

EN BANC

[A.M. No. RTJ-97-1387, September 10, 1997]

FLAVIANO B. CORTES, COMPLAINANT, VS. JUDGE SEGUNDO B. CATRAL, REGIONAL TRIAL COURT, BRANCH 7, APARRI, CAGAYAN, RESPONDENT.

RESOLUTION

ROMERO, J.:

Once again, the Court is asked to elucidate on the rules in the grant of the application for bail.

A sworn letter complaint was filed by Flaviano Cortes charging Judge Segundo B. Catral of the RTC of Aparri, Cagayan with Gross Ignorance of the Law committed as follows:

1. He granted bail in murder cases without hearing: People v. Duerme, et al., Criminal Case No. 07-893 for murder and People v. Rodrigo Bumanglag, Criminal Case No. 08-866 for murder

These two cases are like the case of Teresita Q. Tucay v. Judge Roger Domagas, 242 SCRA 110 being classified as heinous crimes there (sic) are supposedly unavailable;

2. On May 3, 1995, Barangay Captain Rodolfo Castaneda's Criminal Case No. 11-6250 for Illegal Possession of Firearm was raffled and assigned to his sala. The provincial prosecutor granted a bailbond of P180,000.00 but it was reduced by Judge Segundo Catral for only P30,000.00. The worst part of it – no hearing has been made from 1995 to the present because according to his clerks, he is holding it in abeyance. This Barangay Captain Rodolfo Castaneda is one of the goons of Julio 'Bong' Decierto his nephew who has a pending murder case;

3. Another Barangay Captain Nilo de Rivera with a homicide case was granted with a bailbond of P14,800.00 by Judge Segundo Catral. The amount is too low. It is because this Nilo de Rivera is another goon of Julio Bong Decierto;

4. Jimmy Siriban the right hand man of Julio 'Bong' Diciento was sued for concubinage and convicted by Judge Herminio del Castillo in MTC. Jimmy Siriban appealed and it was elevated to the RTC Branch 08, the sala of Judge Segundo Catral. Judge Segundo Catral acquitted Jimmy Siriban, rumors in Aparri spread that the wife of Judge Segundo Catral went to Jimmy Siriban's house to get the envelop;^[1]

In his comment dated August 16, 1996, respondent judge branded the complainant as a "self anointed concern (sic) citizen" of Aparri, Cagayan who has gained notoriety as a character assassinator, a public nuisance and most often called speaker for hire during election time. Respondent further laments that "a 'ghost lawyer' is taking advantage of the notoriety of Mr. Flaviano Cortes by manipulating him like a robot and letting him loose like a mad dog barking on the wrong tree and biting everybody including the other members of the bench."^[2]

With regard to the first charge, respondent judge, in his comment, clarified that Criminal Case No. 07-893 is the case of People v. Willie Bumanglag y Magno for frustrated homicide pending in Branch 7 of the Regional Trial Court of Aparri where the presiding judge is Hon. Virgilio Alameda. However, if the complainant is referring to Ahmed Duerme y Paypon, et al., Criminal Case No. 874^[3] for murder pending in Branch 7 of the RTC where respondent was then designated as presiding judge, respondent stresses that the provincial prosecutor recommended P 200,000.00 as bailbond for each of the accused. Subsequently, in a motion for reduction of bailbond, the resolution of the motion was submitted to the sound discretion of the court. The court, "mindful of the fact that the prosecution is banking on weak circumstantial evidence and guided by the factors prescribed in Section 9 of Administrative Circular 12-94^[4] issued an order for reduction of the bailbond from P200,000.00 to P50,000.00."^[5]

In the case of People v. Rodrigo Bumanglag, Criminal Case 08-866 for murder, the inquest judge issued a warrant of arrest for the accused with no bail recommended. When the case was elevated to the Regional Trial Court upon information filed by the provincial prosecutor, the information made no mention of a bailbond. In the hearing of the petition to determine whether or not the evidence of guilt is strong, the fiscal opted not to introduce evidence and recommended bail in the sum of P200,000.00 instead. Respondent judge "acting on the said recommendation and again guided by the provision of Section 9, Administrative Circular 12-94 in conjunction with the evidence extant on the record approved the recommendation of Prosecutor Apolinar Carrao."^[6] A duplicate copy of trial prosecutor Apolinar Carrao's letter dated September 3, 1996 addressed to the provincial prosecutor Romeo Sacquing was presented by the respondent to disprove the accusation that he granted bail to the accused without conducting any hearing.^[7]

As regards the third charge concerning the illegal possession of firearm against Barangay Captain Rodolfo Castaneda, the bailbond recommended by the prosecutor was P180,000.00. Accused, through counsel Atty. Bulseco, filed a motion for reduction of the bailbond to P30,000.00. Counsel even vouched and guaranteed the appearance of the accused in court, whenever required. The motion for reduction of bailbond was submitted without serious opposition and the prosecutor "mindful perhaps that there is no corpus of the crime as no firearm was caught or taken from the possession of the accused merely submitted the same to the discretion of the court."^[8]

In Criminal Case No. 08-915 concerning a homicide case against Barangay Captain Nilo de Rivero, respondent judge says that the bailbond of P14,800.00 was recommended by the acting Officer-In-Charge (OIC) as contained in his manifestation accompanying the information.^[9] Respondent judge then "acting on

the recommendation of the OIC provincial prosecutor and mindful of the guidelines in fixing a reasonable amount of bailbond coupled by the fact that the evidence on record is merely circumstantial and there was no eyewitness to the commission of crime granted bailbond in the sum of P14,800.00.”^[10]

Finally, respondent judge says the accusation regarding the acquittal of one Jimmy Siriban is simply the product of a dirty imagination and is a dirty trick intended to defame the name of his family by rumor mongers who are unwilling to come out in the open to substantiate their accusation.

On September 9, 1996, respondent submitted his additional comment dated September 5, 1996 informing the Office of the Court Administrator that Criminal Case No. 07-784, referred to in the letter complainant (sic) of Mr. Flaviano Cortes, has already been dismissed by Judge Virgilio Alameda, RTC, Branch 07, Aparri Cagayan, in his order dated August 16, 1996. ^[11] Respondent judge stresses that, as can be gleaned from the penultimate paragraph of said order, the accused, despite reduction of their bailbonds, remained detention prisoners because of their failure to post bond. In his original comment, respondent stated, among others, that the evidence against the accused in Criminal Case No. 07-874 was based on weak circumstantial evidence which prompted the court to grant them a reduced bailbond of P50,000.00. Respondent judge noted that the complaining witnesses never appeared despite the fact that the case had been set for hearing several times.

The Office of the Court Administrator recommended the dismissal of the complaint saying that there is nothing in the allegations of the complainant that would warrant the imposition of administrative sanction against respondent judge.

In recommending the dismissal of the complaint against respondent judge, the Office of the Court Administrator noted, “x x x complainant failed to show any indication that bad faith motivated the actuation of the respondent in granting and reducing the amount of bail of the accused in some of the criminal cases that were assigned in his sala. x x x it is crystal clear that the increase or reduction of bail rests in the sound discretion of the court depending upon the particular circumstances of the case. It should be noted further that the reduction in the amount of bail of the accused in the criminal cases in question were all done by the respondent with the knowledge and conformity of the Public Prosecutor concerned. Moreover, the actions taken by the respondent were in the exercise of judicial discretion that may not be assailed in an administrative proceedings (sic).”^[12]

We do not agree.

Bail is the security required by the court and given by the accused to ensure that the accused appears before the proper court at the scheduled time and place to answer the charges brought against him or her. It is awarded to the accused to honor the presumption of innocence until his guilt is proven beyond reasonable doubt, and to enable him to prepare his defense without being subject to punishment prior to conviction.^[13]

Bail should be fixed according to the circumstances of each case. The amount fixed should be sufficient to ensure the presence of the accused at the trial yet reasonable enough to comply with the constitutional provision that bail should not be excessive.

[14] Therefore, whether bail is a matter of right or of discretion, reasonable notice of hearing is required to be given to the prosecutor or fiscal or at least he must be asked for his recommendation because in fixing the amount of bail, the judge is required to take into account a number of factors such as the applicant's character and reputation, forfeiture of other bonds or whether he is a fugitive from justice.[15]

When a person is charged with an offense punishable by death, reclusion perpetua or life imprisonment, bail is a matter of discretion. Rule 114, Section 7 of the Rules of Court states: "No person charged with a capital offense, or an offense punishable by reclusion perpetua or life imprisonment when the evidence of guilt is strong, shall be admitted to bail regardless of the stage of the criminal action." Consequently, when the accused is charged with an offense punishable by death, reclusion perpetua or life imprisonment, the judge is mandated to conduct a hearing, whether summary or otherwise in the discretion of the court, not only to take into account the guidelines set forth in Section 9, Rule 114 of the Rules of Court, but primarily to determine the existence of strong evidence of guilt or lack of it, against the accused.

"A summary hearing means such brief and speedy method of receiving and considering the evidence of guilt as is practicable and consistent with the purpose of hearing which is merely to determine the weight of evidence for purposes of bail. On such hearing, the court does not sit to try the merits or to enter into any nice inquiry as to the weight that ought to 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 or admitted. The course of inquiry may be left to the discretion of the court which may confine itself to receiving such evidence as has reference to substantial matters, avoiding unnecessary thoroughness in the examination and cross examination." [16]

Respondent judge, in two instances, granted bail to an accused charged with murder, without having conducted any hearing as to whether the evidence of guilt against the accused is strong.

In the case of *People v. Ahmed Duerme y Paypon, et al.*, Criminal Case No. 874, accused Ahmed Duerme together with four other persons were charged with the crime of murder. The provincial prosecutor recommended the sum of P200,000.00 as bailbond for each accused.[17] The records do not reveal whether a hearing was actually conducted on the application for bail although respondent judge implies that there was one, stating that "acting on this recommendation of the provincial prosecutor and taking into account the guidelines prescribed in Section 9 of Administrative Circular 12-94, the court issued a warrant of arrest and fixed the amount of P200,000.00 for the provisional liberty of each of the accused." [18] Subsequently, counsel for accused Ahmed Duerme filed a motion for reduction of bail. The "hearing" of the motion was conducted on August 21, 1995 with the prosecution, not having interposed any opposition, and submitting the resolution of the motion to the sound discretion of the court instead. Respondent judge then issued an order granting a reduced bailbond of P50,000.00 for accused Ahmed Duerme inasmuch as "the evidence was not so strong to warrant the fixation of said amount." [19] Respondent judge, in his comment, disclosed that the prosecution was banking on weak circumstantial evidence since there was no eyewitness to the commission of the offense as borne out from the affidavits and sworn statements of

the prosecution witnesses.^[20] The order granting the reduced bailbond, however, did not contain a summary of the evidence for the prosecution.^[21]

In the case of *People v. Rodrigo Bumanglag*, Criminal Case No. 08-866, accused Bumanglag was charged with murder in a criminal complaint filed before the Municipal Trial Court of Sta. Ana, Cagayan. After conducting a preliminary investigation, the inquest judge issued a warrant of arrest for the accused with no bail recommended. When the case was elevated to the Regional Trial Court, the information made no mention of a bailbond. Consequently, accused through counsel filed a petition for bail. In the hearing of the petition to determine whether or not the evidence of guilt against the accused was strong, the fiscal opted not to introduce evidence and recommended the sum of P200,000.00 instead.^[22] Respondent judge, "acting on said recommendation and again guided by the provision of Section 9, Administrative Circular 12-94 in conjunction with the evidence extant on record," issued an order granting bail to the accused in the sum of P200,000.00.^[23] Unable to post the said bond, accused through counsel filed a motion to reduce bail.^[24] In the course of the hearing of the petition, the public prosecutor manifested that he had no objection to the sum of P50,000.00 as bail for the accused. Respondent judge, then "guided by the factual setting and the supporting evidence extant on record"^[25] reduced the bail bond from P200,000.00 to P50,000.00 as recommended by the prosecutor. Once again, the order granting the bail of P200,000.00, as well as the reduced bail bond of P50,000.00, did not contain a summary of the evidence presented by the prosecution.

Respondent judge insists that in the aforecited cases, a hearing was actually conducted on the application and motion for reduction of bail, but the public prosecutor opted not to introduce evidence and submitted the resolution of the petition, as well as the motion for reduction of bail, to the sound discretion of the court instead. Respondent observed that since it is a basic principle of procedure that the prosecution of criminal cases is under the direct control and supervision of the fiscal or prosecutor, would it be procedurally proper for the court to compel prosecutor Apolinar Carrao, the public prosecutor assigned in the case of *People v. Rodrigo Bumanlag*, Criminal Case No. 08-866, to prove the evidence of guilt of the accused for the crime of murder when the prosecutor candidly admitted in open court that in his honest view, the strength of evidence on hand for the state can only prove the crime of homicide and not murder?^[26]

In the recent case of *Inocencio Basco v. Judge Leo M. Rapatalo*,^[27] this court ruled that "x x x the judge is mandated to conduct a hearing even in cases where the prosecution chooses to just file a comment or leave the application of bail to the sound discretion of the court. A hearing is likewise required if the prosecution refuses to adduce evidence in opposition to the application to grant and fix bail. The importance of a hearing has been emphasized in not a few cases wherein the court ruled that, even if the prosecution refuses to adduce evidence or fails to interpose an objection to the motion for bail, it is still mandatory for the court to conduct a hearing or ask searching questions from which it may infer the strength of the evidence of guilt, or the lack of it against the accused."

The reason for this is plain. Inasmuch as the determination of whether or not the evidence of guilt against the accused is strong is a matter of judicial discretion, It