

1970

Present : Samerawickrame, J.

M. SALAHUDEEN, Petitioner, *and* THE ATTORNEY-
GENERAL, Respondent

C. C. A. Application 164/70—Application for bail under Section 15
of the Court of Criminal Appeal Ordinance (Cap. 7)

S. C. 312/68—M. C. Colombo, 3062/A

*Court of Criminal Appeal Ordinance (Cap. 7)—Sections 15, 18—
Admission to bail—Rules applicable.*

An application for bail under section 18 of the Court of Criminal
Appeal Ordinance may be heard by a single judge in the first
instance.

The release of a prisoner on bail pending an appeal to the
Court of Criminal Appeal will only be granted in exceptional
circumstances.

APPPLICATION for bail under Section 15 of the Court of
Criminal Appeal Ordinance.

A. C. de Zoysa, with W. Justin Perera, for the petitioner.

Ian Wikramanayake, Crown Counsel, for the respondent.

Cur. adv. vult.

November 17, 1970. SAMERAWICKRAME, J.—

The first matter for consideration is whether this application
can be dealt with by a single judge. Section 18 of the Court of
Criminal Appeal Ordinance provides that the power to admit an
appellant to bail may be exercised by any judge of the Court of
Criminal Appeal but if relief is refused the appellant shall be

entitled to have the application determined by the Court of Criminal Appeal duly constituted for the hearing and determining of appeals.

It is a settled principle that the release of a prisoner on bail pending an appeal to the Court of Criminal Appeal will only be granted in exceptional circumstances. The circumstances relied on by the petitioner are set out in paragraphs 4 (d) and (e) of the affidavit as follows :—

“ (d) I am a businessman and a substantial sum of money is due to me from various credit customers. As such my physical presence is essential to collect these dues.

(e) I wish to retain senior counsel to conduct my appeal but I cannot do so if I fail to collect the monies due to me. ”

Though the petitioner states that he is a businessman and that money is due to him from various credit customers he does not state the nature of his business or any other detail regarding it. I find that the petitioner was bailed out on 20th June, 1969, pending trial and he was presumably able to look after his business until the date of trial which was the 10th of October, 1970. Any dues from credit customers must therefore be either dues that he had failed to realise before 10th October, 1970, or such as have become recoverable after that date.

Learned counsel for the petitioner relied on the case of *Queen v. Punchi Banda*.¹ In that case the petitioners had been sentenced to six months' rigorous imprisonment and the appeal filed would not have been listed for hearing at the next sittings of the Court of Criminal Appeal. In view of those facts and the opinion formed by the learned judge who heard the application for bail that they were unlikely to abscond they were allowed bail. The petitioner in the present application has been sentenced to a term of three years' rigorous imprisonment on a conviction for attempted culpable homicide. This case therefore cannot be brought within the principle set out in *Queen v. Punchi Banda* (supra).

I am of the view that it has not been shown that there are any exceptional circumstances which entitle the petitioner to bail. His application is accordingly refused.

Application refused.

¹ (1960) 62 C. L.W. 15.