



Republic of the Philippines
Supreme Court
Manila

ADMINISTRATIVE CIRCULAR NO. 38 - 2020

TO : ALL JUSTICES, JUDGES, PROSECUTORS, PUBLIC ATTORNEYS AND MEMBERS OF THE BAR

RE : REDUCED BAIL AND RECOGNIZANCE AS MODES FOR RELEASING INDIGENT PERSONS DEPRIVED OF LIBERTY DURING THIS PERIOD OF PUBLIC HEALTH EMERGENCY, PENDING RESOLUTION OF THEIR CASES

Time and again, the Court has said that “[t]he constitutional mandate is that all 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... Clearly, bail is a constitutional demandable right which only ceases to be so recognized when the 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. Stated differently, bail is a matter of right when the offense charged is not punishable by reclusion perpetua, life imprisonment, or death.”¹

We have also countlessly ruled that “the amount of bail should be reasonable at all times. In implementing this mandate, regard should be taken on the prisoner’s pecuniary circumstances. We point out that what is reasonable bail to a man of wealth may be unreasonable to a poor man charged with a like offense... The amount should be high enough to assure the presence of the defendant when required, but no higher than is reasonably calculated to fulfill this purpose.”²

More so during this period of public health emergency when there is a serious need to decongest our overcrowded jails and prison facilities and further prevent the spread of the virulent Covid-19. In the past few weeks, the Court has issued several circulars aimed at facilitating and expediting the release of certain PDLs, e.g., A.C. 33 – 2020, supplemented by OCA Circ. 89 – 2020, which allowed the electronic filing of informations and transmission of release orders; OCA Circ. 91 – 2020, which reiterated the guidelines on the release of qualified PDLs through self-recognizance and provisional dismissal; and A.C. 37 – 2020 on the pilot testing of videoconference hearings of urgent

¹ Padua v. People, G.R. No. 220913, 4 February 2019 (CJ. Peralta).

² Tanong v. Balindong, G.R. No. 187464, 25 November 2015 (J. Brion).

matters in criminal cases involving PDLs. Based on the data compiled by the Office of the Court Administrator, these initiatives have resulted in the release of no less than 9,731 PDLs from 17 March to 29 April 2020, i.e., 2,082 in the National Capital Judicial Region, 4,657 in Luzon (outside NCJR), 1,072 in Visayas, and 1,920 in Mindanao. With this instant initiative, more PDLs are expected to be released.

In view of the foregoing, and upon consultation with the Members of the Court, considering the urgent need to further decongest our detention facilities, especially during this time of public health emergency, to promote social and restorative justice, bail and recognizance for indigent Persons Deprived of Liberty (PDLs) shall be granted as follows, pending the continuation of the criminal proceedings and resolution of cases against them:

1. For those charged with a crime punishable with the maximum period of reclusion temporal or twelve (12) years and one (1) day to twenty (20) years, the bail shall be computed by getting the medium period multiplied by Three Thousand Pesos (P3,000.00) for every year of imprisonment;

2. For those charged with a crime punishable with the maximum period of prision mayor or six (6) years and one (1) day to twelve (12) years, the bail shall be computed by getting the medium period multiplied by Two Thousand Pesos (P2,000.00) for every year of imprisonment;

3. For those charged with a crime punishable with the maximum period of prision correccional or six (6) months and one (1) day to six (6) years, the bail shall be computed by getting the medium period multiplied by One Thousand Pesos (P1,000.00) for every year of imprisonment;

4. For those charged with a crime punishable by arresto mayor or one (1) month and one (1) day to six (6) months, and arresto menor or one (1) day to thirty (30) days, they may be released on their own recognizance;

Any violation of the undertaking or conditions imposed on the bail or recognizance shall be a ground for the cancellation of the said bail or recognizance which will justify the issuance of a warrant of arrest against the accused.

For indigent PDLs who have not yet been arraigned, they must first be arraigned before being granted bail or recognizance, which arraignment and release on bail or recognizance may be conducted through videoconferencing as provided in A.C. 37-2020. For those who have already been arraigned and undergoing trial, they may likewise avail of this Circular, unless they have already served the minimum imposable penalty for the crime they are accused, in which case, they may be released on their own recognizance in accordance with Sec. 5, A.M. No. 12-11-2-SC, dated 18 March 2014, as reiterated in OCA Circ. 91-2020.

This is without prejudice to the exercise of the court's discretion to deny the application for bail or recognizance if there are reasonable grounds based on prevailing jurisprudence and existing rules, and to the imposition of

additional bail and conditions, or the cancellation thereof, to those who will be convicted, pending their appeal.

This Circular shall not apply to those already serving sentence.

This Circular shall take effect immediately and may be availed of only during this period of public health emergency.

FOR THE GUIDANCE AND IMPLEMENTATION OF ALL CONCERNED.

30 April 2020, Parañaque City.

(original signed)
DIOSDADO M. PERALTA
Chief Justice