

SAIFUL IRWAN BIN HAJI SIMPOL

AND

PUBLIC PROSECUTOR

**(Court of Appeal of Brunei Darussalam)
(Criminal Motion No. 39 of 2018)**

MOHD FAIZAL BIN ROSLI

AND

PUBLIC PROSECUTOR

**(Court of Appeal of Brunei Darussalam)
(Criminal Motion No. 45 of 2018)**

Before: Burrell P, Seagroatt and Lunn JJ A.
8th November 2018

Headnote: Court of Appeal has no jurisdiction to hear appeals from High Court against refusal of bail. High Court is not inferior or lower court. Court of Appeal and High Court are both part of Supreme Court of Brunei Darussalam

Criminal Motion No 39 and 45 of 2018

Applicants in person
DPP Nurul Fitri binti Kiprawi for Respondent

DECISION

Seagroatt, JA.:

Both applicants were initially charged with ten counts of gang robbery, armed gang robbery and impersonation of a police officer. They are now facing between them 21 counts of criminal activity. Both have previous convictions but we have not been supplied with a record of these.

On the 6th August 2018 they appeared before Chief Justice Steven Chong. They are due to be tried before Madame Justice Rostaina.

The Chief Justice refused their applications for bail on the ground of the likelihood of the commission of further offences if they were released on bail. It is against this decision that they seek leave to appeal.

They subsequently appeared in the High Court on the 23rd August and 3rd September when on both occasions bail was refused.

The only material issue is whether this court can entertain an appeal on the non-grant of bail from the High Court. Both the High Court and the Court of Appeal form the Supreme Court of Brunei.

Section 353 of the Criminal Procedure Code [Cap 7] is as follows:

“Any person aggrieved by any order of refusal of an inferior Court made under this chapter may appeal to the Court to which an appeal ordinarily lies.”

The word “*lower*” has been substituted for “*inferior*” in a later amendment.

The matter was considered by this court in *Harrisman Affendy bin Haji Ali and the Public Prosecutor [Criminal Appeal No 22 of 2010]*. It was held that the High Court is not an “*inferior*” (or “*lower*”) court to the Court of Appeal, “*since both courts are part of the Supreme Court which is the court of unlimited jurisdiction*” (per Rogers J.A.). There is no contrary authority or statutory provision.

Accordingly, there is no right of appeal in respect of the High Court’s exercise of discretion in relation to the grant or refusal of bail.

Since, this court has no jurisdiction to hear these applications and we make no order.

Burrell, P.

Seagroatt, J.A.

Lunn, J.A