

Muhammad Huzni bin Hj Abd Hamid

and

Public Prosecutor

**(High Court of Brunei Darussalam)
(Criminal Motion No. 3 of 2020)**

Pg DP Rostaina Pg Hj Duraman, J
8th February 2020

Criminal Law --- bail application --- capital offence --- bail denied

Cases referred to:

Zulkifli bin Puasa & Ors vs PP (1985) 1 MLJ 461
Hj Sadikin bin Hj Ahmad vs PP (HCCM 1 of 2000)

Applicant in person.

DPP Muhammad Qamarul Affyian bin Abdul Rahman for Respondent/Public Prosecutor.

Pg DP Hjh Rostaina, J

1. This is an application for bail by the Applicant who faces one count under the Misuse of Drugs Act for having in his possession for the purpose of trafficking a class A controlled drug of 2.7 kilogrammes of Methamphetamine, contrary to section 3A of the Misuse of Drugs Act, Chapter 27.
2. DPP Muhammad Qamarul Affyian bin Abdul Rahman opposes the application. Before granting leave the court must be satisfied both that there is a satisfactory explanation for the delay and that the appeal has a reasonably good prospect of success: see ***Zulkifli bin Puasa & Ors vs PP (1985) 1 MLJ 461***.

Reason for delay

3. There is a delay for 6 months. The Applicant gave the reasons that he is under remand in prison and is not aware of the time frame to appeal: see **section 272 of the CPC, Cap 7**. I find these are not satisfactory explanations for the delay.

Merits

4. The important question then is whether he has an arguable appeal. In ***Hj Sadikin bin Hj Ahmad vs PP (HCCM 1 of 2000)***, the DPP submits that it is very rare for bail to be given

in the death penalty case. The trafficking offence, in this case, is a capital charge. Furthermore, he argues that the Prosecution has a strong case against the Applicant. The drug in question weighs 2.7 kilogrammes and there is a possibility of interference with the investigation of this case if the Applicant is released on bail, as four of his accomplices are still at large.

5. The Applicant is aged 40. He is unemployed but receives a monthly pension from his previous employment with the RBAF. He is remanded since 1st July 2019. He is a divorcee. He expresses his concerns for the welfare of his three children aged 12, 16 and 18. He urges the court to grant him bail on the ground that his children will suffer hardship without his support as he needs to sort out their schooling and to provide them with a place to stay.
6. The court, too, is anxious about the welfare of the Applicant's children. However, I find their mother and other family members can provide them with assistance, if necessary.
7. In light of the gravity of this offence under section 3A of the MDA, Cap 27 and the strength of the Prosecution's case, as presently submitted by the DPP, I find no merits in the appeal.
8. I, therefore, dismiss the application and order the Applicant to be further remanded at prison pending trial.

PG DP HJH ROSTAINA BTE PG HJ DURAMAN
Judge, High Court
8th February 2020