

**1253 Capt Muhammad Hanis Bin Awang Masri**

AND

**Public Prosecutor**

---

**(High Court of Brunei Darussalam)  
(Criminal Trial No. 12 of 2025)**

---

Haji Abdullah Soefri bin POKPSM DSP Haji Abidin, J.C.

**Date of Ruling: 15<sup>th</sup> November, 2025.**

*Headnote: Criminal Law – Bail – Murder charge under Section 302 Penal Code (Cap 22) – Death penalty – Application for bail pending investigation – Gravity of offence – strength of case – likelihood of interference with witnesses – balance of probabilities that bail should not be granted – Bail refused – Application dismissed.*

Applicant/Defendant In Person.

DPP Siti Khalilah Hj Hussin for Public Prosecutor/Respondent.

**Cases cited:**

*Hj Sadikin Bin Hj Ahmad V Public Prosecutor* [High Court Criminal Motion No. 1 of 2000]

*Public Prosecutor V Md Zainal Ariffin Bin Munaf* [CM No. 4 of 2024]

*PP vs Mohammad Herman bin Abdullah*

*Hurnam vs The State* (Mauritius) 2005 UKPC

**RULING**

**Haji Abdullah Soefri, J.C:**

This is an application for bail by the Applicant/Defendant who faces with a holding charge under Section 302 the Penal Code, Cap 22. The Defendant was remanded for further investigation by the Magistrate and now the Defendant is applying before this Court to be released on bail.

**CHARGE**

That you, sometime on the 28<sup>th</sup> day of September 2025, at No. C4, Jalan Belantaran, Berakas Camp, in Brunei Darussalam, did commit murder by causing the death of one Darmi-Andra Kadil Usman [female, 23, D.O B 03/10/2001, Republic of Philippines Passport No. P5162018B] to wit, by strangling her neck, and you have thereby committed an offence punishable under section 302 of the Penal Code, Chapter 22.

The penalty of the said charge is death

**GROUND OF APPLICATION**

**DEFENDANT**

The Defendant gave several grounds for his bail application which are as follows:

1. To take care of his 4-month-old child, whose mother is the deceased.
2. To reduce the burden of his elderly parents and his father is having a heart problem
3. To assist his younger sister who has agreed to look after his son but she is expecting to give birth to her third child at the end of this year
4. To seek legal advice and legal representation
5. To maintain his mental health and to avoid from any emotional disturbance while in remand.
6. Easily to be contacted
7. A Bruneian
8. Has a fixed address and stay with his family
9. Bailor will be his own family members
10. Will abide with all bail conditions
11. Ready to report to the Police Station.

### **GROUND OF OBJECTIONS**

1. Gravity of Offence

The defendant is charged with a serious offence which attracts the death penalty.

2. Strength of Prosecution case

The Defendant after had strangled the deceased texted his family members asking their help to pick up the baby. The Defendant's sibling after had left the house with the baby contacted the Royal Brunei Police Force informing them what they had just saw.

The Defendant tried to injured himself and was prevented to do so and was arrested shortly.

The Defendant had admitted in his ordinary and notice of warning statement and also had left a WhatsApp message with confession.

3. Likelihood of interfering with the Prosecution witnesses

The Prosecution submitted that there is great likelihood of the Defendant tampering with the witnesses, namely his siblings, who were the first two witnesses that found the deceased and alerted the authorities. Releasing him on bail, even with strict conditions, would not guarantee non-interference with these said witnesses.

### **COURT CONSIDERATION**

In *Hj Sadikin Bin Hj Ahmad V Public Prosecutor [High Court Criminal Motion No. 1 of 2000]*, the then learned Chief Justice, Roberts CJ held that; *"Where there is an application for bail, it must be accepted that the defendant has not been convicted of any offence and is therefore to be treated as an innocent person."* He further held that; *"It will then be for the prosecution, on a balance of probabilities (the lesser burden of proof) to establish that bail should not be granted to the defendant."*

Roberts CJ laid out a number of matters which should be considered by a court, when deciding if bail should be granted or not, amongst others, are as follows:

*"a) The gravity of the offences, as is best shown by the maximum penalty which can be imposed for it in a case in which the death penalty can be given, it is very rare for bail to be given."*

- d) the likelihood that the defendant may attempt to interfere with witnesses for the prosecution
- g) If this is available, the strength of prosecution case.
- k) whether the defendant can prepare his defence adequately if he is kept in custody.”

The question now is whether the Prosecution has established on balance of probabilities that bail should not be granted or otherwise?

I have considered the submissions made by both parties. It is evident that the Defendant is facing, albeit a holding charge, a very serious charge that carries a death penalty. It also being adduced the strength of the Prosecution case that the Defendant has made admission in his Ordinary statement and Notice of Warning Statement to the Police and there is likelihood due to the closeness of the relationship between the Defendant and the potential Prosecution witnesses, who are siblings, there might be interference of the witnesses either directly or indirectly.

In **Public Prosecutor V Md Zainal Ariffin Bin Munaf [CM No. 4 of 2024]**, the Judge stated that:

*“The Defendant’s local residency and familial obligations, while relevant do not outweigh the gravity of the charges and the associated risk of absconding. The local status of a defendant does not diminish the risk posed by the severity of the potential penalties.”*

Having had said all of the above, I am satisfied that the Prosecution has established on balance of probabilities that bail should not be granted. The Defendant can still prepare his case and to engage counsel while in remand as the Prison Act allows for him to do so.

I therefore dismiss the bail application and the Defendant to be further remanded.

Before I take my leave, I would like to highlight what Dato Seri Paduka Steven Chong, Chief Justice had said in **PP vs Mohammad Herman bin Abdullah** whereby he quoted Lord Bingham in *Hurnam vs The State* (Mauritius) 2005 UKPC:

*“The interest of the individual is of course to remain at liberty unless or until he is convicted of a crime sufficiently serious to justify depriving him of his liberty. Any loss of liberty before that time, particularly if he is acquitted or never tried, will inevitably prejudiced him and in many cases, his livelihood and his family. But the community has a countervailing interest in seeking to ensure that the cause of justice is not thwarted by the flight of the suspect or defendant or perverted by his interference with witnesses or evidence. And he does not take advantage of the inevitable delay before trial to commit further offences.”*

Bail application is dismissed

**Haji Abdullah Soefri Bin Poksm Dato Seri Paduka Haji Abidin**  
Judicial Commissioner