

**HAJI ABDUL RADZAK BIN HAJI AWANG DAMIT**

AND

**PUBLIC PROSECUTOR**

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**Court of Appeal of Brunei Darussalam  
(Criminal Motion No 11 of 2024)**

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Before: Steven Chong, C.J, Seagroatt and Woolley, JJA

**Date of Hearing: 4<sup>th</sup> November 2024**

**Date of Judgment: 7<sup>th</sup> November 2024**

*Headnote: Applicant already on trial (part heard); adjourned to May 2025; on bail with conditions including impounding of passport; numerous applications before Intermediate Court Judge for release of passport; all refused on ground that high risk of absconding; numerous commercial links in other countries; travel outside Brunei Darussalam not essential for conduct of commercial interests. No change of circumstances. Previous absence for 2 years and associated breach of a bail condition on return heightens risk of failure to return for trial. Proper exercise of discretion by Judge throughout. Application refused.*

Applicant in person.

DPP Dk Didi-Nuraza Bte Pg Hj Abdul Latif for Respondent.

**Seagroatt, JA.:**

1. This Applicant appeared before Intermediate Court Judge Norismayanti on the 24<sup>th</sup> May 2023. He faced a number of charges – three at present – alleging that on three separate occasions he published on his personal Facebook Page seditious material with the intention of inciting dissatisfaction towards His Majesty the Sultan and Yang Di-Pertuan or the Government and to incite dissatisfaction towards the administration of justice in Brunei Darussalam. These are contrary to Section 4(1) C of the Seditious Act, Cap 24.
2. At that stage, having already appeared before Judicial Commissioner Faisal on 11<sup>th</sup> May he had been released on bail set at \$5,000, or with two local sureties, and a number of conditions as follows:
  - a) His passport was impounded;
  - b) He was to fulfil a reporting requirement to the Commercial Crime Investigation Department once every month;

- c) He was not to make any adverse comments against His Majesty The Sultan and Yang Di-Pertuan or the government on social media.
3. He has made numerous applications to the Intermediate Court Judge. All were based essentially upon the release of his passport to conduct his business abroad. All have been refused the prosecution having made it clear that were he granted leave to travel, they are satisfied that he would abscond and therefore not return to attend his trial. It is clear in our view that on each occasion the judge properly and carefully exercised her discretion.
  4. Today he has submitted an extensive document which is largely concerned with the issues on which he will seek to address the trial court. The part which covers the reasons for making this application is largely a repetition of matters which he has already ventilated before ICJ Norismayanti on previous hearings.
  5. The court records reveal a number of occasions in which the applicant claims that he needs to attend meetings, discussions and events, have not been supported by documents produced on his behalf. Moreover in this technological age there is a variety of means of communication enabling a businessman to advance his commerce, however varied, without his having to travel outside the jurisdiction of the court to which he is answerable.
  6. It is clear that were he able to travel outside Brunei, he has a wide range of business interests and financial contacts and/or assets, which could sustain him thus obstructing any requirement that he return to the jurisdiction of this court. The prosecution's fear is well-founded. The continuation of his trial is scheduled for May of next year (2025).
  7. It is important to note that he had been released on police bail on the 3<sup>rd</sup> April 2021 but did not return until two years later on the 24<sup>th</sup> April 2023 and then failed to report to the police. During that period it is obvious that he had the means when absent from Brunei, to support himself for significant periods.
  8. The judge has properly exercised her discretion on every previous occasion. No compelling new circumstance requires a reconsideration of the Applicant's case. The application is dismissed.



**Steven Chong, C.J**

A handwritten signature in black ink, appearing to be 'J.A. Woolley', written in a cursive style.

**Seagroatt, J.A.**

**Woolley, J.A.**