



Republic of the Philippines
Sandiganbayan
Quezon City

FIFTH DIVISION

PEOPLE OF THE PHILIPPINES,

Plaintiff,

SB-18-CRM-0002

- versus -

For: Violation of Sec. 3(e),
R.A. No. 3019, as amended

JONATHAN A. BAYOGAN, et al.,

Accused.

Promulgated on:

September 3, 2018 *Jal*

X ----- X

RESOLUTION

CORPUS - MAÑALAC, J.:

For consideration is accused *Bayogan's* Omnibus Motion filed on August 13, 2018, praying for the release of his cash bond and the lift of the Hold Departure Order issued against him, concomitant to the dismissal of his case on March 23, 2018¹ and the denial of the prosecution's Motion for Reconsideration thereof on June 27, 2018.²

The motion was countered by the prosecution alleging prematurity, considering that the period to file a petition for certiorari under Rule 65 from its receipt on July 5, 2018 of the denial of its Motion for Reconsideration has not yet expired. It was manifested that the former Ombudsman Conchita Carpio Morales has approved the filing of the said petition. Considering likewise the alleged flight risk of the accused, the subject Hold Departure Order allegedly should not be disturbed to avoid the frustration of justice.

Ruling

Jurisprudence³ holds that the dismissal of a case on the ground of the denial of the accused's right to a speedy case disposition shall have the effect of an acquittal. Section 22, Rule 114 of the Rules of Court provides for the automatic cancellation of bail upon acquittal of the accused, or the dismissal of the case, *viz:*

Sec. 22. Cancellation of bail. – X x x

¹ Resolution dated March 23, 2018, Record, pp. 290-298

² Resolution dated June 27, 2018, Record, pp. 437-446

³ *People v. Tampal*, G.R. No. 102485, May 22, 1995, 244 SCRA 202; *Philippine Savings Bank vs. Spouses Bermoy*, G.R. No. 151912, September 26, 2005, 471 SCRA 94, 107, citing *People v. Bans*, G.R. No. 104147, 8 December 1994, 239 SCRA 48; *People v. Declaro*, G.R. No. 64362, February 9, 1989, 170 SCRA 142; *People v. Quizada*, L-61079-81, April 15, 1988, 160 SCRA 516.

The bail shall be deemed automatically cancelled upon the **acquittal of the accused, dismissal of the case**, or execution of the judgment of conviction.

Xxx

On the other hand, Supreme Court Circular No. 39-97 dated June 19, 1997, paragraph [4] thereof mandates the cancellation of any Hold Departure Order that has been issued in case of dismissal, or acquittal of the accused. It states:

4. Whenever [a] the accused has been acquitted; or [b] the case has been dismissed, the judgment of acquittal or the order of dismissal shall include therein the cancellation of the Hold-Departure Order issued. The Court concerned shall furnish the Department of Foreign Affairs and the Bureau of Immigration with a copy each of the judgment of acquittal promulgated or the order of dismissal issued within twenty-four [24] hours from the time of promulgation/issuance and likewise through the fastest available means of transmittal.

Thus, it is of no moment that the prosecution contemplates of filing a petition for certiorari under Rule 65 from the dismissal of the case against accused Bayogan. As it stands, the dismissal negates the basis of the accused's bail, as well as his continued inclusion in the Hold Departure List in this case.

WHEREFORE, the Court GRANTS the Omnibus Motion of accused Bayogan, and hereby resolves to:


(1) RELEASE the Cash Bond posted in the amount of Thirty Thousand Pesos (Php30,000.00) under Official Receipt (OR) No. 62611874 dated January 31, 2018;


(2) LIFT the Hold Departure Order dated January 22, 2018 issued against the accused. The Commissioner of Bureau of Immigration is directed to allow the departure of the accused from the Philippines, accordingly remove his name in the Hold Departure List, and to inform this Court within five (5) days from receipt hereof, the action taken on this matter, unless his continued inclusion in the Hold Departure List is warranted by some other lawful causes.

SO ORDERED.


MARYANN E. CORPUS – MAÑALAC
Associate Justice

WE CONCUR:


RAFAEL R. LAGOS
Chairperson
Associate Justice


**MARIA THERESA V.
MENBOZA-ARCEGA**
Associate Justice