



REPUBLIC OF THE PHILIPPINES
SANDIGANBAYAN
Quezon City

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

Crim. Case Nos.
SB-18-CRM-0541-0542


For: Violation of Section
3(e) of R.A. No. 3019, as
amended; Malversation of
Public Funds under Article
217 of the Revised Penal
Code

-versus-

JAMALODEN H. FAISAL,
ET AL.,
Accused,

Present:
Cabotaje-Tang, A.M., *PJ,*
Chairperson
Fernandez, B.R., *J.* and
Moreno, R.B., *J.*

PROMULGATED:

JANUARY 29, 2024 

X-----X

RESOLUTION

Moreno, J.:

For resolution is the *Manifestation and Motion 1. To Admit the Herein Attached Medical Certificate; and 2. To Allow the Herein Accused to Remain*



x-----x

on *Bail and Recall the Warrant of Arrest on Justifiable Grounds*¹ filed by accused Jamaloden H. Faisal on October 2, 2023, to which the Prosecution (through the Office of the Special Prosecutor) filed its *Opposition x x x*² on October 12, 2023. The records also showed that Faisal filed a *Motion For Leave to Submit Herein Incorporated and Reiterative Manifestation and Motion (Re: Resolution dated October 9, 2023)*³ on October 24, 2023; and a *Supplemental Manifestation (With Solicitous Motion for Leave of the Honorable Court)*⁴ on October 27, 2023.

Accordingly, the prosecution filed a *Motion to Admit Attached Opposition x x x*⁵ and the corresponding *Opposition x x x*⁶ both on November 10, 2023.

In his *Manifestation and Motion x x x*, Faisal prayed that if his conviction is not reconsidered by this Court, then the notarized medical certificate dated September 25, 2023 “be favorably [noted] and that he be allowed to remain on bail, to recall the warrant of arrest on justifiable grounds x x x and the process of appeal or review be allowed to proceed.”⁷

Faisal claimed that the court’s decision convicting him of the offenses charged “did not reach him due to the war-torn areas where he is currently resided, which made him impossible to have internet connections in view of the difficult or low signal even for cellular data, not to mention the continuous effect of the [p]andemic.”⁸ He also alleged that he had suffered COVID-19 symptoms, including hypertensive cardiovascular disease, and accordingly, his attending physician advised him to isolate at home from June 21, 2023 to July 5, 2023. Faisal thus maintained that the “notice of promulgation did not reach him” since he was in isolation in the remotest mountainous area.

Faisal further stated that the postponements and/or scheduled dates of promulgation did not reach him due to the combination of following circumstances: the disordered peace and tumult in his place caused by the existing armed conflict between the leftists and the military; and his declining health brought about by the variant of the COVID-19 virus.

In its *Opposition*, the prosecution prayed for the denial of Faisal’s *Manifestation and Motion* for lack of merit. It countered that the subject motion was not a meritorious motion because it was filed without leave of court. It also argued that there was no government declaration of an ongoing war in Faisal’s place of residence in Tuyaga, Lanao Del Sur.

¹ Records, vol. 3, pp. 172-175.
² *Id.* at 197-203.
³ *Id.* at 204-207.
⁴ *Id.* at 216-219.
⁵ *Id.* at 220-222.
⁶ *Id.* at 223-228.
⁷ *Supra*, note 1 at 173.
⁸ *Id.* at 172.



The prosecution further argued that Faisal did not mention his COVID-19 illness when he filed his motion for reconsideration, hence is “deemed to have waived this ground.”⁹

The prosecution added that Faisal’s failure to physically surrender before this Court and to file a motion for leave of court to avail himself of the remedies within the reglementary period has rendered the decision promulgated on June 23, 2023 final. According to the prosecution, Faisal has not shown that the exceptions to the rule on immutability of judgments are present.

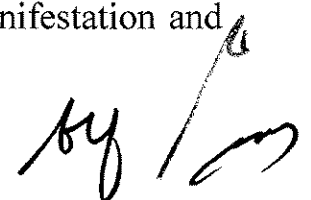
In his *Motion For Leave to Submit Herein Incorporated and Reiterative Manifestation and Motion (Re: Resolution dated October 9, 2023)*, Faisal prayed for the following: (1) that he be allowed to remain on bail, even on an increased amount of bail bond as deemed necessary by this Court; (2) the entire records of the case be elevated to the Supreme Court for further review on appeal; and (3) the warrant of arrest be recalled, in order to preserve the accused’s liberty while this consolidated cases are undergoing review by the Supreme Court.

In his *Motion for Leave*, Faisal essentially reiterated the reliefs he prayed for in his previous *Manifestation and Motion*, and additionally maintained that: he never avoided prosecution or intended to jump bail as shown by his presence during the prosecution’s presentation of evidence; his previous counsel had long withdrawn from the case due to the latter’s appointment as undersecretary at the Department of Agrarian Reform. Faisal likewise prayed that the Supreme Court be allowed to further review the present case due to the gravity of the offense and in the interest of justice.

In his *Supplemental Motion*, Faisal stated that he was more than willing to surrender to be able to avail of the post-conviction remedy. He additionally posited that his advanced age and sickly condition made him less mobile and hence not a flight risk. Citing the case of *Enrile*, Faisal implored this Court to relax the Rules and allow him to remain on bail.

In its Opposition to FAISAL’S *Motion For Leave to Submit Herein Incorporated and Reiterative Manifestation and Motion* and the *Supplemental Motion*, the prosecution prayed for the denial of the said motions for lack of merit. It argued that these two motions are prohibited pleadings, as they take the form of a third and fourth motion for reconsideration, respectively. The prosecution added that the accused-movant has not offered any new argument in both motions, as the grounds therein were mere reiterations of his arguments in his original motion for reconsideration and Manifestation and

⁹ Supra, note 2.



x-----x

Motion dated September 29, 2023. It further claimed that Faisal's "Manifestation and Motion cannot be used to bring in arguments that he simply forgot to include in his Motion for Reconsideration."¹⁰

The prosecution additionally emphasized that Faisal should no longer continue to be on provisional liberty since his judgment of conviction has already become final and executory.

THE COURT'S RULING:

After due consideration, and after taking a hard look at the attendant circumstances of these consolidated cases, we **deny** the motions of accused Jamaloden H. Faisal.

The judgment of conviction and the denial of the motion for reconsideration

We recall that in our Decision of June 23, 2023, we found accused Jamaloden Faisal guilty beyond reasonable doubt of violation of Section 3(e) of R.A. No. 3019, as amended, in Criminal Case No. SB-CRM-0541, and sentenced him to suffer the indeterminate penalty of six (6) years and one (1) month, as minimum, to ten (10) years, as maximum. In the same decision, we also convicted him of malversation of public funds under Article 217 of the Revised Penal Code in Criminal Case No. SB-CRM-0542, and sentenced him to suffer, among others, the penalty of *reclusion perpetua*.

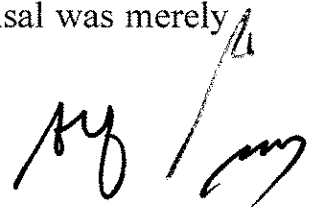
It bears noting that **Faisal failed to appear during the promulgation of judgment.** Nonetheless, Faisal moved to reconsider this decision, essentially imputing error on this Court's finding that he was a de facto public officer of Tugaya Water District.

In the Court's Resolution dated October 9, 2023, we denied Faisal's motion for reconsideration for lack of merit. We held, *inter alia*, that an accused who fails to appear during promulgation of judgment of conviction without justifiable cause loses standing in court and loses the remedies available under the Rules of Court. We explained that Faisal was deemed to have waived his right to file a motion for reconsideration for his failure to regain his standing in court pursuant to Section 6, Rule 120 of the Revised Rules of Criminal Procedure. Accordingly, the judgment became final and executory on July 8, 2023.

Faisal's Manifestation and Motion and Motion for Leave

In the present submissions of Faisal, we note that he was not contesting the Court's reasons for convicting him of the offenses charged, as well as our justifications for denying his motion for reconsideration. Faisal was merely

¹⁰ Opposition, Records, vol, 3, p. 226



X-----X

asking that he be allowed to elevate the records of these consolidated cases to the Supreme Court for further review.

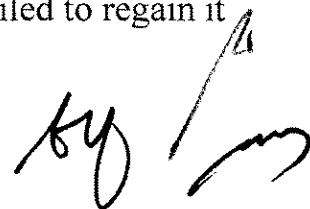
As earlier pointed out, the promulgation of judgment of conviction proceeded *in absentia*. Thus, in order for Faisal to avail of the remedies under the Rules, he should have surrendered to the Court first and file a motion for leave of court to avail of the allowed remedies. **Faisal failed to do and avail any of these remedies.** As we exhaustively discussed in our October 9, 2023 resolution, Faisal failed to surrender to this Court and to file the required motion for leave of court within the reglementary period

According to Faisal, the notice of the scheduled June 23, 2023 promulgation did not reach him because he was residing in a war-torn area, and that he had been infected with COVID-19. He additionally claimed that his previous counsel had long withdrawn from the case due to the latter's appointment as DAR undersecretary.

We highlight that Faisal **did not mention any of these circumstances in his motion for reconsideration filed on July 7, 2023.** At any rate, aside from his self-serving claim, Faisal failed to substantiate his allegation that his place of residence was war-torn. Notably, there was no government declaration of an ongoing war in his residence in Tayaga, Lanao del Sur during the days leading to the scheduled promulgation. We are also at a loss why Faisal did not include in his previous motion for reconsideration his purported examination at the Tugaya Rural Health Unit last June 21, 2023, and the purported doctor's advice for him to undergo home quarantine.

We also frown upon the attempt of Faisal to use the appointment of his erstwhile counsel, Atty. Napoleon Uy Galit, as an additional ground for Us to grant his motions. While it is indubitable that Atty. Galit had indeed been appointed as DAR Undersecretary, the records disclosed that a copy of the June 23, 2023 Decision was nonetheless received by Atty. Abelardo Albis, Jr. of the Galit Law Firm. Notably, Atty. Albis was the counsel who filed accused's motion for reconsideration dated June 30, 2023.

As earlier discussed, the accused shall lose the remedies available in the Rules of Court against the judgment if the judgment is for conviction and the failure to appear was without justifiable cause. Pursuant to Section 6 of Rule 20, within fifteen (15) days from promulgation of judgment, the accused may surrender and file a motion for leave of court to avail of these remedies. This Rule also stated that the accused shall state the reasons for his absence at the scheduled promulgation and if he proves that his absence was for a justifiable cause, he shall be allowed to avail of said remedies within fifteen (15) days from notice. As earlier stated, Faisal did not avail any of these remedies. Simply put, Faisal lost his standing in Court, but failed to regain it



due to his failure to comply with the requirements set forth under Section 6, Rule 120 of the Rules.

Attendant circumstances warranting the denial of Faisal's prayer for continued provisional liberty

The constitutional mandate under Article III, Section 13 is that "[a]ll persons, except those charged with offenses punishable by reclusion perpetua when evidence of guilt is strong, shall, before conviction, be bailable by sufficient sureties, or be released on recognizance as may be provided by law. x x x."¹¹

Under this provision, bail is clearly a demandable constitutional right; it only ceases to be so recognized when evidence of guilt of the person - charged with a crime that carries the penalty of *reclusion perpetua*, life imprisonment, or death - is found to be strong.

Bail may thus be a matter of right or judicial discretion. Before conviction by the trial court, the accused has the right to bail if the offense charged is not punishable by death, *reclusion perpetua* or life imprisonment. However, if the accused is charged with an offense the penalty of which is death, *reclusion perpetua*, or life imprisonment – regardless of the stage of the criminal prosecution – and when evidence of one's guilt is not strong, then the accused's prayer for bail is subject to the discretion of the trial court.¹² The Supreme Court's explanation in *Enrile v. Sandiganbayan*¹³ on this matter is instructive, thus:

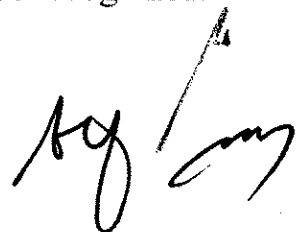
As a result, all criminal cases within the competence of the Metropolitan Trial Court, Municipal Trial Court, Municipal Trial Court in Cities, or Municipal Circuit Trial Court are bailable as matter of right because these courts have no jurisdiction to try capital offenses, or offenses punishable with *reclusion perpetua* or life imprisonment. Likewise, bail is a matter of right prior to conviction by the Regional Trial Court (RTC) for any offense not punishable by death, *reclusion perpetua*, or life imprisonment, or even prior to conviction for an offense punishable by death, *reclusion perpetua*, or life imprisonment when evidence of guilt is *not* strong.

We point out that in the present case, Faisal ***had been meted the penalty of reclusion perpetua in SB-18-CRM-0542***. Accordingly, the grant of bail is automatically cancelled. The rationale for this is because after conviction by the trial court, the presumption of innocence terminates and, accordingly, the constitutional right to bail ends. It is settled that once it has been established that the evidence of guilt is strong, no right to bail shall be recognized.

¹¹ 1987 Constitution.

¹² See *Padua v. People*, G.R. No. 220913, February 4, 2019.

¹³ G.R. No. 213847, August 18, 2015.



We find Faisal's reliance on *Enrile v. Sandiganbayan* to be misplaced, considering that - unlike him - Enrile had not yet been convicted by this Court.

Corollarily, Section 7, Rule 114 of the Rules of Court provides:

Section 7. *Capital offense or an offense punishable by reclusion perpetua or life imprisonment, not bailable.* — No person charged with a capital offense, or an offense punishable by *reclusion perpetua* or life imprisonment, shall be admitted to bail when evidence of guilt is strong, regardless of the stage of the criminal prosecution.

This Section denies bail to an accused who is charged with a capital offense, or an offense punishable by *reclusion perpetua* or life imprisonment who, although not yet convicted, failed to show - through a hearing on an application for bail - that the evidence of guilt is *not* strong.

In the present case, Faisal's conviction by this Court puts to rest any doubt as regards the strength of the evidence of his guilt. As a convicted person, Faisal cannot be placed in a better position than those persons similarly charged but whose cases are still undergoing trial.

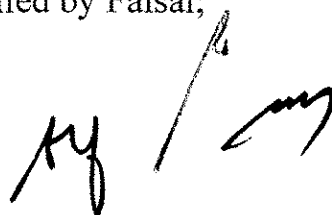
As the Supreme Court held in *Leviste v. Court of Appeals*:¹⁴

The importance attached to conviction is due to the underlying principle that bail should be granted only where it is uncertain whether the accused is guilty or innocent, and therefore, where that uncertainty is removed by conviction it would, generally speaking, be absurd to admit to bail. After a person has been tried and convicted the presumption of innocence which may be relied upon in prior applications is rebutted, and the burden is upon the accused to show error in the conviction. From another point of view it may be properly argued that the probability of ultimate punishment is so enhanced by the conviction that the accused is much more likely to attempt to escape if liberated on bail than before conviction.

WHEREFORE, premises considered, the Court hereby resolved to:

- (1) **DENY** the *Manifestation and Motion 1. To Admit the Herein Attached Medical Certificate; and 2. To Allow the Herein Accused to Remain on Bail and Recall the Warrant of Arrest on Justifiable Grounds* filed by accused Faisal;
- (2) **DENY** Faisal's *Motion For Leave to Submit Herein Incorporated and Reiterative Manifestation and Motion (Re: Resolution dated October 9, 2023)* filed by accused Faisal;
- (3) **DENY** *Supplemental Manifestation (With Solicitous Motion for Leave of the Honorable Court)* filed by Faisal;

¹⁴ G.R. No. 189122, March 17, 2010.

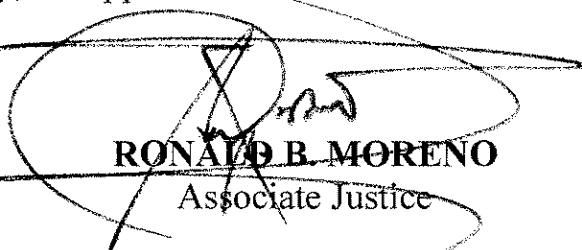


x-----x

- (4) **GRANT** the *Motion to Admit Attached Opposition x x x* filed by the prosecution;
- (5) **NOTE** the prosecution's *Opposition x x x* to Faisal's *Manifestation and Motion x x x*; *Motion for Leave x x x*; and *Supplemental Manifestation x x x*;

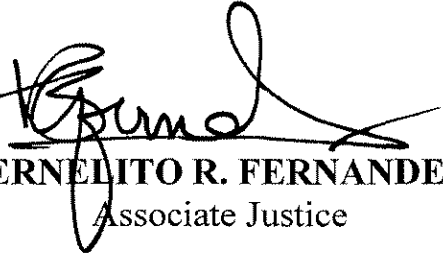
SO ORDERED.

Quezon City, Philippines.


RONALD B. MORENO
Associate Justice

WE CONCUR:


AMPARO M. CABOTAJE-TANG
Presiding Justice
Chairperson


BERNELITO R. FERNANDEZ
Associate Justice