

MYROFORA THEODOSSIOU,

Applicant,

v.

MYROFORA
THEODOSSIOU
v.
THE POLICE

THE POLICE,

Respondents

(*Criminal Application No 2163*)

*Bail—Person committed for trial on a charge of premeditated murder—
Bail granted by a Judge of the High Court—The Criminal Procedure
Law, Cap. 155, section 157*

*Bail—Discretion of the Court—Principles applicable—Conditions
imposed.*

On an application to the High Court by a married woman committed for trial before the Assizes on a charge of premeditated murder, bail was granted—Section 157 of the Criminal Procedure Law, Cap 155, provides

(1) Subject to the provisions of sub-section (2) of this section, any Court exercising criminal jurisdiction may, if it thinks proper, at any stage of the proceedings, release on bail any person charged or convicted of any offence, upon the execution by such person of a bail bond as in this Law provided

(2) In no case a person upon whom sentence of death has been passed shall be released on bail, and no person charged of any offence punishable with death shall be released on bail, except by an order of a Judge of the Supreme Court

Cases referred to

Tsoukkas v The Police, 1962 C L R. 261 ,

Rodosthenous and another v The Police, 1961 C L R. 50, at pp 51-52

Application for bail.

Application for bail pending trial by the Assize Court on completion of the preliminary inquiry into a charge of premeditated murder (Criminal Case No 5353/63, District Court of Limassol)

Application for bail granted

A. Anastassiades for the applicant

V. Aziz for the respondents.

1963
July 30

MYROFORA
THEODOSSIOU
v.
THE POLICE

The facts sufficiently appear in the Judgment of the Court delivered by :

VASSILIADES, J. : This is an application for bail by a married woman, committed for trial before the next Assizes at Limassol on the 23rd September, 1963, on a charge of premeditated murder resulting from the killing of a close relation of the applicant who persistently annoyed her. When the woman's husband met the victim in a village coffee-shop, after a complaint to him by his wife, the two men came to grips ; while rolling on the ground, in the course of that fight, the wife came with a stick and hit the victim on the head, causing him injuries of which he died a few days later.

On these facts—which I take from the affidavit filed in support of the present application—the applicant was committed on the 18th July, 1963, for trial in the Autumn Assizes of Limassol, commencing on the 23rd September. It is further stated in the affidavit, which stands before me uncontradicted, that the applicant is the mother of two under-aged children and a devoted housewife of excellent character, never convicted of any offence. Counsel on her behalf stated that the facts contained in the affidavit filed in support of this application, which he carefully drafted himself, are born out by the evidence adduced at the preliminary inquiry.

Learned counsel for the Republic, after drawing my attention to the considerations which a Court should take into account in dealing with an application of this nature, stated in para. 203 at page 79 of Archbold's 35th Edition, added, quite properly in my opinion, that in the circumstances there would be no objection to bail, the prosecution having no reason to doubt that the applicant will appear in due course to take her trial.

The power of the Court to grant bail derives from the provisions of section 157 of the Criminal Procedure Law, Cap. 155 ; it is a discretionary power exercised on the relevant merits in each case, on principles and considerations stated by the courts time and again :

“ The principles are so well known, the President of this Court said in the case of *Michael Apostolou Tsoukkas v. The Police*, 1962 C.L.R. 261 and I need do no more than quote from *Rodosthenous and another v. The Police*, 1961 C.L.R. 50, pp. 51-52 :

‘ Now there is no difference between the parties as to the matters that are to be considered by a Court or by a Judge in determining whether or not bail should

1963
July 30

MYROFORA
THEODOSSIOU
v.
THE POLICE

be granted. The primary ground is whether or not the accused is likely to attend and stand trial, but that is not the only matter that has to be considered and, amongst others, are the seriousness of the offence, the likelihood of another offence being committed, or the same offence being repeated while on bail, and the possibility of witnesses being tampered with. All these are matters that may be taken into consideration, and, in some of the decided cases, one or more of these matters have been the governing factors in deciding to refuse bail."

These considerations are by no means exhaustive. As I have already stated, the discretionary power of the Court to grant or refuse bail in a case, must be judicially exercised upon the relevant merits of such case: the character and reputation of the accused in the area where he lives; the character of the victim; the likelihood of provocation and disturbance in the community; the psychological preparation of all concerned to take their part in the forthcoming trial, and such other matters are, *in my opinion, factors to be taken into account in making the decision in each case in the interests of the administration of justice in the country.*

The circumstances of this particular case are such as to justify, in my opinion, the statement of learned counsel for the applicant that this should be treated as an exceptional case. After careful consideration of all the relevant factors, I have come to the conclusion, not without difficulty, that the application should be granted and the applicant be released on bail until her trial or until further order.

Bail granted in the sum of £500, with one or more sureties, to the satisfaction of the Registrar of this Court, on the following conditions:

(1) *No steps shall be taken by the applicant or any other person on her behalf for any preparation enabling the applicant to leave the country.*

(2) *The applicant to reside in her village and not to depart from her village without the consent in writing of the officer in-charge of the nearest Police Station.*

(3) *To appear before the Assize Court at Limassol on the 23rd September, 1963, as provided in the Committal Order.*

Application for bail granted.