposes of pertinent constitutional and statutory provisions and the rules of the Supreme Court, all supplemented by the principles of equity and justice that are deemed to be part of the laws of the land.

After a long deliberation on petitioner's case, and considering the fact that, of 14 counts of the information, 10 had to be dismissed upon petition of the prosecution itself, that, the trial is being protracted, and petitioner is undergoing a long confinement, while there are no assurances that his case can be speedied in accordance with the constitutional intent, we are convinced that petitioner should be bailed and that the lower court has committed a grave abuse of discretion in denying him bail.

Mention has been made of the fact that petitioner, while confined in the Old Bilibid Prisons, escaped on the

afternoon of June 16, 1947, but petitioner's counsel has satisfactorily explained, without any contradiction, that petitioner took such course so as to be able to contact his witnesses, scattered in several places, so as to be able to prove his innocence and that, as soon as he was through with said mission, he contacted the Office of the President of the Philippines so as to arrange for his voluntary surrender, which took place sometime in July, 1947, showing his readiness to face the trial and to allow the administration of justice to take its legal and normal course. Petitioner argued further that the fact that accused Lucio Santos, in case No. 217, had also escaped from detention did not impede the People's Court to grant him bail. We are satisfied that in petitioner's escape he did not have the purpose of evading the action of justice, and it is already settled that a detainee's escape does not deprive him of the constitutional right to be bailed.

Petitioner Fernando Alano is allowed to be bailed and he shall be released upon filing a bond in the amount of P30,000 to be approved by any member of this Court.

Parás, Actg. C. J., Bengzon, and Tuason, JJ., concur.

Feria, J., I concur in the result.

Pablo, M., Conformed con la parte dispositiva.

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