

ROZNOVKI ANAK DARI

AND

PUBLIC PROSECUTOR

**(Court of Appeal of Brunei Darussalam)
(Criminal Motion No. 40 of 2018)**

DARI ANAK BILONG

AND

PUBLIC PROSECUTOR

**(Court of Appeal of Brunei Darussalam)
(Criminal Motion No. 41 of 2018)**

JAMARAT BIN MAHAL

AND

PUBLIC PROSECUTOR

**(Court of Appeal of Brunei Darussalam)
(Criminal Motion No. 49 of 2018)**

Before: Burrell P, Seagroatt and Lunn JJ A.
15th November 2018

Headnote: Bail – Prosecution’s grounds for opposing bail considered – defendants foreign nationals

Criminal Motion No 40 and 41 of 2018

Appellants in person
DPP (Dr) Mohammad Hussin Ali bin Idris for Respondent

Criminal Motion No 49 of 2018

Mr Hj Mohamad Daud bin Hj Ismail (Messrs. Daud Ismail and Company) for Appellant
DPP (Dr) Mohammad Hussin Ali bin Idris for Respondent

Burrell, P.:

This is an appeal by three defendants against an order made on 3rd October 2018 in the Intermediate Court refusing bail pending trial. All three defendants have entered pleas of not guilty to a charge of people smuggling contrary to s.7(1) of the Trafficking and Smuggling of Persons Order 2004. D1 has also entered a plea of not guilty to a charge of possessing un-excisable goods, namely 10 cartons of beer, contrary to s.146(1)(d) of the Excise Order 2006.

The Respondent's written submissions to this court surprisingly did not provide any details about the facts of the prosecution case to enable this court to consider its strength or otherwise.

In the course of the hearing on 12th November we made enquiries and many material facts were then provided.

We were also concerned that the date fixed for the trial of this matter was to be in late May 2019 some 8 months after the initial arrest. They have been in custody since a date in September 2018.

We adjourned the hearing on 12th November so that the Public Prosecutor could make enquiries about the possibility of the trial dates being brought forward, in spite of being told that late May 2019 was the "earliest available date".

We have today been informed that the trial will now commence on 14th January 2019.

We have carefully considered all matters advanced by Mr. Daud on behalf of D3 and those advanced by D1 and D2 who are unrepresented.

We are satisfied that the prosecution's grounds for opposing bail have been made out, namely

- (i) the applicants are foreign nationals.
- (ii) their immediate families live abroad.
- (iii) they would be unable to gain any employment in Brunei if granted bail.
- (iv) the strength of the prosecution case.
- (v) the risk of the applicants leaving the jurisdiction if granted bail.
- (vi) the seriousness of the offence alleged.

and that bail will therefore not be granted on this appeal.

Appeal dismissed.

Burrell, P.

Seagroatt, J.A.

Lunn, J.A