

EN BANC

[G.R. No. 213847, July 12, 2016]

**JUAN PONCE ENRILE, PETITIONER, VS. SANDIGANBAYAN
(THIRD DIVISION), AND PEOPLE OF THE PHILIPPINES,
RESPONDENTS.**

RESOLUTION

BERSAMIN, J.:

The People of the Philippines, represented by the Office of the Special Prosecutor of the Office of the Ombudsman, have filed their Motion for *Reconsideration* to assail the decision promulgated on August 18, 2015 granting the petition for *certiorari* of the petitioner, and disposing thusly:

WHEREFORE, the Court **GRANTS** the petition for *certiorari*; **ISSUES** the writ of *certiorari* **ANNUL[L]ING** and **SETTING ASIDE** the Resolutions issued by the Sandiganbayan (Third Division) in Case No. SB-14-CRM-0238 on July 14, 2014 and August 8, 2014; **ORDERS** the **PROVISIONAL RELEASE** of petitioner Juan Ponce Enrile in Case No. SB-14-CRM-0238 upon posting of a cash bond of P1,000,000.00 in the Sandiganbayan; and **DIRECTS** the immediate release of petitioner Juan Ponce Enrile from custody unless he is being detained for some other lawful cause.

No pronouncement on costs of suit.

SO ORDERED.^[1]

The People rely on the following grounds for the reversal of the decision of August 18, 2015, to wit:

I. THE *DECISION* GRANTING BAIL TO PETITIONER WAS PREMISED ON A FACTUAL FINDING THAT HE IS NOT A FLIGHT RISK, ON A DETERMINATION THAT HE SUFFERS FROM A FRAGILE STATE OF HEALTH AND ON OTHER UNSUPPORTED GROUNDS UNIQUE AND PERSONAL TO HIM. IN GRANTING BAIL TO PETITIONER ON THE FOREGOING GROUNDS, THE *DECISION* UNDULY AND RADICALLY MODIFIED CONSTITUTIONAL AND PROCEDURAL PRINCIPLES GOVERNING BAIL WITHOUT SUFFICIENT CONSTITUTIONAL, LEGAL AND JURIS PRUDENTIAL BASIS.

A. THE *DECISION* OPENLY IGNORED AND ABANDONED THE CONSTITUTIONALLY-MANDATED PROCEDURE FOR DETERMINING WHETHER A PERSON ACCUSED OF A CRIME PUNISHABLE BY *RECLUSION PERPETUA* OR LIFE

IMPRISONMENT SUCH AS PLUNDER CAN BE GRANTED BAIL.

B. THE *DECISION* ALSO DISREGARDED CONSTITUTIONAL PRINCIPLES AND RELEVANT COURT PROCEDURES WHEN IT GRANTED PETITIONER'S REQUEST FOR BAIL ON THE GROUND THAT HE IS NOT A FLIGHT RISK, PREMISED ON A LOOSE FINDING THAT THE PRINCIPAL PURPOSE OF BAIL IS MERELY TO SECURE THE APPEARANCE OF AN ACCUSED DURING TRIAL.

C. CONTRARY TO THE STRICT REQUIREMENTS OF THE 1987 CONSTITUTION ON THE MATTER OF GRANTING BAIL TO PERSONS ACCUSED OF CRIMES PUNISHABLE BY *RECLUSION PERPETUA* OR LIFE IMPRISONMENT, THE *DECISION* ERRONEOUSLY HELD THAT PETITIONER SHOULD BE GRANTED BAIL BECAUSE OF HIS FRAGILE STATE OF HEALTH, AND BECAUSE OF OTHER UNSUPPORTED AND DEBATABLE GROUNDS AND CIRCUMSTANCES PURELY PERSONAL AND PECULIAR TO HIM, WITHOUT REFERENCE TO THE STRENGTH OF THE PROSECUTION'S EVIDENCE AGAINST HIM.

II. THE *DECISION* VIOLATES THE PEOPLE'S CONSTITUTIONAL RIGHT TO DUE PROCESS OF LAW SINCE IT WAS BASED ON GROUNDS NOT RAISED IN THE *PETITION* AND THEREFORE NEVER REFUTED OR CONTESTED.

III. THE *DECISION* GAVE PREFERENTIAL TREATMENT AND UNDUE FAVOR TO PETITIONER IN A MANNER INCONSISTENT WITH THE EQUAL PROTECTION CLAUSE OF THE 1987 CONSTITUTION.^[2]

The People argue that the decision is inconsonant with deeply-embedded constitutional principles on the right to bail; that the express and unambiguous intent of the 1987 Constitution is to place persons accused of crimes punishable by *reclusion perpetua* on a different plane, and make their availment of bail a matter of judicial discretion, not a matter of right, only upon a showing that evidence of their guilt is not strong; and that the Court should have proceeded from the general proposition that the petitioner had no right to bail because he does not stand on equal footing with those accused of less grave crimes.

The People contend that the grant of provisional liberty to a person charged with a grave crime cannot be predicated solely on the assurance that he will appear in court, but should also consider whether he will endanger other important interests of the State, the probability of him repeating the crime committed, and how his temporary liberty can affect the prosecution of his case; that the petitioner's fragile state of health does not present a compelling justification for his admission to bail; that age and health considerations are relevant only in fixing the amount of bail; and that even so, his age and health condition were never raised or litigated in the *Sandiganbayan* because he had merely filed thereat a *Motion to Fix Bail* and did not thereby actually apply for bail.

Lastly, the People observe that the decision specially accommodated the petitioner, and thus accorded him preferential treatment that is not ordinarily enjoyed by

persons similarly situated.

Ruling of the Court

The Court finds no compelling or good reason to reverse its decision of August 18, 2015.

To start with, the People were not kept in the dark on the health condition of the petitioner. Through his *Omnibus Motion* dated June 10, 2014 and his *Motion to Fix Bail* dated July 7, 2014, he manifested to the Sandiganbayan his currently frail health, and presented medical certificates to show that his physical condition required constant medical attention.^[3] The *Omnibus Motion* and his *Supplemental Opposition* dated June 16, 2014 were both heard by the *Sandiganbayan* after the filing by the Prosecution of its *Consolidated Opposition*.^[4] Through his *Motion for Reconsideration*, he incorporated the findings of the government physicians to establish the present state of his health. On its part, the *Sandiganbayan*, to satisfy itself of the health circumstances of the petitioner, solicited the medical opinions of the relevant doctors from the Philippine General Hospital.^[5] The medical opinions and findings were also included in the petition for *certiorari* and now form part of the records of the case.

Clearly, the People were *not denied* the reasonable opportunity to challenge or refute the allegations about his advanced age and the instability of his health even if the allegations had not been directly made in connection with his *Motion to Fix Bail*.

Secondly, the imputation of "preferential treatment" in "undue favor" of the petitioner is absolutely bereft of basis.^[6] A reading of the decision of August 18, 2015 indicates that the Court did not grant his provisional liberty because he was a sitting Senator of the Republic. It did so because there were proper bases - legal as well as factual - for the favorable consideration and treatment of his plea for provisional liberty on bail. By its decision, the Court has recognized his right to bail by emphasizing that such right should be curtailed only if the risks of flight from this jurisdiction were too high. In our view, however, the records demonstrated that the risks of flight were low, or even nil. The Court has taken into consideration other circumstances, such as his advanced age and poor health, his past and present disposition of respect for the legal processes, the length of his public service, and his individual public and private reputation.^[7] There was really no reasonable way for the Court to deny bail to him simply because his situation of being 92 years of age when he was first charged for the very serious crime in court was quite unique and very rare. To ignore his advanced age and unstable health condition in order to deny his right to bail on the basis alone of the judicial discretion to deny bail would be probably unjust. To equate his situation with that of the other accused indicted for a similarly serious offense would be inherently wrong when other conditions significantly differentiating his situation from that of the latter's unquestionably existed.^[8]

Section 2, Rule 114 of the *Rules of Court* expressly states that one of the conditions of bail is for the accused to "appear before the proper court whenever required by the court or these Rules." The practice of bail fixing supports this purpose. Thus, in *Villaseñor v. Abaño*,^[9] the Court has pronounced that "the principal factor

considered (in bail fixing), to the determination of which most factors are directed, is the probability of the appearance of the accused, or of his flight to avoid punishment."^[10] The Court has given due regard to the primary but limited purpose of granting bail, which was to ensure that the petitioner would appear during his trial and would continue to submit to the jurisdiction of the *Sandiganbayan* to answer the charges levelled against him.^[11]

Bail exists to ensure society's interest in having the accused answer to a criminal prosecution without unduly restricting his or her liberty and without ignoring the accused's right to be presumed innocent. It does not perform the function of preventing or licensing the commission of a crime. The notion that bail is required to punish a person accused of crime is, therefore, fundamentally misplaced. Indeed, the practice of admission to bail is not a device for keeping persons in jail upon mere accusation until it is found convenient to give them a trial. The spirit of the procedure is rather to enable them to stay out of jail until a trial with all the safeguards has found and adjudged them guilty. Unless permitted this conditional privilege, the individuals wrongly accused could be punished by the period of imprisonment they undergo while awaiting trial, and even handicap them in consulting counsel, searching for evidence and witnesses, and preparing a defense.^[12] Hence, bail acts as a reconciling mechanism to accommodate both the accused's interest in pretrial liberty and society's interest in assuring his presence at trial.^[13]

Admission to bail always involves the risk that the accused will take flight.^[14] This is the reason precisely why the probability or the improbability of flight is an important factor to be taken into consideration in granting or denying bail, even in capital cases. The exception to the fundamental right to bail should be applied in direct ratio to the extent of the probability of evasion of prosecution. Apparently, an accused's official and social standing and his other personal circumstances are considered and appreciated as tending to render his flight improbable.^[15]

The petitioner has proven with more than sufficient evidence that he would not be a flight risk. For one, his advanced age and fragile state of health have minimized the likelihood that he would make himself scarce and escape from the jurisdiction of our courts. The testimony of Dr. Jose C. Gonzales, Director of the Philippine General Hospital, showed that the petitioner was a geriatric patient suffering from various medical conditions,^[16] which, singly or collectively, could pose significant risks to his life. The medical findings and opinions have been uncontested by the Prosecution even in their present *Motion for Reconsideration*.

WHEREFORE, the Court **DENIES** the *Motion for Reconsideration* for lack of merit.

SO ORDERED.

Sereno, C. J., I join J. Leonen's dissent.

Velasco, Jr., Leonardo-De Castro, Peralta, Perez, and Mendoza, JJ., concur.

Carpio, J., I join the dissenting opinion of J. Leonen.

Brion, J., see separate concurring opinion

Del Castillo, J., I join the dissent of J. Leonen.

Reyes, J., on official leave.

Perlas-Bernabe, J., I join J. Leonen's dissent.

Leonen, J., I dissent. see separate opinion.

Jardeleza, J., no part.

Caguioa, J., I join the dissent of J. Leonen.

NOTICE OF JUDGMENT

Sirs/Mesdames:

Please take notice that on July 12, 2016 a Decision/Resolution, copy attached herewith, was rendered by the Supreme Court in the above-entitled case, the original of which was received by this Office on July 28, 2016 at 1:40 p.m.

Very truly yours,
(SGD)FELIPA G. BORLONGAN-ANAMA
Clerk of Court

[1] *Rollo*, pp. 624-625.

[2] *Id.* at 686-687.

[3] *Id.* at 152, 160-162, 253.

[4] *Id.* at 611.

[5] *Id.* at 309-311.

[6] *Id.* at 712.

[7] *Id.* at 620.

[8] *E.g., Stack v. Boyle*, 342 U.S. 1 ("Since the function of bail is limited, the fixing of bail for any individual defendant must be based upon standards relevant to the purpose of assuring the presence of **that defendant**. The traditional standards, as expressed in the Federal Rules of Criminal Procedure, are to be applied **in each case to each defendant**.").

In his concurring opinion in *Stack v. Boyle*, Justice Jackson reminded:

It is complained that the District Court fixed a uniform blanket bail chiefly by consideration of the nature of the accusation, and did not take into account the difference in circumstances between different defendants. If this occurred, it is a clear violation of Rule 46(c). **Each defendant stands before the bar of justice as an individual. Even on a conspiracy charge, defendants do not lose their separateness or identity.** While it might be possible that these defendants are identical in financial ability, character, and relation to the charge — elements