

**ANICETO SABBUN MAGUDDATU AND LAUREANA SABBUN
MAGUDDATU, PETITIONERS, VS. HONORABLE COURT OF APPEALS
(FOURTH DIVISION) AND PEOPLE OF THE PHILIPPINES,
RESPONDENTS.**

G.R. No. 139599. February 23, 2000

Ponente: KAPUNAN, J.

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KAPUNAN, J.:

For a human being who has been inside a prison cell, a bail bond represents his only ticket to liberty, albeit provisional. But the right to bail is not always a demandable right. In certain instances, it is a matter of discretion. This discretion, however, is not full and unfettered because the law and the rules set the parameters for its proper exercise. Discretion is, of course, a delicate thing and its abuse of such grave nature would warrant intervention of this Court by way of the special civil action for certiorari.

The primary issue in this case is whether or not under the facts thereof petitioners are entitled to bail as a matter of right or on the discretion of the trial court. Assuming it is a matter of discretion, whether or not the trial court in denying bail committed grave abuse of discretion.

The facts are well established:

Petitioners Aniceto Sabbun Maguddatu and Laureana Sabbun Maguddatu, Atty. Teodoro Rubino, Antonio Sabbun Maguddatu and several other "John Does" were charged with murder before the Regional Trial Court of Makati, Branch 64, for the killing of Jose S. Pascual.

On October 23, 1985, petitioners filed a motion to be admitted to bail on the ground that the prosecution's evidence is not strong.

After partial trial on the merits, the trial court issued an order, dated December 20, 1985, granting petitioners' motion for bail and fixing the amount at P30,000.00 each. On the same day, petitioners posted bail through AFISCO Insurance Corporation.

On January 6, 1987, the AFISCO Insurance Corporation filed a motion before the trial court praying for the cancellation of petitioner's bail bond because of the latter's failure to renew the same upon its expiration on December 20, 1986.[1] There is no showing, however, of any action by the court on said motion.

On January 2, 1998, the trial court convicted petitioners Aniceto Sabbun Maguddatu and Laureana Sabbun Maguddatu, together with Atty. Teodoro Rubino, of the crime of Homicide and sentenced them to suffer an indeterminate prison term of EIGHT (8) YEARS of PRISION MAYOR medium, as minimum, to FOURTEEN (14) YEARS and EIGHT (8) months of RECLUSION TEMPORAL medium, as maximum. The judgment of conviction was promulgated in absentia. Accordingly, on February 19, 1998, the trial court issued an order for the immediate arrest of petitioners and their commitment to the custody of proper authorities.

While remaining at large, petitioners, on February 27, 1998, filed a Notice of Appeal from the order of conviction for homicide with a motion to be granted provisional liberty under the same bail bond pending appeal.[2]

The trial court does not appear to have resolved the motion for bail pending appeal. Instead, it forwarded the records to the Court of Appeals.

On January 8, 1999, public respondent Court of Appeals issued a Resolution[3] which states, viz:

x x x

- the accused-appellants to show cause within ten (10) days from notice why their appeal should not be deemed abandoned and accordingly dismissed for their failure to submit themselves to the proper authorities and to the jurisdiction of the court from which they seek relief in the meantime that no bail has yet been approved for their temporary liberty and, further considering that the approval of the same is discretionary and not to be presumed (Herrera, Remedial Law, v. VI-Criminal Procedure [1996], p. 611, citing, People v. Patajo, G.R. No. 57718, November 20, 1998, En Banc, Minute Resolution); and

- in the meanwhile, the Station Commanders of the Manila Police Station, Manila and the Makati Police Station, Makati City to file a return of the Order of Arrest issued by the Regional Trial Court, Branch 64, Makati City on February 19, 1998 in Criminal Case No. 12010.

A Compliance and Motion, dated February 8, 1999,[4] filed by petitioners explained their failure to submit to the proper authorities, thus:

x x x

- By way of comment and compliance therewith, the undersigned counsel hereby manifests that accused-appellants are willing to submit themselves to the proper authorities and to the jurisdiction of this Honorable Court. Further, it is manifested herein that the failure of accused-appellants to submit themselves to the proper authorities and to the jurisdiction of this Honorable Court was due only to the fact that, all the while, they were of the belief that the Motion accompanying the above-mentioned Notice of Appeal was already approved and granted by the court of origin.

x x x

Despite the compliance and motion filed by petitioners, they remained at large. On June 23, 1999, the Court of Appeals issued the resolution under question denying petitioners' application for bail and ordering their arrest. The dispositive portion of said resolution reads:

WHEREFORE, the Court resolves, as it is hereby resolved, to: (1) DENY accused-appellants application for bail and prayer for recall of the Order of Arrest issued by the trial court below; (2) ORDER the Station Commander of the Manila Police Station to file a return of the order of arrest issued by the Regional Trial Court, Branch 64, Makati City on February 19, 1998 in Criminal Case No. 12010; and (3) ORDER the accused-appellants for the last time to submit to the jurisdiction of the court with WARNING that failure to comply herewith within ten (10) days from notice shall compel the Court to DISMISS the appeal for failure to prosecute.

SO ORDERED.[5]

Aggrieved by the foregoing resolution, petitioners brought the instant petition for certiorari with this Court on August 30, 1999, contending that the Court of Appeals committed grave abuse of discretion in denying their application for bail and their prayer to recall the order of arrest issued by the trial court.

Pending resolution of the petition, the Court of Appeals issued a resolution, dated September 08, 1999, which

states:

For failure to submit to this court's jurisdiction pending appeal and conformable with this Court's resolution of June 23, 1999 the appeal filed in this case is deemed ABANDONED and DISMISSED pursuant to Section 8, Rule 128 (sic, should be 124), New Rules on Criminal Procedure.

The Regional Trial Court, Branch 64, Makati City is hereby ORDERED to issue warrants of arrest for the immediate apprehension and service of sentence of accused ANICETO SABBUN MAGUDDATU and LAUREANA SABBUN MAGUDDATU.

SO ORDERED.[6]

The Court of Appeals committed no error in denying petitioners' plea to be granted bail.

The Constitution guarantees the right to bail of all the accused except those charged with offenses punishable by reclusion perpetua when the evidence of guilt is strong.[7]

Sections 4, 5 and 7 of Rule 114 of the Rules of Court provide:

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 of 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.

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 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 circumstance 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 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.

x x x

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.

Despite an order of arrest from the trial court and two warnings from the Court of Appeals, petitioners had remained at large. It is axiomatic that for one to be entitled to bail, he should be in the custody of the law, or otherwise, deprived of liberty. The purpose of bail is to secure one's release and it would be incongruous to grant bail to one who is free.[8] Petitioners' Compliance and Motion, dated February 08, 1999, came short of an unconditional submission to respondent court's lawful order and to its jurisdiction.

The trial court correctly denied petitioners' motion that they be allowed provisional liberty after their conviction, under their respective bail bonds. Apart from the fact that they were at large, Section 5, Rule 114 of the Rules of Court, as amended by Supreme Court Administrative Circular 12-94, provides that:

x x x

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 of the bondsman.[9]

The bail bond that the accused previously posted can only be used during the 15-day period to appeal (Rule 122) and not during the entire period to appeal. This is consistent with Section 2(a) of Rule 114 which provides that the bail "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." [10] This amendment, introduced by SC Administrative Circular 12-94 is a departure from the old rules which then provided that bail shall be effective and remain in force at all stages of the case until its full determination, and thus even during the period of appeal. Moreover, under the present rule, for the accused to continue his provisional liberty on the same bail bond during the period to appeal, consent of the bondsman is necessary. From the record, it appears that the bondsman, AFISCO Insurance Corporation, filed a motion in the trial court on January 06, 1987 for the cancellation of petitioners' bail bond for the latter's failure to renew the same upon its expiration.[11] Obtaining the consent of the bondsman was, thus, foreclosed.

Pursuant to the same Section 5 of Rule 114, the accused may be admitted to bail upon the court's discretion after conviction by the RTC of an offense not punishable by death, reclusion perpetua or life imprisonment. However, such bail shall be denied or bail previously granted shall be cancelled if the penalty imposed is imprisonment exceeding 6 years but not more than 20 years if any one of the circumstances enumerated in the third paragraph of Section 5 is present.[12]

From the records of the case, petitioners are not entitled to bail. Firstly, petitioners violated the conditions of their bail. Bail is defined as a security for the release of a person conditioned upon his appearance before any court.[13] The accused shall also appear before the proper court whenever so required by the court or these Rules.[14] Petitioners' non-appearance during the promulgation of the trial court's decision despite due notice and without justifiable reason, and their continued non-submission to the proper authorities as ordered by the Court of Appeals, constitute violations of the conditions of their bail. Moreover, it appears that petitioners failed to renew their expired bail bond,[15] as shown by a Motion, dated January 06, 1987, filed by AFISCO Insurance Corporation, praying for the cancellation of petitioners' bail bond because of the latter's failure to renew the same upon its expiration.[16]

The petitioners complain that they were not informed of the date of promulgation of the decision of conviction in the trial court and that their counsel of record abandoned them. Even if we are to concede that these allegations are true, petitioners still failed to surrender to the authorities despite two orders to that effect by the Court of Appeals. Moreover, petitioners had no cause to expect that their application for bail would be granted as a matter of course precisely because it is a matter of discretion. In fact, the filing of a notice of appeal effectively deprived the trial court of jurisdiction to entertain the motion for bail pending appeal because appeal is perfected by the mere filing of such notice. It has been held that trial courts would be well advised to leave the matter of bail, after conviction for a lesser crime than the capital offense originally charged, to the appellate court's sound discretion.[17]

In any event, the instant petition has become moot. During the pendency of the petition in this Court, the Court of Appeals in a Resolution, dated September 08, 1999 dismissed accused-appellant's appeal, thus:

For failure to submit to this Court's jurisdiction pending appeal and conformable with this Court's resolution of June 23, 1999, the appeal filed in this case is deemed ABANDONED and DISMISSED pursuant to Section 8, Rule 128,[18] New Rules on Criminal Procedure.

The Regional Trial Court, Branch 64, Makati City is hereby ORDERED to issue warrants of arrest for the immediate apprehension and service of sentence of accused ANICETO SABBUN MAGUDDATU and LAUREANA SABBUN MAGUDDATU.

SO ORDERED.[19]

WHEREFORE, premises considered, the present petition is DISMISSED for lack of merit.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Puno, Pardo, and Ynares-Santiago, JJ., concur.

[1] Volume II, Records, pp. 80-81.

[2] Rollo, p. 34.

[3] Id., at 36.

[4] Id., at 39.

[5] Id., at 19.

[6] A copy of the resolution is incorporated in the Solicitor General's Comment to this petition as Annex A; Rollo, p. 63-64.

[7] Art. III, Sec. 13. All persons, except those charged with offenses punishable by reclusion perpetua when evidence of guilt is strong, shall, before conviction, be bailable by sufficient sureties, or be released on recognizance as may be provided by law. The right to bail shall not be impaired even when the privilege of the writ of habeas corpus is suspended. Excessive bail shall not be required.

[8] Feliciano v. Pasicolan, 2 SCRA 888 (1961) citing Mendoza v. Court of First Instance of Quezon, 51 SCRA 369 (1973). See Meris v. Ofilada, 293 SCRA 606 (1998); Guillen v. Nicolas, 299 SCRA 623 (1998).

[9] Emphasis ours.

[10] Emphasis ours.

[11] Volume II, Records, pp. 80-81; Rollo, p. 59.

[12] *Obosa v. Court of Appeals*, 266 SCRA 281 (1997); *Padilla v. Court of Appeals*, 260 SCRA 155 (1996).

[13] Rule 114, Sec. 1.

[14] *Id.*, Sec. 2.

[15] Rollo, p. 59.

[16] Records, Volume II, pp. 80-81.

[17] *Ibid.*

[18] (Sic, should be Rule 124).

[19] *Supra*, note 6. (Emphasis supplied.)

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