

1980 June 13

[TRIANTAFYLIDIS, P., DEMETRIADES, SAVVIDES, JJ.]

ELENI ANASTASATOU KAY,

Applicant,

v.

MUNICIPALITY OF LARNACA,

Respondent.

(*Criminal Application No. 4/80*).

Bail—Bail pending appeal—Principles applicable—Appeal against sentence of three months' imprisonment for disobedience of a Court Order—Application refused—Early hearing of appeal ordered instead.

5 The applicant was on June 6, 1980 sentenced to three months' imprisonment for disobedience of a Court Order. On June 7 she filed an appeal against sentence and she also applied for bail pending the determination of the appeal.

10 *Held*, that it is an unusual and an exceptional course to grant bail pending appeal to someone who is already serving a sentence of imprisonment, but that such a course may be adopted if the term of imprisonment is a short one and it is anticipated that the appeal against it will not be determined early enough in relation to the length of the term of imprisonment; that in
15 the present instance, having been informed by the Registry of this Court that the record of the case will be available within six days and having weighed all relevant considerations, this Court has decided that the proper course is to refuse bail and to give an early date of hearing—June 20, 1980—to the criminal
20 appeal in question.

Application refused.

Cases referred to:

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

Zisimides v. The Republic (1975) 2 C.L.R. 166.

25 **Application for bail.**

Application for bail pending the determination of a criminal

appeal against the sentence of three months' imprisonment for disobedience of a Court order.

A. Panayiotou with *A. Koukounis*, for the applicant.
Chr. Theodoulou, for the respondent.

TRIANAFYLLIDES P. gave the following judgment of the Court. This is an application for bail pending the determination of a Criminal Appeal No. 4149, filed on June 7, 1980, against the sentence of three months' imprisonment which was passed upon the applicant on June 6, 1980, for disobedience of a Court order. This offence was committed through the contravention by the applicant of an interim order for the discontinuance of building operations, which was issued by the District Court of Larnaca in criminal case No. 1/80.

The applicant was found guilty of the said offence when she was prosecuted before the District Court of Larnaca in criminal case No. 1055/80.

The aforementioned criminal appeal, which has been made against only the sentence passed upon the applicant, has not yet been fixed for hearing.

We have anxiously considered all that has been stated by counsel for the applicant in support of her application for bail.

The principles which should guide us in granting or refusing bail to a person in the position of the applicant, who has already been convicted and sent to prison, have been referred to in many cases two of which are *Petri v. The Police*, (1968) 2 C.L.R. 1 and *Zisimides v. The Republic*, (1975) 2 C.L.R. 166.

It is well established that it is an unusual and an exceptional course to grant bail pending appeal to someone who is already serving a sentence of imprisonment, but that such a course may be adopted if the term of imprisonment is a short one and it is anticipated that the appeal against it will not be determined early enough in relation to the length of the term of imprisonment.

In the present instance, having been informed by the Registry of this Court that the record of the case will be available within six days and having weighed all relevant considerations, we have decided that the proper course is to refuse bail and to give

an early date of hearing—June 20, 1980—to the criminal appeal in question.

We direct that all necessary steps should be taken in order to ensure that the record of the appeal will be ready not later
5 than June 18, 1980.

If for any unforeseen reason it will not become possible for the appeal to be heard as fixed then, of course, a new application for bail can be made.

Application refused.