

PEPITO MAGNO, PETITIONER, VS. HON. MACAPANTON ABBAS AND THE PROVINCIAL FISCAL OF DAVAO, RESPONDENTS.

G.R. No. L-19361. February 26, 1965

Ponente: DIZON, J.

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DIZON, J.:

In Criminal Case No. 285-A filed with the Municipal Court of the city of Davao against Francisco Nuñez and others, for Robbery with Rape, petitioner Pepito Magno was arrested by virtue of a warrant of arrest issued by said court. After proper proceedings, said court, forwarded the case to the Court of First Instance of Davao Where it was docketed as Criminal Case No. 7155. Prior to the filing of the information in the latter court, petitioner filed a motion for bail, but the same was denied by the respondent judge on the ground that it was filed prematurely.

A second motion for bail was filed subsequently by Petitioner, and after a hearing held thereon, the respondent Judge issued a verbal order on November 24, 1961 granting the motion and fixing the bail bond in the sum of P40,000.00. In the afternoon of the same date, however, the fiscal moved for a reconsideration of the order, claiming that he had just received sufficient evidence to prove the guilt of petitioner. The Court stayed the effectivity of the order granting bail and, after a hearing on the motion for reconsideration, the order was finally set aside and another was issued denying the motion for bail. Petitioner's motion for reconsideration of this last order having been denied, he filed the present special civil action of certiorari, claiming that, in denying his motion for bail, the respondent judge committed a grave abuse of discretion.

In the order of the respondent judge complained of, His Honor states the following:

"The hearing of an application for bail is summary in nature. On such hearing, the Court 'does not seek to try the merits or to enter into any nice inquiry as to the weight that would be allowed to the evidence for or against the accused, nor will it speculate on the outcome of the trial or on what further evidence may be therein offered and admitted. (8 C. J. S., 93, 94).' (Padilla, Criminal Procedure 1955 ed. p. 270 citing Ocampo vs. Bernabe et al., 77 Phil. 55). It has also been held that 'to sustain a refusal of bail in a capital case it is enough that evidence induces the belief that the accused have committed the offense.' (Ex parte Page, 255, p. 887, 82, Cal. App. 576). According to the law as interpreted by the courts like the case cited above it appears that in an application for bail the Court does not go into the merits of the case. Therefore, inconsistency or contradiction in the testimony of a witness for the prosecution is not sufficient in itself to entitle the accused to bail. It is enough, for the denial of bail, that the proof of guilt is evident or the presumption great. It is sufficient that the evidence presented by the prosecution induces the belief that the accused had committed the offense.

"Guided by the above ruling the Court is of the opinion that the accused shall be denied bail. He is accused of a capital offense. The evidence presented during the hearing of the petition for bail, without passing upon the merits of the evidence, shows that the accused Pepito Magno has participated in the commission of the offense of which he is charged with other persons. The least that can be said about the evidence on record, without passing on the merits, is that the proof of guilt of the accused is presumptively strong."

It is petitioner's contention that, while under the Constitution and the Rules of Court, a person charged with a

capital offense may be denied bail, before conviction, only if the evidence of guilt against him is strong, the respondent judge denied him bail only on the strength of a strong presumption of guilt, thereby committing a grave abuse of discretion.

Petitioner's contention is without merit.

A reading of the order complained of clearly shows that, in the opinion of the respondent judge, the evidence presented during the summary hearing on the motion for bail showed "that the accused Pepito Magno has participated in the commission of the offense of which he is charged with other person". Casting aside unnecessary pronouncements made in the order complained of, we believe that what the respondent judge really found and held was that the evidence of guilt presented against petitioner was strong and justified denial of his motion for bail. At this stage of the proceeding, there is nothing before Us sufficient to justify the conclusion that His Honor erred or abused his discretion in so holding.

PREMISES CONSIDERED, the petition under consideration is dismissed and the writ prayed for denied, with costs.

Bengzon, C. J., Bautista Angelo, Concepcion, Reyes, J.B.L., Barrera, Paredes, Regala, Makalintal, Bengzon, J.P. and Zaldivar, JJ., concur.

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