

GEORGHIOS P. MAVROS AND OTHERS,

Appellants,

v.

THE POLICE,

Respondents.

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GEORGHIOS
P. MAVROS
AND OTHERS
v.
THE POLICE

(Criminal Appeals Nos. 3809–3811).

Bail—Committal for trial by Assizes for unlawful possession of firearms and ammunition—Refusal of bail—Appeal—Principles on which Court of Appeal interferes with Judge's discretion—Seriousness of offence—Severity of punishment and nature of evidence—
5 *Appellants not hampered in the preparation of their defence—Charges against appellant 3, though serious, less grave than those against appellants 1 and 2—Judge dealt in a general and sweeping manner with all appellants without distinguishing sufficiently the case of appellant 3—Appeal of appellant 3 allowed subject to*
10 *conditions—Other appeals dismissed.*

The appellants were committed to be tried by an Assize Court in Limassol, as co-accused in one and the same case. The committal took place on May 30, 1977, and the Assize Court sitting was due to commence on October 17, 1977. Appellants
15 1 and 2 were charged jointly with unlawful possession of firearms and ammunition; and appellant 3 was charged with unlawful carrying and possession of a firearm and with unlawful possession of ammunition.

Upon appeal against the refusal of the committing Judge to
20 release them on bail, pending their trial, counsel for the appellant mainly contended:

(a) That a somewhat longer than usual interval of time will elapse between their committal for trial and the next sitting of an Assize Court in Limassol;

25 (b) that the appellants will suffer financial hardship if they are kept in custody pending their trial; and

(c) that the preparation of their defence will be hampered.

Held, (1) that the appellants are not hampered in the prepara-

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tion of their defence as their counsel are being afforded all the required facilities for visiting them while they are in custody; that sitting as an Appeal Court to review, if necessary, a decision reached by a Judge in the exercise of his judicial discretion, and having in mind the principles which should guide this Court in a case of this nature (see, *inter alia*, *Rodosthenous and Another v. The Police*, 1961 C.L.R. 50 at p. 52), this Court has not been satisfied that it should interfere with the exercise of the discretion of the Judge which resulted in the refusal of bail to appellants 1 and 2; and that, accordingly, their appeals will be dismissed. 5 10

(2) That as the charges which appellant 3 faces, though serious in nature, are less grave than those with which appellants 1 and 2 are faced; that as the alleged commission of the offences concerned by appellant 3 is not inextricably connected with the commission of the other offences with which appellants 1 and 2 are charged; that as the Judge has dealt in a general and sweeping manner with all three appellants, without distinguishing sufficiently the case of appellant 3 and without, apparently, addressing his mind specifically to all pertinent considerations in relation to him this is a proper case in which to intervene in his favour by allowing his appeal; and that, accordingly, it is directed that he should be released on bail pending his trial. 15 20

Appeals of appellants 1 and 2 dismissed. Appeal of appellant 3 allowed. 25

Cases referred to:

Rodosthenous and Another v. The Police, 1961 C.L.R. 50 at p. 52;
Attorney-General of the Republic v. Mehmet (1966) 2 C.L.R. 12 at pp. 14 and 15.

Appeal against refusal to grant bail. 30

Appeal by Georghios P. Mavros and others against the refusal of the District Court of Limassol (Anastassiou, D.J.) dated the 30th May, 1977 to release the appellants on bail after they had been committed for trial before the Assize Court of Limassol for offences of unlawful possession of firearms and ammunition in Criminal Case No. 10749/77. 35

S. Stavrinides, for appellant 1.

M. Vassiliou with *S. Stavrinides*, for appellant 2.

E. Efstathiou with *D. Koutras*, for appellant 3.

A.M. Angelides, Counsel of the Republic, for the respondents. 40

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The judgment of the Court was delivered by:

5 TRIANTAFYLIDIS, P.: The appellants complain against the refusal of bail by a District Judge in Limassol after he had committed all three of them to be tried by an Assize Court in Limassol as co-accused persons in one and the same case. The committal took place on May 30, 1977, and the next Assize Court sitting, at which they will be tried, is due to commence on October 17, 1977.

10 Appellants 1 and 2 (who are accused 1 and 2 in the case in question) are charged jointly, by means of counts 1, 2 and 3 in the information, with unlawful possession in May, 1977, of firearms and ammunition. We need not set out in detail what is alleged to have been found in their possession. We may describe it as a veritable arsenal.

15 Appellant 3 (who is accused 3 in the case) is charged, by means of counts 4, 5 and 6, with having unlawfully carried, and been in possession of, a firearm in June, 1976, and, also, with having, at the same time, possessed unlawfully ammunition.

20 The Judge has taken into account, in refusing bail, the seriousness of the charges which the appellants are facing, the severity of the punishment which conviction on such charges may entail for them, as well as the nature of the evidence which was placed before him for the purposes of the committal for trial.

25 We have considered carefully all that has been put forward by counsel for appellants 1 and 2 and, especially, that a somewhat longer than usual interval of time will elapse between their committal for trial and the next sitting of an Assize Court in Limassol, that the appellants will suffer financial hardship if they are kept in custody pending their trial, and that the preparation of their defence will be hampered. We regard this last
30 contention as particularly unfounded in the light of the circumstances of the present case; it is amply clear that counsel for the appellants are being afforded all the required facilities for visiting their clients, while they are in custody, in order to receive all
35 necessary instructions for the preparation of their defence; and, actually, counsel for the appellants have very fairly stated that they have not yet met with any difficulty in this connection.

40 Sitting as an Appeal Court to review, if necessary, a decision reached by a Judge in the exercise of his judicial discretion, and having in mind the principles which should guide us in a case of

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this nature, as they were expounded, for example, in *Rodosthenous and another v. The Police*, 1961 C.L.R. 50, and *The Attorney-General of the Republic v. Mehmet*, (1966) 2 C.L.R. 12, 14, 15, we feel that we have not been satisfied that we should interfere with the exercise of the discretion of the Judge which resulted in the refusal of bail to appellants 1 and 2; consequently, we dismiss their appeals. 5

The case of appellant 3, as very rightly pointed out by counsel for the respondents is clearly distinguishable: The charges which he faces are also serious in nature, but, in view of the particulars which are stated in the relevant counts, they are, actually, less grave than those with which appellants 1 and 2 and faced. 10

Moreover, it appears—in so far as we can Judge from the record before us—that the alleged commission of the offences concerned by appellant 3 is not inextricably connected with the commission of the other offences with which appellants 1 and 2 are charged. The Judge has, however, dealt in a general and sweeping manner with all three appellants, without distinguishing sufficiently the case of appellant 3 and without, apparently, addressing his mind specifically to all pertinent considerations in relation to him. 15 20

We have, therefore, decided that it is a proper case in which to intervene in his favour by allowing his appeal; we, therefore, direct that he should be released on bail, pending his trial, on the following conditions:— 25

1. that he will enter into a recognizance to appear at his trial in the sum of C£1,000, with a surety or sureties to the satisfaction of the Registrar of the District Court of Limassol, or with a bank guarantee; 30
2. that he will surrender his passport, if any, to the police and that he will abstain from taking any steps to get any other papers enabling him to travel abroad until the conclusion of his trial;
3. that he will reside in Limassol, at his present address (Evrota street No. 3), and that he will not leave the municipal limits of Limassol without a permit in writing from the Limassol police, except in order to go, in relation to his work, to the village area of Trachoni, from where 35

he will not leave to go anywhere else except back to Limassol or as authorized by a permit in writing from the Limassol police;

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- 5 4. that he will remain within the municipal limits of Limassol between sunset and sunrise;
5. that he will always leave at his above address in Limassol sufficient information so that the police may trace him whenever they may require to do so; and
- 10 6. that he will report once a day to a police station in Limassol which will be indicated to him by the Limassol police.

In the result, these appeals are determined as stated herein-above.

15 *Appeals of appellants 1 and 2 dismissed; appeal of appellant 3 allowed.*