Republic of the Philippines
Supreme Court
Manila

EN BANC

JUAN PONCE ENRILE, Petitioner,	**G.R. No. 213847**
	Present:
	SERENO, *C.J.*, CARPIO, VELASCO, JR., LEONARDO-DE CASTRO, BRION, PERALTA, BERSAMIN, DEL CASTILLO, *VILLARAMA, JR., PEREZ, MENDOZA **REYES, PERLAS-BERNABE, LEONEN, and ***JARDELEZA, *JJ.*
- *versus* -	
SANDIGANBAYAN (THIRD DIVISION), AND PEOPLE OF THE PHILIPPINES, Respondents.	Promulgated: August 18, 2015

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DECISION

BERSAMIN, *J.*:

The decision whether to detain or release an accused before and during trial is ultimately an incident of the judicial power to hear and determine his criminal case. The strength of the Prosecution's case, albeit a good measure of the accused's propensity for flight or for causing harm to

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* On official leave.
** On sick leave.
*** No part.

the public, is subsidiary to the primary objective of bail, which is to ensure that the accused appears at trial.[1]

The Case

Before the Court is the petition for *certiorari* filed by Senator Juan Ponce Enrile to assail and annul the resolutions dated July 14, 2014[2] and August 8, 2014[3] issued by the Sandiganbayan (Third Division) in Case No. SB-14-CRM-0238, where he has been charged with plunder along with several others. Enrile insists that the resolutions, which respectively denied his *Motion To Fix Bail* and his *Motion For Reconsideration*, were issued with grave abuse of discretion amounting to lack or excess of jurisdiction.

Antecedents

On June 5, 2014, the Office of the Ombudsman charged Enrile and several others with plunder in the Sandiganbayan on the basis of their purported involvement in the diversion and misuse of appropriations under the Priority Development Assistance Fund (PDAF).[4] On June 10, 2014 and June 16, 2014, Enrile respectively filed his *Omnibus Motion*[5] and *Supplemental Opposition*,[6] praying, among others, that he be allowed to post bail should probable cause be found against him. The motions were heard by the Sandiganbayan after the Prosecution filed its *Consolidated Opposition*.[7]

On July 3, 2014, the Sandiganbayan issued its resolution denying Enrile's motion, particularly on the matter of bail, on the ground of its prematurity considering that Enrile had not yet then voluntarily surrendered or been placed under the custody of the law.[8] Accordingly, the Sandiganbayan ordered the arrest of Enrile.[9]

On the same day that the warrant for his arrest was issued, Enrile voluntarily surrendered to Director Benjamin Magalong of the Criminal Investigation and Detection Group (CIDG) in Camp Crame, Quezon City,

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1 See Ariana Lindermayer, *What the Right Hand Gives: Prohibitive Interpretations of the State Constitutional Right to Bail*, Fordham Law Review, Vol. 78, Issue 1 (2009), pp. 307-309.

2 *Rollo*, pp. 79-88; penned by Associate Justice Amparo M. Cabotaje-Tang, and concurred in by Associate Justice Samuel R. Martires and Associate Justice Alex L. Quiroz.

3 Id. at 89-102.

4 Id. at 107-108.

5 Id. at 103-157.

6 Id. at 163-192.

7 Id. at 193-221.

8 Id. at 222-241.

9 Id. at 241.

and was later on confined at the Philippine National Police (PNP) General Hospital following his medical examination.[10]

Thereafter, Enrile filed his *Motion for Detention at the PNP General Hospital* ,[11] and his *Motion to Fix Bail*,[12] both dated July 7, 2014, which were heard by the Sandiganbayan on July 8, 2014.[13] In support of the motions, Enrile argued that he should be allowed to post bail because: (a) the Prosecution had not yet established that the evidence of his guilt was strong; (b) although he was charged with plunder, the penalty as to him would only be *reclusion temporal*, not *reclusion perpetua*; and (c) he was not a flight risk, and his age and physical condition must further be seriously considered.

On July 14, 2014, the Sandiganbayan issued its first assailed resolution denying Enrile's *Motion to Fix Bail*, disposing thusly:

> x x x [I]t is only after the prosecution shall have presented its evidence and the Court shall have made a determination that the evidence of guilt is not strong against accused Enrile can he demand bail as a matter of right. Then and only then will the Court be duty-bound to fix the amount of his bail.
>
> To be sure, no such determination has been made by the Court. In fact, accused Enrile has not filed an application for bail. Necessarily, no bail hearing can even commence. It is thus exceedingly premature for accused Enrile to ask the Court to fix his bail.
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> x x x x
>
> Accused Enrile next argues that the Court should grant him bail because while he is charged with plunder, *"the maximum penalty that may be possibly imposed on him is reclusion temporal, not reclusion perpetua."* He anchors this claim on Section 2 of R.A. No. 7080, as amended, and on the allegation that he is over seventy (70) years old and that he voluntarily surrendered. *"Accordingly, it may be said that the crime charged against Enrile is not punishable by reclusion perpetua, and thus bailable."*
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> The argument has no merit.
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> x x x x
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> x x x [F]or purposes of bail, the presence of mitigating circumstance/s is not taken into consideration. These circumstances will only be appreciated in the *imposition of the proper penalty* after trial should the accused be found guilty of the offense charged. x x x

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10 Id. at 242-243.
11 Id. at 244-247.
12 Id. at 249-256.
13 Id. at 13.

x x x x

Lastly, accused Enrile asserts that the Court should already fix his bail because he is not a flight risk and his physical condition must also be seriously considered by the Court.

Admittedly, the accused's age, physical condition and his being a flight risk are among the factors that are considered in fixing a reasonable amount of bail. However, as explained above, it is premature for the Court to fix the amount of bail without an anterior showing that the evidence of guilt against accused Enrile is not strong.

WHEREFORE, premises considered, accused Juan Ponce Enrile's Motion to Fix Bail dated July 7, 2014 is **DENIED** for lack of merit.

SO ORDERED.[14]

On August 8, 2014, the Sandiganbayan issued its second assailed resolution to deny Enrile's motion for reconsideration filed vis-à-vis the July 14, 2014 resolution.[15]

Enrile raises the following grounds in support of his petition for *certiorari*, namely:

A. Before judgment of the Sandiganbayan, Enrile is bailable as a matter of right. Enrile may be deemed to fall within the exception only upon concurrence of two (2) circumstances: (i) where the offense is punishable by *reclusion perpetua,* and (ii) when evidence of guilt is strong.

x x x x

B. The prosecution failed to show clearly and conclusively that Enrile, if ever he would be convicted, is punishable by *reclusion perpetua;* hence, Enrile is entitled to bail as a matter of right.

x x x x

C. The prosecution failed to show clearly and conclusively that evidence of Enrile's guilt (if ever) is strong; hence, Enrile is entitled to bail as a matter of right.

x x x x

D. At any rate, Enrile may be bailable as he is not a flight risk.[16]

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14 Id. at 84-88.
15 Id. at 89-102.
16 Id. at 16-19.

Enrile claims that before judgment of conviction, an accused is entitled to bail as matter of right; that it is the duty and burden of the Prosecution to show clearly and conclusively that Enrile comes under the exception and cannot be excluded from enjoying the right to bail; that the Prosecution has failed to establish that Enrile, if convicted of plunder, is punishable by *reclusion perpetua* considering the presence of two mitigating circumstances – his age and his voluntary surrender; that the Prosecution has not come forward with proof showing that his guilt for the crime of plunder is strong; and that he should not be considered a flight risk taking into account that he is already over the age of 90, his medical condition, and his social standing.

In its *Comment*,[17] the Ombudsman contends that Enrile's right to bail is discretionary as he is charged with a capital offense; that to be granted bail, it is mandatory that a bail hearing be conducted to determine whether there is strong evidence of his guilt, or the lack of it; and that entitlement to bail considers the imposable penalty, regardless of the attendant circumstances.

Ruling of the Court

The petition for *certiorari* is meritorious.

1.
Bail protects the right of the accused to due process and to be presumed innocent

In all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved.[18] The presumption of innocence is rooted in the guarantee of due process, and is safeguarded by the constitutional right to be released on bail,[19] and further binds the court to wait until after trial to impose any punishment on the accused.[20]

It is worthy to note that bail is not granted to prevent the accused from committing additional crimes.[21] The purpose of bail is to guarantee the appearance of the accused at the trial, or whenever so required by the trial

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17 Id. at 526-542.

18 Section 14, (2), Article III of the 1987 Constitution.

19 *Government of the United States of America v. Purganan*, G.R. No. 148571, September 24, 2002, 389 SCRA 623 where the Court said that the constitutional right to bail flows from the presumption of innocence in favor of every accused who should not be subjected to the loss of freedom as thereafter he would be entitled to acquittal, unless his guilt be proved beyond reasonable doubt; see also Shima Baradaran, *Restoring the Presumption of Innocence*, Ohio State Law Journal, Vol. 72 (2011), p. 728.

20 Baradaran, supra note 19, at 736.

21 Id. at 731.

court. The amount of bail should be high enough to assure the presence of the accused when so required, but it should be no higher than is reasonably calculated to fulfill this purpose.[22] Thus, bail acts as a reconciling mechanism to accommodate both the accused's interest in his provisional liberty before or during the trial, and the society's interest in assuring the accused's presence at trial.[23]

2.
Bail may be granted as a matter of right or of discretion

The right to bail is expressly afforded by Section 13, Article III (Bill of Rights) of the Constitution, *viz.*:

> x x x 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. The right to bail shall not be impaired even when the privilege of the writ of *habeas corpus* is suspended. Excessive bail shall not be required.

This constitutional provision is repeated in Section 7, Rule 114[24] of the *Rules of Court*, as follows:

> Section 7. *Capital offense or an offense punishable by reclusion perpetua or life imprisonment, not bailable.* — No person charged with a capital offense, or an offense punishable by *reclusion perpetua* or life imprisonment, shall be admitted to bail when evidence of guilt is strong, regardless of the stage of the criminal prosecution.

A capital offense in the context of the rule refers to an offense that, under the law existing at the time of its commission and the application for admission to bail, may be punished with death.[25]

The general rule is, therefore, that any person, before being convicted of any criminal offense, shall be bailable, unless he is charged with a capital offense, or with an offense punishable with *reclusion perpetua* or life imprisonment, and the evidence of his guilt is strong. Hence, from the moment he is placed under arrest, or is detained or restrained by the officers of the law, he can claim the guarantee of his provisional liberty under the Bill of Rights, and he retains his right to bail unless he is charged with a

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22 *Yap, Jr. v. Court of Appeals*, G.R. No. 141529, June 6, 2001, 358 SCRA 564, 572.
23 *Leviste v. Court of Appeals*, G.R. No. 189122, March 17, 2010, 615 SCRA 619, 628.
24 As amended by A.M. No. 00-5-03-SC, December 1, 2000.
25 Section 6, Rule 114 of the *Rules of Court.*

capital offense, or with an offense punishable with *reclusion perpetua* or life imprisonment, and the evidence of his guilt is strong.[26] Once it has been established that the evidence of guilt is strong, no right to bail shall be recognized.[27]

As a result, all criminal cases within the competence of the Metropolitan Trial Court, Municipal Trial Court, Municipal Trial Court in Cities, or Municipal Circuit Trial Court are bailable as matter of right because these courts have no jurisdiction to try capital offenses, or offenses punishable with *reclusion perpetua* or life imprisonment. Likewise, bail is a matter of right prior to conviction by the Regional Trial Court (RTC) for any offense *not* punishable by death, *reclusion perpetua*, or life imprisonment, or even prior to conviction for an offense punishable by death, *reclusion perpetua*, or life imprisonment when evidence of guilt is *not* strong.[28]

On the other hand, the granting of bail is discretionary: (1) upon conviction by the RTC of an offense not punishable by death, *reclusion perpetua* or life imprisonment;[29] or (2) if the RTC has imposed a penalty of imprisonment exceeding six years, provided none of the circumstances enumerated under paragraph 3 of Section 5, Rule 114 is present, as follows:

> (a) That he is a recidivist, quasi-recidivist, or habitual delinquent, or has committed the crime aggravated by the circumstance of reiteration;
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> (b) That he has previously escaped from legal confinement, evaded sentence, or violated the conditions of his bail without valid justification;
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> (c) That he committed the offense while under probation, parole, or conditional pardon;
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> (d) That the circumstances of his case indicate the probability of flight if released on bail; or

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[26] *Government of the United States of America v. Purganan*, supra note 19, at 693.

[27] Id.

[28] Section 4, Rule 114 of the *Rules of Court* provides:

Section 4. *Bail, a matter of right; exception.*—All persons in custody shall be admitted to bail as a matter of right, with sufficient sureties, or released on recognizance as prescribed by law or this Rule (a) before or after conviction by the Metropolitan Trial Court, Municipal Trial Court, Municipal Trial Court in Cities, or Municipal Circuit Trial Court, and (b) before conviction by the Regional Trial Court of an offense not punishable by death, *reclusion perpetua*, or life imprisonment.

[29] Section 5, Paragraph 1, Rule 114 of the *Rules of Court.*

(e) That there is undue risk that he may commit another crime during the pendency of the appeal.

3.
Admission to bail in offenses punished by death, or life imprisonment, or *reclusion perpetua* is subject to judicial discretion

For purposes of admission to bail, the determination of whether or not evidence of guilt is strong in criminal cases involving capital offenses, or offenses punishable with *reclusion perpetua* or life imprisonment lies within the discretion of the trial court. But, as the Court has held in *Concerned Citizens v. Elma*,[30] "such discretion may be exercised only after the hearing called to ascertain the degree of guilt of the accused for the purpose of whether or not he should be granted provisional liberty." It is axiomatic, therefore, that bail cannot be allowed when its grant is a matter of discretion on the part of the trial court unless there has been a hearing with notice to the Prosecution.[31] The indispensability of the hearing with notice has been aptly explained in *Aguirre v. Belmonte*, *viz.*:[32]

> x x x Even before its pronouncement in the *Lim* case, this Court already ruled in *People vs. Dacudao, etc., et al.* that a hearing is mandatory before bail can be granted to an accused who is charged with a capital offense, in this wise:
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> > The respondent court acted irregularly in granting bail in a murder case without any hearing on the motion asking for it, without bothering to ask the prosecution for its conformity or comment, as it turned out later, over its strong objections. The court granted bail on the sole basis of the complaint and the affidavits of three policemen, not one of whom apparently witnessed the killing. Whatever the court possessed at the time it issued the questioned ruling was intended only for *prima facie* determining whether or not there is sufficient ground to engender a well-founded belief that the crime was committed and pinpointing the persons who probably committed it. Whether or not the evidence of guilt is strong for each individual accused still has to be established unless the prosecution submits the issue on whatever it has already presented. To appreciate the strength or weakness of the evidence of guilt, the prosecution must be consulted or heard. It is equally entitled as the accused to due process.
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> x x x x

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30 A.M. No. RTJ-94-1183, February 6, 1995, 241 SCRA 84, 88.

31 *Gacal v. Infante*, A.M. No. RTJ- 04-1845 (Formerly A.M. No. I.P.I. No. 03-1831-RTJ), October 5, 2011, 658 SCRA 535, 536.

32 A.M. No. RTJ-93-1052, October 27, 1994, 237 SCRA 778, 789-790.

> Certain guidelines in the fixing of a bailbond call for the presentation of evidence and reasonable opportunity for the prosecution to refute it. Among them are the nature and circumstances of the crime, character and reputation of the accused, the weight of the evidence against him, the probability of the accused appearing at the trial, whether or not the accused is a fugitive from justice, and whether or not the accused is under bond in other cases. (Section 6, Rule 114, Rules of Court) It is highly doubtful if the trial court can appreciate these guidelines in an *ex-parte* determination where the Fiscal is neither present nor heard.

The hearing, which may be either summary or otherwise, in the discretion of the court, should primarily determine whether or not the evidence of guilt against the accused is strong. For this purpose, a summary hearing means: –

> x x x such brief and speedy method of receiving and considering the evidence of guilt as is practicable and consistent with the purpose of hearing which is merely to determine the weight of evidence for purposes of bail. On such hearing, the court does not sit to try the merits or to enter into any nice inquiry as to the weight that ought to be allowed to the evidence for or against the accused, nor will it speculate on the outcome of the trial or on what further evidence may be therein offered or admitted. The course of inquiry may be left to the discretion of the court which may confine itself to receiving such evidence as has reference to substantial matters, avoiding unnecessary thoroughness in the examination and cross examination.[33]

In resolving bail applications of the accused who is charged with a capital offense, or an offense punishable by *reclusion perpetua* or life imprisonment, the trial judge is expected to comply with the guidelines outlined in *Cortes v. Catral*,[34] to wit:

> 1. In all cases, whether bail is a matter of right or of discretion, notify the prosecutor of the hearing of the application for bail or require him to submit his recommendation (Section 18, Rule 114 of the Rules of Court, as amended);
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> 2. Where bail is a matter of discretion, conduct a hearing of the application for bail regardless of whether or not the prosecution refuses to present evidence to show that the guilt of the accused is strong for the purpose of enabling the court to exercise its sound discretion; (Section 7 and 8, *supra*)
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> 3. Decide whether the guilt of the accused is strong based on the summary of evidence of the prosecution;

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[33] *Cortes v. Catral*, A.M. No. RTJ-97-1387, September 10, 1997, 279 SCRA 1, 11.
[34] Id. at 18.

> 4. If the guilt of the accused is not strong, discharge the accused upon the approval of the bailbond (Section 19, *supra*) Otherwise petition should be denied.

3.
Enrile's poor health justifies his admission to bail

We first note that Enrile has averred in his *Motion to Fix Bail* the presence of two mitigating circumstances that should be appreciated in his favor, namely: that he was already over 70 years at the time of the alleged commission of the offense, and that he voluntarily surrendered.[35]

Enrile's averment has been mainly uncontested by the Prosecution, whose *Opposition to the Motion to Fix Bail* has only argued that –

> 8. As regards the assertion that the maximum possible penalty that might be imposed upon Enrile is only reclusion temporal due to the presence of two mitigating circumstances, suffice it to state that the presence or absence of mitigating circumstances is also not consideration that the Constitution deemed worthy. The relevant clause in Section 13 is "charged with an offense punishable by." **It is, therefore, the maximum penalty provided by the offense that has bearing and not the possibility of mitigating circumstances being appreciated in the accused's favor.[36]**

Yet, we do not determine now the question of whether or not Enrile's averment on the presence of the two mitigating circumstances could entitle him to bail despite the crime alleged against him being punishable with *reclusion perpetua*,[37] simply because the determination, being primarily factual in context, is ideally to be made by the trial court.

Nonetheless, in now granting Enrile's petition for *certiorari*, the Court is guided by the earlier mentioned principal purpose of bail, which is to guarantee the appearance of the accused at the trial, or whenever so required by the court. The Court is further mindful of the Philippines' responsibility in the international community arising from the national commitment under the *Universal Declaration of Human Rights* to:

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35 *Rollo*, pp. 252-253.

36 Id. at 260.

37 Worthy to mention at this juncture is that the Court *En Banc*, in *People v. Genosa* (G.R. No. 135981, January 15, 2004, 419 SCRA 537), a criminal prosecution for parricide in which the penalty is *reclusion perpetua* to death under Article 246 of the *Revised Penal Code*, appreciated the concurrence of two mitigating circumstances and no aggravating circumstance as a privileged mitigating circumstance, and consequently lowered the penalty imposed on the accused to *reclusion temporal* in its medium period.

> x x x uphold the fundamental human rights as well as value the worth and dignity of every person. This commitment is enshrined in Section II, Article II of our Constitution which provides: "The State values the dignity of every human person and guarantees full respect for human rights." **The Philippines, therefore, has the responsibility of protecting and promoting the right of every person to liberty and due process, ensuring that those detained or arrested can participate in the proceedings before a court, to enable it to decide without delay on the legality of the detention and order their release if justified. In other words, the Philippine authorities are under obligation to make available to every person under detention such remedies which safeguard their fundamental right to liberty. These remedies include the right to be admitted to bail**.[38]

This national commitment to uphold the fundamental human rights as well as value the worth and dignity of every person has authorized the grant of bail not only to those charged in criminal proceedings but also to extraditees upon a clear and convincing showing: (1) that the detainee will not be a flight risk or a danger to the community; and (2) that there exist special, humanitarian and compelling circumstances.[39]

In our view, his social and political standing and his having immediately surrendered to the authorities upon his being charged in court indicate that the risk of his flight or escape from this jurisdiction is highly unlikely. His personal disposition from the onset of his indictment for plunder, formal or otherwise, has demonstrated his utter respect for the legal processes of this country. We also do not ignore that at an earlier time many years ago when he had been charged with rebellion with murder and multiple frustrated murder, he already evinced a similar personal disposition of respect for the legal processes, and was granted bail during the pendency of his trial because he was not seen as a flight risk.[40] With his solid reputation in both his public and his private lives, his long years of public service, and history's judgment of him being at stake, he should be granted bail.

The currently fragile state of Enrile's health presents another compelling justification for his admission to bail, but which the Sandiganbayan did not recognize.

In his testimony in the Sandiganbayan,[41] Dr. Jose C. Gonzales, the Director of the Philippine General Hospital (PGH), classified Enrile as a

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[38] *Government of Hong Kong Special Administrative Region v. Olalia, Jr.*, G.R. No. 153675, April 19, 2007, 521 SCRA 470, 482 (bold underscoring supplied for emphasis).

[39] *Rodriguez v. Presiding Judge, RTC, Manila, Br. 17*, G.R. No.157977, February 27, 2006, 483 SCRA 290, 298.

[40] *Rollo*, pp. 559, 571-576.

[41] Id. at 339-340 (TSN of July 14, 2014).

geriatric patient who was found during the medical examinations conducted at the UP-PGH to be suffering from the following conditions:

> (1) **Chronic Hypertension with fluctuating blood pressure levels on multiple drug therapy**; (Annexes 1.1, 1.2, 1.3);
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> (2) **Diffuse atherosclerotic cardiovascular disease composed of the following**:
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> a. **Previous history of cerebrovascular disease with carotid and vertebral artery disease**; (Annexes 1.4, 4.1)
> b. **Heavy coronary artery calcifications**; (Annex 1.5)
> c. **Ankle Brachial Index suggestive of arterial calcifications**. (Annex 1.6)
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> (3) **Atrial and Ventricular Arrhythmia (irregular heart beat) documented by Holter monitoring**; (Annexes 1.7.1, 1.7.2)
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> (4) **Asthma-COPD Overlap Syndrom (ACOS) and postnasal drip syndrome**; (Annexes 2.1, 2.2)
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> (5) Ophthalmology:
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> a. Age-related mascular degeneration, neovascular s/p laser of the Retina, s/p Lucentis intra-ocular injections; (Annexes 3.0, 3.1, 3.2)
> b. S/p Cataract surgery with posterior chamber intraocular lens. (Annexes 3.1, 3.2)
>
> (6) Historical diagnoses of the following:
>
> a. High blood sugar/diabetes on medications;
> b. High cholesterol levels/dyslipidemia;
> c. Alpha thalassemia;
> d. Gait/balance disorder;
> e. Upper gastrointestinal bleeding (etiology uncertain) in 2014;
> f. Benign prostatic hypertrophy (with documented enlarged prostate on recent ultrasound).[42]

Dr. Gonzales attested that the following medical conditions, singly or collectively, could pose significant risks to the life of Enrile, to wit: (1) uncontrolled hypertension, because it could lead to brain or heart complications, including recurrence of stroke; (2) arrhythmia, because it could lead to fatal or non-fatal cardiovascular events, especially under stressful conditions; (3) coronary calcifications associated with coronary artery disease, because they could indicate a future risk for heart attack under stressful conditions; and (4) exacerbations of ACOS, because they could be triggered by certain circumstances (like excessive heat, humidity, dust or allergen exposure) which could cause a deterioration in patients with asthma or COPD.[43]

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[42] Id. at 373-374 (bold underscoring supplied for emphasis).
[43] Id. at 334-335, 374-375.

Based on foregoing, there is no question at all that Enrile's advanced age and ill health required special medical attention. His confinement at the PNP General Hospital, albeit at his own instance,[44] was not even recommended by the officer-in-charge (OIC) and the internist doctor of that medical facility because of the limitations in the medical support at that hospital. Their testimonies ran as follows:

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> JUSTICE MARTIRES:
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> The question is, do you feel comfortable with the continued confinement of Senator Enrile at the Philippine National Police Hospital?
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> DR. SERVILLANO:
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> No, Your Honor.
>
> JUSTICE MARTIRES:
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> **Director, doctor, do you feel comfortable with the continued confinement of Senator Enrile at the PNP Hospital**?
>
> PSUPT. JOCSON:
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> No, Your Honor.
>
> JUSTICE MARTIRES:
>
> **Why**?
>
> PSUPT. JOCSON:
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> **Because during emergency cases, Your Honor, we cannot give him the best**.
>
> x x x x
>
> JUSTICE MARTIRES:
>
> At present, since you are the attending physician of the accused, Senator Enrile, **are you happy or have any fear in your heart of the present condition of the accused *vis a vis* the facilities of the hospital**?
>
> DR. SERVILLANO:
>
> **Yes, Your Honor. I have a fear.**
>
> JUSTICE MARTIRES:
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> **That you will not be able to address in an emergency situation**?
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> DR. SERVILLANO:
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> **Your Honor, in case of emergency situation we can handle it but probably if the condition of the patient worsen, we have no facilities to do those things, Your Honor**.[45]

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44 Id. at 244-247.

45 Id. at 485-488 (TSN of September 4, 2014).

x x x x

Bail for the provisional liberty of the accused, *regardless of the crime charged*, should be allowed *independently of the merits of the charge*, provided his continued incarceration is clearly shown to be injurious to his health or to endanger his life. Indeed, denying him bail despite imperiling his health and life would not serve the true objective of preventive incarceration during the trial.

Granting bail to Enrile on the foregoing reasons is not unprecedented. The Court has already held in *Dela Rama v. The People's Court*:[46]

> x x x This court, in disposing of the first petition for *certiorari*, held the following:
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> > x x x [**U]nless allowance of bail is forbidden by law in the particular case, the illness of the prisoner, independently of the merits of the case, is a circumstance, and the humanity of the law makes it a consideration which should, regardless of the charge and the stage of the proceeding, influence the court to exercise its discretion to admit the prisoner to bail**;[47] x x x
>
> x x x x
>
> Considering the report of the Medical Director of the Quezon Institute to the effect that the petitioner "is actually suffering from minimal, early, unstable type of pulmonary tuberculosis, and chronic, granular pharyngitis," and that in said institute they "have seen similar cases, later progressing into advance stages when the treatment and medicine are no longer of any avail;" taking into consideration that the petitioner's previous petition for bail was denied by the People's Court on the ground that the petitioner was suffering from quiescent and not active tuberculosis, and the implied purpose of the People's Court in sending the petitioner to the Quezon Institute for clinical examination and diagnosis of the actual condition of his lungs, was evidently to verify whether the petitioner is suffering from active tuberculosis, in order to act accordingly in deciding his petition for bail; and considering further that the said People's Court has adopted and applied the well-established doctrine cited in our above-quoted resolution, in several cases, among them, the cases against Pio Duran (case No. 3324) and Benigno Aquino (case No. 3527), in which the said defendants were released on bail on the ground that they were ill and their continued confinement in New Bilibid Prison would be injurious to their health or endanger their life; it is evident and we consequently hold that the People's Court acted with grave abuse of discretion in refusing to release the petitioner on bail.[48]

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[46] 77 Phil. 461 (October 2, 1946), in which the pending criminal case against the petitioner was for treason.

[47] Id. at 462.

[48] Id. at 465-466.

It is relevant to observe that granting provisional liberty to Enrile will then enable him to have his medical condition be properly addressed and better attended to by competent physicians in the hospitals of his choice. This will not only aid in his adequate preparation of his defense but, *more importantly*, will guarantee his appearance in court for the trial.

On the other hand, to mark time in order to wait for the trial to finish before a meaningful consideration of the application for bail can be had is to defeat the objective of bail, which is to entitle the accused to provisional liberty pending the trial. There may be circumstances decisive of the issue of bail – whose existence is either admitted by the Prosecution, or is properly the subject of judicial notice – that the courts can already consider in resolving the application for bail without awaiting the trial to finish.[49] The Court thus balances the scales of justice by protecting the interest of the People through ensuring his personal appearance at the trial, and at the same time realizing for him the guarantees of due process as well as to be presumed innocent until proven guilty.

Accordingly, we conclude that the Sandiganbayan arbitrarily ignored the objective of bail to ensure the appearance of the accused during the trial; and unwarrantedly disregarded the clear showing of the fragile health and advanced age of Enrile. As such, the Sandiganbayan gravely abused its discretion in denying Enrile's *Motion To Fix Bail*. *Grave abuse of discretion*, as the ground for the issuance of the writ of *certiorari*, connotes whimsical and capricious exercise of judgment as is equivalent to excess, or lack of jurisdiction.[50] The abuse must be so patent and gross as to amount to an evasion of a positive duty or to a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law as where the power is exercised in an arbitrary and despotic manner by reason of passion or hostility.[51]

WHEREFORE, the Court **GRANTS** the petition for *certiorari*; **ISSUES** the writ of *certiorari* **ANNULING** and **SETTING ASIDE** the Resolutions issued by the Sandiganbayan (Third Division) in Case No. SB-14-CRM-0238 on July 14, 2014 and August 8, 2014; **ORDERS** the

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[49] *Bravo, Jr. v. Borja*, No. L-65228, February 18, 1985, 134 SCRA 466, where the Court observed:

To allow bail on the basis of the penalty to be *actually* imposed would require a consideration not only of the evidence of the commission of the crime but also evidence of the aggravating and mitigating circumstances. There would then be a need for a complete trial, after which the judge would be just about ready to render a decision in the case. As perceptively observed by the Solicitor General, such procedure would defeat the purpose of bail, which is to entitle the accused to provisional liberty pending trial.

[50] *Republic v. Sandiganbayan* (*Second Division*), G.R. No. 129406, March 6, 2006, 484 SCRA 119, 127; *Litton Mills, Inc. v. Galleon Trader, Inc*., G.R. No. L-40867, July 26, 1988, 163 SCRA 489, 494.

[51] *Angara v. Fedman Development Corporation*, G.R. No. 156822, October 18, 2004, 440 SCRA 467, 478; *Duero v. Court of Appeals*, G.R. No. 131282, January 4, 2002, 373 SCRA 11, 17.

PROVISIONAL RELEASE of petitioner Juan Ponce Enrile in Case No. SB-14-CRM-0238 upon posting of a cash bond of ₱1,000,000.00 in the Sandiganbayan; and **DIRECTS** the immediate release of petitioner Juan Ponce Enrile from custody unless he is being detained for some other lawful cause.

No pronouncement on costs of suit.

SO ORDERED.

LUCAS P. BERSAMIN
Associate Justice

WE CONCUR:

I join the dissent of J. Leonen

MARIA LOURDES P. A. SERENO
Chief Justice

I join the Dissent of J. Leonen

ANTONIO T. CARPIO
Associate Justice

PRESBITERO J. VELASCO, JR.
Associate Justice

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

ARTURO D. BRION
Associate Justice

for humanitarian reasons

I concur for the result based on humanitarian grounds

DIOSDADO M. PERALTA
Associate Justice

MARIANO C. DEL CASTILLO
Associate Justice

(On Official Leave)
MARTIN S. VILLARAMA, JR.
Associate Justice

JOSE PORTUGAL PEREZ
Associate Justice

JOSE CATRAL MENDOZA
Associate Justice

(On Sick Leave)
BIENVENIDO L. REYES
Associate Justice

I join the dissent of J. Leonen
M. Perl

I dissent. See separate opinion.

ESTELA M. PERLAS-BERNABE
Associate Justice

MARVIC MARIO VICTOR F. LEONEN
Associate Justice

FRANCIS H. JARDELEZA
Associate Justice

No part
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CERTIFICATION

I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the court.

MARIA LOURDES P. A. SERENO
Chief Justice