

SC ADMINISTRATIVE CIRCULAR NO. 12-94, August 16, 1994

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TO

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THE COURT OF APPEALS, SANDIGANBAYAN, REGIONAL TRIAL COURTS, METROPOLITAN TRIAL COURTS, MUNICIPAL TRIAL COURTS, MUNICIPAL TRIAL COURTS IN CITIES AND MUNICIPAL CIRCUIT TRIAL COURTS SHARI'A DISTRICT COURTS, SHARI'A CIRCUIT COURTS, ALL MEMBERS OF THE GOVERNMENT PROSECUTION SERVICE AND ALL MEMBERS OF THE INTEGRATED BAR OF THE PHILIPPINES

SUBJECT

:

AMENDMENTS TO RULE 114 ON THE 1985 RULES ON CRIMINAL PROCEDURE, AS AMENDED

RULE 114

BAIL

SECTION 1. Bail defined.- Bail is the security given for the release of a person in custody of the law, furnished by him or a bondsman, conditioned upon his appearance before any court as required under the conditions hereinafter specified. Bail may be given in the form of corporate surety, property bond, cash deposit, or recognize. (1)

SEC. 2. Conditions of the bail; requirements.-All kinds of bail are subject to the following conditions:

- (a) The undertaking shall be effective upon approval and remain in force at all stages of the case, unless sooner cancelled, until the promulgation of the judgment of the Regional Trial Court, irrespective of whether the case was originally filed in or appealed to it;
- (b) The accused shall appear before the proper court whenever so required by the court in or appealed to it;
- (c) The failure of the accused to appear at the trial without justification despite due notice to him or his bondsman shall be deemed an express waiver of his right to be present on the date specified in the notice. In such case, the trial may proceed in absentia; and
- (d) The bondsman shall surrender the accused to the court for execution of the final judgment.

The original papers shall state the full name and address of the accused, the amount of the undertaking and the conditions herein required. Photographs (passport size) taken recently showing the face, left and right profiles of

the accused must be attached thereto. (2a)

SEC. 3. No release or transfer except on court order or bail.- No person under detention by legal process shall be released or transferred except upon lawful order of the court or when he is admitted to bail as prescribed in this Rule. (n)

SEC. 4. Bail, a matter of right. - All persons in custody shall: (a) before or after conviction by the Metropolitan Trial Court, Municipal Trial Court, Municipal Trial Court in Cities and Municipal Circuit Trial Court, and (b) before conviction by the Regional Trial Court an offense not punishable by death, reclusion perpetua or life imprisonment, be admitted to bail as a matter of right, with sufficient sureties, or be released on recognizance as prescribed by law or this Rule (3a)

SEC. 5. Bail, when discretionary. - Upon conviction by the Regional Trial Court of an offense not punishable by death, reclusion perpetua or life imprisonment, the court, on application, may admit the accused to bail.

The court, in its discretion, may allow the accused to continue on provisional liberty under the same bail bond during the period to appeal subject to the consent on provisional liberty under the same bail bond during the period to appeal subject to the consent of the bondsman.

If the court imposed a penalty of imprisonment exceeding six (6) years but not more than twenty (20) years, the accused shall be denied bail, or his bail previously granted shall be cancelled, upon a showing by the prosecution, with notice to the accused, of the following or other similar circumstances:

- (a) That the accused is a recidivist, quasi-recidivist, or habitual delinquent, or has committed the crime aggravated by the circumstances of reiteration;
- (b) That the accused is found to have previously escaped from legal confinement, evaded sentence, or has violated the conditions of his bail without valid justification;
- (c) That the accused committed the offense while on the probation, parole, or under conditional pardon;
- (d) That the circumstances of the accused or his case indicate the probability of flight if released on bail; or
- (e) That there is undue risk that during the pendency of the appeal, the accused may commit another crime.

The appellate court may review the resolution of the Regional Trial Court, on motion and with notice to the adverse party. (n)

SEC. 6. Capital offense, defined. - A capital offense, as the term is used in these Rules, is an offense which, under the law existing at the time of its commission and at the time of the application to be admitted to bail, may be punished with death. (4)

SEC.7. Capital offense or an offense punishable by reclusion perpetua or life imprisonment, not bailable. - No person charged with a capital offense, or an offense punishable by reclusion perpetua or life imprisonment, when evidence of guilt is strong, shall be admitted to bail regardless of the stage of the criminal prosecution.(n)

SEC. 8. Burden of proof in bail application. - At the hearing of an application for admission to bail filed by any person who is in custody for the commission of an offense punishable by death, reclusion perpetua or life imprisonment, the prosecution has the burden of showing that evidence of guilt is strong. The evidence presented during the bail hearing shall be considered automatically reproduced at the trial, but not upon motion of either party, the court may recall any witness for additional examination unless the witness is dead, outside of the Philippines or otherwise unable to testify. (5a)

SEC. 9. Amount of bail; guidelines. - The judge who issued the warrant or granted the application shall fix a reasonable amount of bail considering primarily, but not limited to the following guidelines:

- (a) Financial ability of the accused to give bail;
- (b) Nature and circumstances of the offense;
- (c) Penalty of the offense charged;
- (d) Character and reputation of the accused;
- (e) Age and health of the accused;
- (f) The weight of the evidence against the accused;
- (g) Probability of the accused appearing in trial;
- (h) Forfeiture of other bonds;
- (i) The fact that accused was a fugitive from justice when arrested; and
- (j) The pendency of other cases in which the accused is under bond.

Excessive bail shall not be required. (6)

SEC. 10. Corporate surety.- Any domestic or foreign corporation licensed as a surety in accordance with law and currently authorized to act as such may provide bail by a bond subscribed jointly by the accused and an officer duly authorized by its board of directors. (7)

SEC. 11. Property bond, how posted bond. -A property bond is an undertaking constituted as a lien on the real property given as security for the amount of the bail. Upon approval of the bond, the court shall order the accused to cause the annotation of the lien within ten (10) days on the original torrens title on file with the Register of Deeds, if the land is registered, or if unregistered, in the Registration Book on the space provided therefor, in the office of the Register of Deeds for the province or city where the land lies, and on the corresponding tax declaration in the office of the provincial and municipal assessor concerned. Non-compliance with the order shall be sufficient cause for cancellation of the property bond. (8)

SEC. 12. Qualifications of sureties in property bond.- The necessary qualification of sureties to a property bond shall be as follows:

- (a) Each of them must be a resident owner of real estate within the Philippines;
- (b) Where there is only one surety, his real estate must be worth at least the amount of the undertaking;
- (c) In case there are two or more sureties, they may justify severally in amounts less than that expressed in the undertaking if the entire sum justified to is equivalent to the whole amount of bail demanded.

In all cases, every surety must be worth the amount specified in his own undertaking over and above all just debts, obligations and property exempt from execution. (9a)

SEC. 13. Justification of sureties.- Every surety shall justify by affidavit taken before the judge, that each possesses the qualifications named in the preceding section, and shall be required to describe the property given as security, stating the nature of his title thereto, the encumbrances thereon, the number and amount of other bonds entered into by him and remaining undischarged, and his other liabilities. The court may further examine the sureties upon oath concerning their sufficiency in such manner as it may deem proper. No bond shall be approved unless the surety is qualified. (10)

SEC. 14. Deposit of cash as bail.-The accused or any person acting in his behalf may deposit in cash with the nearest collector of internal revenue, or provincial, city or municipal treasurer the amount of bail fixed by the court or recommended by the fiscal who investigated or filed the case, and upon submission of a proper certificate of deposit and of a written undertaking showing compliance with the requirements of Section 2 hereof, the

accused shall be discharged from custody. Money thus deposited shall be considered as bail and applied to the payment of any fine and costs and the excess, if any, shall be returned to the accused or to whoever made the deposit. (11)

SEC. 15. Recognizance.- Whenever allowed pursuant to law or there Rules, the court may release a person in custody on his own recognizance or that of a responsible person. (12)

SEC. 16. Bail, when not required; reduced bail or recognizance.-No bail shall be required when the law or these Rules so provide.

When a person has been in custody for a period equal to or more than the possible maximum imprisonment of the offense charged to which he may be sentenced, he shall be released immediately, without prejudice to the continuation of the trial thereof or the proceedings on appeal. In case the maximum penalty to which the accused may be sentenced is destierro, he shall be released after thirty (30) days of preventive imprisonment.

A person in custody for a period equal to or more than the minimum of the principal penalty prescribed for the offense charged, without application of the Indeterminate Sentence Law or any modifying circumstances, shall be released on a reduced bail or on his own recognizance, at the discretion of the court (13)

SEC. 17. Bail, where filed.- (a) Bail in the amount fixed may be filed with the court where the case is pending, or, in the absence or unavailability of the judge thereof, with another branch of the same court within the province or city. If the accused is arrested in a province, city or municipality other than where the case is pending, bail may be filed also with any regional trial court of said place, or, if no judge thereof is available, with any metropolitan trial judge, municipal trial judge or municipal circuit trial judge therein.

(b) Whenever the grant of bail is a matter of discretion, or the accused seeks to be released on recognizance, the application therefor may be filed only in the particular court where the case is pending, whether for preliminary investigation, trial or on appeal.

(c) Any person in custody who is not yet charged in court may apply for bail with any court in the province, city or municipality where he is held. (14)

SEC.18 Notice of application to prosecutor.- In the application for bail under the preceding section, the court must give reasonable notice of hearing to the prosecutor or require him to submit his recommendation. (15a)

SEC. 19. Release on bail. - The accused must be discharged upon approval of the bail by the judge with whom it was filed in accordance with Section 17 hereof.

Whenever bail is filed with a court other than where the case is pending, the judge accepting the bail shall forward the bail, the order of release and other supporting papers to the court where the case is pending, which may, for good reason, require a different one to be filed. (16a)

SEC. 20. Increase or reduction of bail. - After the accused shall have been admitted to bail, the court may, upon good cause shown, either increase or decrease the amount of the same. If increased, the accused may be committed to custody unless he gives the bail in the increased amount thereof within a reasonable period. An accused held to answer a criminal charge but who is released without bail on the filing of a complaint or information, may, at any subsequent stage of the proceedings whenever a strong showing of guilt appears to the court, be required to give bail in the amount fixed, or in lieu thereof may be committed to custody.(17)

SEC. 21. Forfeiture of bail bond. - When the presence of the accused is specifically required by the court, or these Rules, his bondsman shall be notified to produce him before the court on a given date. If the accused fails to appear in person as required, the bond shall be declared forfeited and the bondsmen are given thirty (30) days

within which to produce their principal and to show cause why judgment should not be rendered against them for the amount of their bond. Within the said period, the bondsmen:

- (a) must produce the body of their principal or given the reason for his non-production; and
- (b) must explain satisfactorily why the accused did not appear before the court when first required to do so.

Failing in these two requisites, a judgment shall be rendered against the bondsmen, jointly and severally, for the amount of the bond, and the court shall not reduce or otherwise mitigate the liability of the bondsmen, except when the accused has been surrendered or is acquitted. (18)

SEC. 22. Cancellation of bail bond.- Upon application filed with the court and after due notice to the prosecutor, the bail bond may be cancelled upon surrender of the accused or proof of his death.

The bail bond shall be deemed automatically cancelled upon acquittal of the accused or dismissal of the case or execution of the final judgment of conviction.

In all instances, the cancellation shall be without prejudice to any liability on the bond. (19a)

SEC. 23. Arrest of accused out on bail.- For the purpose of surrendering the accused, the bondsmen may be arrest him, or on written authority endorsed on a certified copy of the undertaking may cause him to be arrested by any police officer or any other person of suitable age and discretion.

An accused released on bail may be re-arrested without the necessity of a warrant if he attempts to depart from the Philippines with prior permission of the court where the case is pending. (20)

SEC. 24. No bail after final judgment;exception.- An accused shall not be allowed bail after the judgment has become final, unless he has applied for probation before commencing to serve sentence, the penalty and the offense being within the purview of the Probation Law. In case the accused has applied for probation, he may be allowed temporary liberty under this bail bond, but if no bail was filed or the accused is incapable of filing one, the court may allow his release on recognizance to the custody of a responsible member of the community. In no case shall bail be allowed after the accused has commenced to serve sentence. (21a)

SEC. 25. Court supervision of detainees.-The court shall exercise supervision over all persons in custody for the purpose of eliminating all unnecessary detention. The executive judges of the Regional Trial Courts shall conduct monthly personal inspections of provincial, city or municipal jails and their prisoners within their respective jurisdiction, to inquire into their proper accommodation and health, the number of detainees, the condition of the jail facilities, the segregation of sexes and of minors from the adults, the observance of the right of detainees to confer privately with counsel, and the elimination of conditions disadvantageous to the detainees.

In cities and municipalities to be specified to be specified by the Supreme Court, the municipal trial judges or municipal circuit trial judges shall conduct monthly personal inspections of municipal jails or their respective municipalities, and submit a report to the executive judge of the Regional Trial Court having jurisdiction therein.

A monthly report of such visitation shall be submitted by the executive judges to the Court Administrator, stating the total number of detainees, at least the names of those held for more than thirty (30) days, the duration of detention, the crime charged, the status of the case, the cause for detention, and other pertinent information. (22)

The amendments shall take effect on October 1, 1994.

Let the Clerk of Court cause the publication of these amendments in two (2) national newspaper of general circulation.

August 16, 1994.

(Sgd.) ANDRES R. NARVASA

Chief Justice

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