

MINAS LAZAROU (No. 1),

Applicant,

v.

THE POLICE,

Respondents.

MINAS
LAZAROU
(No. 1)

v.

THE POLICE

(Criminal Application 1/69).

Criminal Procedure—Bail—Appeal—Application for bail pending hearing of appeal against conviction—Short period of imprisonment—But on the other hand no material placed before the Court that there is a reasonable probability that the appeal will succeed—Onus on applicant not discharged—Application for bail refused.

Bail—Bail pending appeal—Application to the Supreme Court for bail refused—See above.

Advocates—Affidavit sworn by party's advocate—Affidavit in support of an application for bail (supra)—Advocate should not become a witness in the case by swearing affidavits.

Affidavit—Sworn by an advocate in the case—Undesirable—See, also, hereabove.

Cases referred to :

Petri v. The Police (1968) 2 C.L.R. 1.

The facts sufficiently appear in the judgment of the Court.

Application for bail.

Application for bail pending the hearing of an appeal against conviction by Minas Lazarou who was convicted on the 31st January, 1969, at the District Court of Nicosia sitting at Morphou (Criminal Case No. 4172/68) on 2 counts of the offences of public insult and disturbance contrary to sections 99 and 95, respectively, of the Criminal Code, Cap. 154, and was sentenced by HjiConstantinou, D.J., to three weeks' imprisonment on each count, the sentences to run concurrently.

E. Vrahimi (Mrs.), for the applicant.

S. Georghiades, Counsel of the Republic, for the respondents.

1969
Feb. 7

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MINAS
LAZAROU
(No. 1)
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The judgment of the Court was delivered by :—

VASSILIADES, P.: This is an application for bail pending the hearing of an appeal against conviction, upon which the applicant was sentenced to three weeks' imprisonment. The application is supported by an affidavit drawn up and sworn by applicant's advocate.

Before we go further with the matter, we would like to repeat what has already been said on more than one occasion, that it is undesirable that the facts upon which any proceedings are based, should be put before the Court through an affidavit sworn by the parties' advocate who, thus, becomes also a witness in the matter. It is obvious why such a position is undesirable.

Be that as it may, however, in the present case, the application rests mainly on the contention that in view of the short period of the sentence of imprisonment, if the appeal against conviction is successful, the appellant will have served his sentence by the time the appeal is heard. In such circumstances, if it can be shown that there is a reasonable probability that the appeal against conviction will succeed, the case to which learned counsel for the applicant has referred us—*Petri v. The Police* (1968) 2 C.L.R. 1 would be an authority in support of the application. It is for the applicant to show that this reasonable probability exists in the appeal in question.

On the material before us, we cannot say whether such a probability does exist in the present case. We do not even have a copy of the judgment of the trial Court, which, we understand from counsel, was a considered judgment, read in Court by the trial Judge. Surely we could have a copy on the record of the application. As matters stand, on the material before us, and on what has been said in the *Petris* case (*supra*), we must refuse the application.

Application for bail refused.

Application refused.