

1931

Present: Macdonell C.J.

REX v. VELUPILLAI

*P. C. Jaffna, 1,931.**Bail—Accused charged with murder—Committed for trial—Special grounds.*

Where an accused, charged with murder, has been committed for trial, special grounds must be adduced for the granting of bail, where the Crown opposes the application.

THIS was an application for bail on behalf of a person charged with murder and committed for trial.

Choksy, for the petitioner.

Crossette Thambiah, C.C., for the Crown.

September 23, 1931. MACDONELL C.J.—

I do not think I ought to grant this application for bail. Naturally one is sorry for the accused, but one must determine this application according to principle. The accused has been committed for trial, and if I were to accede in any way to what was the first argument put forward, namely, a criticism of the evidence taken, I would be usurping the province of the jury. I rely on the words of Lyall Grant J. in a similar application made to him last June. He has said that in such applications, that is to say, where the charge is one of murder and the accused has been properly committed for trial, strong grounds or special grounds must be adduced for the granting of bail whenever the Crown opposes that application.

I agree that there is nothing to suggest that the accused, if enlarged on bail will tamper with the evidence, medical or other, but there is this point, that in a case where a man is on trial for his life he has a very strong motive to abscond, and although we know that this is a case in which it is improbable that the death penalty will be inflicted, still he may not know that fact, and he may be a person of weak nerves, and even the mere possibility of the death penalty being inflicted may tempt him to abscond. It puts the onus the wrong way to say that it must be shown that the accused is likely to abscond. The argument should be the other way; it should be shown to the Court that there is no reason for this man to abscond, and a strong and special reason must be brought forward and established. I am sorry that I do not see the special reason in the present case, consequently I must refuse this application, with regret, because this unfortunate man will be in jail for between 7 or 8 months, from last July to February, 1932.

This application is refused, with liberty to the accused to apply again if any special reasons can be given.

Application refused.