

FIRST DIVISION

[G.R. No. 127400, November 16, 1998]

VICTORIO ALERIA, JR., PETITIONER, VS. HON. ALEJANDRO M. VELEZ, IN HIS OFFICIAL CAPACITY AS PRESIDING JUDGE, RTC-BRANCH 20, CAGAYAN DE ORO CITY, AND THE PEOPLE OF THE PHILIPPINES, RESPONDENTS.

R E S O L U T I O N

QUISUMBING, J.:

Subject of the present Petition for Certiorari with prayer for Inhibition and Temporary Restraining Order^[1] are two Orders issued by respondent Judge, viz., the Order dated July 19, 1996 denying petitioner's Petition to Admit Bail, and the Order dated September 2, 1996 denying petitioner's Motion for Reconsideration of said Order.

Petitioner Victorio Aleria, Jr. stands accused in Criminal Case No. 95-394 for Illegal Possession of Firearms, and in Criminal Case No. 95-395 for Murder. Both cases arose out of the same incident and are being tried jointly by respondent Judge.

On July 17, 1995, petitioner filed a Petition to Admit Bail in Criminal Case No. 95-394 (Illegal Possession) where the recommended bail is P300,000.00 and in Criminal Case No. 95-395 (Murder) where no bail was recommended.

Respondent Judge duly conducted bail hearings and thereafter issued the questioned Order dated July 19, 1996,^[2] which states:

ORDER

"This is a petition for bail filed by the accused in both cases. After the prosecution had formally offered their documentary exhibits on the bail petition, petitioner and the prosecution submitted their memorandum in support or against such petition, hence this resolution.

After going over the memorandum of both the movant and the oppositor State together with the existing jurisprudence and the evidence adduced by the prosecution, this court finds the evidence of the state sufficiently strong to hold the accused criminally liable under the present charges in the absence of convincing evidence to the contrary.

SO ORDERED."

On August 7, 1996, accused filed a Motion for Reconsideration^[3] on the grounds that the aforesaid Order denying bail is not supported by the evidence on record, and that the Order failed to state the grounds for denying bail and the evidence

relied upon to show that the evidence of guilt of the accused is strong.

Acting on the Motion for Reconsideration, respondent Judge issued an Order dated September 2, 1996^[4] denying the Motion for Reconsideration in this wise:

ORDER

"This court had already spelled out in its previous order denying bail the reason for its denial - - that the evidence against the accused is strong to sustain a conviction in the absence of evidence to the contrary. The perception and observation of this court was arrived at after evidence was adduced by the prosecution.

In other words, there is no particular language fixed by law and jurisprudence limiting this court to issue an order based on the evidence and in the exercise of his sound discretion involving criminal charges which carry the penalty of capital punishment.

Stated otherwise, the order sought to be reconsidered was the result of the fact of death of the victim, that when the victim died, whether by suicide or not, the accused was with the victim, that the gun allegedly used in the death of the victim was presented in court, that proof was shown that there were no signs that the victim fired the gun and other pertinent and related facts amounting to the approximation of the term 'strong evidence.'

For lack of basis, the motion for reconsideration is hereby denied.

SO ORDERED."

Hence, the present petition for certiorari with prayer for inhibition and temporary restraining order assailing the issuance of the aforementioned Orders with a prayer that petitioner be allowed to post bail in such amount as shall be reasonably affordable, and that respondent Judge be ordered to inhibit himself from further trying the instant case and that the same be raffled to another sala.

On January 15, 1997, the Court, without giving due course to the petition, issued a resolution requiring respondents to Comment thereon.

On February 13, 1997, the prosecution, through the private prosecutors, filed a Comment^[5] to the petition averring that the trial court succinctly but unequivocally stated the factual basis for the denial of bail to accused, as supported by the memorandum for the prosecution.

On June 6, 1997, the Office of the Solicitor-General filed a Manifestation and Motion (In Lieu of Comment)^[6] wherein it was submitted that the two Orders dated July 19, 1996 and September 2, 1996 cannot be given a semblance of validity since they do not contain a summary of the evidence for the prosecution followed by respondent Judge's conclusion that the evidence of guilt is strong, and are therefore defective in form and substance and cannot be allowed to stand. Respondent Judge should be directed to issue another order on petitioner's application for bail containing a summary of the evidence for the prosecution followed by its conclusion

whether or not the evidence of guilt is strong. As to the Motion for Inhibition, respondent Judge's actuations did not render him legally disqualified from sitting and deciding on the case.

Petitioner, however, maintains a different opinion from the Office of the Solicitor-General, and on July 11, 1997, filed a Manifestation with Motion^[7] contending that the recommendation of the Office of the Solicitor-General is not in accord with public interest and the expeditious administration of justice, and reiterated its prayer that this Court should resolve the matter of the petition for bail once and for all, and allow petitioner to post such bail as the Court may fix.

It is, therefore, appropriate to resolve this petition now.

The constitutional mandate is that "[a]ll 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. x x x".^[8] Petitioner is unquestionably charged with a capital offense, Murder, which at the time of its commission (January 9, 1995)^[9] and at the time of the application for bail (July 17, 1995),^[10] is punishable by *reclusion perpetua* to death.^[11] The grant or denial of bail in capital offenses hinges on the issue of whether or not the evidence of guilt of the accused is strong. Hence the need for the trial court to conduct bail hearings wherein both the prosecution and defense are afforded sufficient opportunity to present their respective evidence. The determination, however, of whether or not the evidence of guilt is strong, being a matter of judicial discretion, remains with the judge.^[12] To be sure, the discretion of the trial court "is not absolute nor beyond control. It must be sound, and exercised within reasonable bounds. Judicial discretion, by its very nature involves the exercise of the judge's individual opinion and the law has wisely provided that its exercise be guided by well-known rules which, while allowing the judge rational latitude for the operation of his own individual views, prevent them from getting out of control."^[13] In other words, judicial discretion is not unbridled but must be supported by a finding of the facts relied upon to form an opinion on the issue before the court. In numerous cases, ^[14] we have repeatedly ruled that the court's order granting or refusing bail must contain a **summary of the evidence** for the prosecution followed by its conclusion whether or not the evidence of guilt is strong. Indeed, the summary of evidence for the prosecution which contains the judge's evaluation of the evidence may be considered as an aspect of judicial due process for both the prosecution and the defense.^[15] A review of the questioned orders would readily show that they are indeed lacking in specificity, and therefore, fatally flawed.

However, petitioner insists that in the event the aforesaid Orders are declared invalid, this Court should be tasked to review the evidence as to whether the guilt of the accused is sufficiently strong to warrant denial of bail based on the transcript of stenographic notes and the pertinent pleadings which petitioner painstakingly attached to the petition.

As repeatedly ruled, the Supreme Court is not a trier of facts. Rule 114, Section 17 of the Rules of Criminal Procedure, as amended by Administrative Circular No. 12-94, provides that bail is generally filed in the "court where the case is pending." If