The State v Colin Joseph de France

COURT OF APPEAL OF GUYANA
HAYNES C, JHAPPAN AND GEORGE JJA
26TH, 27TH, 28TH, 29TH, 31ST JULY, 1ST AUGUST 1978

Criminal evidence – Voir dire – Confession statement sole evidence of guilt – Admitted as free and voluntary – Cross-examination in presence of jury revealed lack of frankness on part of witness – Whether judge ought to have to direct jury on weight and value of confession statement – Whether duty on trial judge to reconsider his ruling that confession was free and voluntary.

Criminal evidence – Voir dire – Confession statement – Judge admits statement as free and voluntary – No complaint with judge's ruling on voluntariness – Breaches of Judges' Rules – Complaint that judge failed to exercise discretion fairly and to exclude statement even though voluntarily made – Judges' Rules 1964 [G] r2, 4 and 5 and Administrative Direction No 3.

Practice direction – Voir dire – Duty of court registrar to ensure shorthand writer's presence to record judge's oral reasons for admission or rejection of confession statement for benefit of Court of Appeal.

The appellant was convicted of murdering his stepfather, Abdool Yussuf, on 8th November 1974. The only material evidence tendered against him was a statement the admissibility of which was objected to as an involuntary confession. At the voir dire, Det Cpl Wilson related how the accused came to make the statement. He revealed that at 6.00 pm on 8th January 1975, the accused was cautioned after being informed that information was received that he and others had beaten Abdool Yussuf to death with an axe. Thereafter, he Wilson, ordered the accused to a cell after he did not say anything. Det Cpl Wilson also told how about 10.30 am on 9th January 1975 he caused the accused to be brought into the station's recreations room with two self-confessed confederates, Chandreka Nanu and Rampersaud and of how they made statements in the matter implicating the accused, and that it was only after those statements were read in the accused's presence and he was cautioned that he elected to make a signed statement that was free from threats and inducements. Wilson added that although he was not very keen to get a statement, he felt one could have helped him in the investigations; although he varied this before the jury by saying he thought it was necessary to obtain one from him. At the trial within a trial the judge ruled the statement free and voluntary, and in the Guyana Court of Appeal that ruling was not challenged. Instead, it was submitted there that on account of (a) the prosecution's evidence as to what happened in the station's recreation room on 9th January 1975; (b) the appellant's prior confinement in a cell at the police station from 6.00 pm on 8th January (after his tacit refusal to make a statement that evening) to 10.30 am on 9th January; (c) the uncontradicted bits of evidence of the appellant, that (i) the cell was bare and without any sanitary facility, and (ii), that he had neither food nor drink during the whole or a substantial part of this period of restraint, the appellant had lost an opportunity of acquittal otherwise open to him because – firstly, there were substantial breaches of the Judges' Rules (2, 4 and 5) requiring the trial judge to investigate the question whether he should exercise his exclusionary jurisdiction which he, wrongly, never did; secondly, the circumstances leading up to the making of the confession including the said breaches made it obligatory to consider whether or not it

should be excluded as obtained unfairly, although voluntarily, and wrongly, this was never done.

Held – (i) (per Haynes C, Jhappan JA concurring) A Court of Criminal Appeal should exercise a jurisdiction to set aside a conviction for serious breaches of the Judges' Rules although they are not rules of law or for a failure to exercise a discretion in relation to breaches in fit cases. Not to do so would be to exercise insufficient control over the admission of evidence resulting from improper police questioning, and to fetter unjustifiably the exercise of the statutory jurisdiction of the court to set aside a conviction if it finds that 'on any ground' a miscarriage of justice has resulted.

(ii) If the court finds itself able to say that, in the particular circumstances of a breach, if the trial judge had excluded a confession he would have exercised his discretion unjudicially, then there would have been no miscarriage of justice.

(iii) If the court concludes that a trial judge should have excluded the statement then there would have been a miscarriage of justice if he did not exercise his discretion at all.

(iv) There could be nothing unfair in letting a man know that his friends have incriminated him and giving him an opportunity in their presence if he wishes to do so, to deny it all or to give his side of the story, if there is no pressure or importuning or insistence on him to make a statement.

(v) The Judges' Rules 1964 differ from those of 1912 importantly as regards police questioning of a suspect in custody. Under the old r 3 he was not to be questioned at all about the offence in respect of which he was detained. Under the present rules he can be questioned about it, but a proper caution must be given beforehand. It was permissible for the police, without reading the statements, to have questioned the appellant on the information in them after he was duly cautioned, and so the appellant has failed to prove a miscarriage of justice.

(vi) (per Haynes C, George JA dissenting) The evidence under cross-examination before the jury that the witness Det Cpl Wilson thought it was necessary to get a statement from the accused revealed a lack of frankness about his state of mind; but the crucial question was whether the disclosure before the jury was of sufficient weight and materiality to require the trial judge to review his ruling to determine whether he was still

satisfied that the confession was free and voluntary.

(vii) The disclosure before the jury was of sufficient weight and materiality to require the trial judge to review his decision to admit it on the voir dire and on this sole ground the appeal would be allowed and the conviction and sentence set aside and a judgment of acquittal entered.

(viii) (per George JA) Invariably no court reporter is available to make a verbatim record of a judge's ruling at the voir dire. In future, every effort should be made by the registrar to ensure the presence of a court reporter in order that the Court of Appeal can have available an accurate account of the trial judge's reasons for his final conclusions.

(ix) The evidence led before the jury cannot be said to have been so significantly different as to have raised substantial suspicion of a lack of frankness and so require or oblige the learned trial judge to address his mind to the question of reconsideration of the admissibility of a statement in the light of what was said on the voir dire. Difference there was, but the degree was not such as to warrant a re-examination of his former decision.

The State v Abdool Azim Sattaur and Rafeek Mohamed (1976) 24 WIR 157, applied.

Cases referred to
Middleton [1974] 2 All ER 1190, [1974] 3 WLR 335, 118 SolJo 680, sub nom R v Middleton (Wm), 59 CrAppRep 18, [1974] Crim LR 667, CA
Conway v Hotten [1976] 2 All ER 213, 140 JP 355, 63 CrAppRep 11

The State v Lynette Scantlebury

COURT OF APPEAL OF GUYANA
HAYNES C IN CHAMBERS
5TH, 6TH NOVEMBER 1976

Bail by Court of Appeal – Petition for bail to the Court of Appeal pending hearing of appeal against conviction and sentence – Allegations of ill-health and family hardship – Special circumstances – What matters affidavit evidence should establish – Whether real likelihood of sentence being served before appeal comes on for hearing – Guiding principles of Court of Appeal in granting bail.

Bail by Court of Appeal – Petition for bail to Court of Appeal pending hearing of appeal against conviction and sentence – Short sentence of imprisonment – Administratively impossible to hear appeal before sentence terminates – Real possibility of danger of injustice being done.

Lynette Scantlebury petitioned the Guyana Court of Appeal for admission to bail pending the hearing of her appeal against conviction and sentence in the High Court on 25th October 1976. She was sentenced to six months' imprisonment for the offence of causing death by dangerous driving, collapsed in the dock after sentence was pronounced and was rushed to hospital in a delirious condition where she has since remained a patient. The affidavit in support of her petition stated she was and still is in great pain and in receipt of medical treatment; although there was no affidavit evidence in support forthcoming from any medical practitioner. From the narrative of facts alleged in her affidavit in support, the petitioner sought bail on the following grounds: (a) her own ill-health, (b) her husband's ill-health; (c) great hardship on her family; and (d) the real likelihood that her appeal will come on for hearing after she will have served her sentence.

Held – (i) In matters of this kind applicants should consider the advisability of assisting the judge by corroborative proof of allegations of ill-health, or at least, a medical certificate if that condition is to be relied on as a material consideration in deciding whether or not a suppliant should be admitted to bail.

(ii) If appellants are admitted to bail freely on appeals from the verdict of juries, a dangerous situation could arise inimical to the public interest.

(iii) In certain particular circumstances grounds of family health and hardship taken cumulatively, might justify a grant of bail; but they do not do so in this case.

(iv) The Assistant Registrar of the Court of Appeal has been consulted and it has been accepted from him that in the ordinary course of affairs this appeal is not likely to come on for hearing until about four to six months hence.

(v) Since normally bail should not be granted to an appellant or a prospective one after his conviction by a jury, an applicant would have to show that in his case there were special circumstances which made it the just thing to do to put him on bail pending the hearing of his appeal... An appellant on a short sentence of six months should have his appeal heard promptly, but if this is impracticable, then this court might properly admit him or her to bail.

(vi) This court being satisfied that if bail is refused to the petitioner, there is at least a real possibility of a danger of injustice being done to her, will admit her to bail in her own recognisance in the sum of $2,000 with a surety in the like sum acceptable to the Registrar of the Court of Appeal.

Cases referred to
R v Gordon (1912) 7 Cr App Rep 182

R v Gott (1921) 16 Cr App Rep 86
R v Wise (1922) 17 Cr App Rep 17
The Duke of Lenister (1923) 17 Cr App Rep 147
R v Davidson (1927) 20 Cr App Rep 66
R v Howeson (1936) 25 Cr App Rep 167
R v Joseph Greenberg (1929) 21 Cr App Rep 106
R v Rudolph Henry (1975) 13 JLR 55
R v Joseph Selkirk (1925) 18 Cr App Rep 172
R v Michael McDonald (1928) 21 Cr App Rep 26
R v Isaac Waxman (1930) 22 Cr App Rep 81
R v Alexander Stewart (1931) 23 Cr App Rep 68
R v Harding (1931) 25 Cr App Rep 143
R v Tarran The Times 16 Dec 1947
R v Gregory Page [1971] 2 QB 330, [1971] 2 WLR 1308, [1971] 2 All ER 870, 55 Cr App Rep 184, 115 Sol Jo 385
R v Kallia and others (1975) 60 Cr App Rep 200
R v Frank Ridley (1909) 2 Cr App Rep 113
R v Cullis and R v Nash [1969] 1 All ER 593, [1968] 113 Sol Jo 51, *sub nom R v Cullis (Norman Anthony Paul) R v Nash (David John)* 53 Cr

App Rep 162, CA

Application
Application to the Chancellor in Chambers in the form of a petition by and on behalf of Lynette Scantlebury for admission to bail pending determination of her appeal from conviction and sentence in the High Court.

DAA Robinson SC for the petitioner
EA Romao SC, Director of Public Prosecutions for the State

HAYNES C. There is before this court now an application in the form of a petition by and on behalf of Lynette Scantlebury, described as 'of the Georgetown Prisons, 12 Camp Street, Georgetown, in the County of Demerara, Guyana, now a patient in the Georgetown Hospital.' It is a petition for admission to bail pending the hearing of her appeal against both the sentence and her conviction by a jury at the present Demerara October Sessions of the High Court on 25th October 1976, for the offence of 'causing death by dangerous driving.' The petitioner was sentenced to six months' imprisonment taking effect from 5th October 1976.

It is alleged in the petition and not disputed by the Director of Public Prosecutions who appeared for the State at the hearing in Chambers yesterday, that immediately before the trial judge passed sentence on the petitioner she collapsed in the dock, and after the sentence was pronounced, she was admitted as a patient in the Georgetown Hospital where, presumably, she still is. Her petition states that she was taken to hospital 'in a delirious condition and admitted a patient where she is still experiencing extreme pain, is under observation and receiving urgent medical care and treatment.' But this condition is not at all supported by any affidavit evidence of any medical practitioner under whose care the petitioner must be. This evidence should have been easy to obtain. I would have thought that such corroborative proof or maybe at least a medical certificate would have been made available to this court. Applicants in matters of this kind should consider the advisability of assisting the judge who has to determine this matter with evidence of this nature if the condition of ill-health is to be relied on as a material consideration in deciding whether or not to admit the suppliant to bail.

The petitioner filed her appeal on 2nd November 1976. In it she alleges that she was advised that this appeal is not likely to be heard by this court before a date 'some time early in 1977'. I have consulted the Assistant Registrar of this court and have accepted his statement that in the ordinary course of affairs this appeal is not likely to come on for hearing until about four to six months hence. And so in paras 9 and 10 of her petition the petitioner stated as follows:

> '9. That your Petitioner is further advised by her said Legal Adviser that her sentence of six months' imprisonment began to make effect from the 5th day of October 1976, being the first day of the Assizes during which the said sentence was passed, since the Trial Judge did not otherwise order; in the circumstances your Petitioner would have in effect served three months of her sentence of imprisonment by the 5th January 1977.
>
> 10. That your Petitioner is advised by the Georgetown Prison Authorities that providing she is of good conduct she would receive a remission of sentence and that then her six months of imprisonment would expire on the 18th day of February 1977.'

But this is not all she relies on, for the petition went on to state:

> '12. That your Petitioner's being in Prison pending the hearing of her appeal has caused great hardship to her family and she feels a great sense of anxiety about the care and welfare of her two daughters Althea (13) and Gerilyn (11).
>
> 13. That your Petitioner's sense of anxiety is accentuated by her knowledge that her husband suffers from a chronic heart condition and she has been, in the past solely responsible for his domestic care and comfort, and also for the care and up-bringing of the abovementioned children.'

Here again, no supporting medical evidence is annexed and tendered. And I would record here the identical comment written earlier in this ruling in relation to the present state of health of the petitioner herself.

From the narrative of the facts alleged, the petitioner is asking the court to admit her to bail on the grounds of: (a) her own ill-health; (b) her husband's ill-health; (c) the great hardship imposed on her family, including her daughters Althea (13) and Gerilyn (11); and (d) the real likelihood that her appeal will come on for hearing after she shall have served her sentence. I would say without any hesitancy whatever that, at least in the circumstances of this case, grounds (a), (b) and (c), separately or cumulatively, will not warrant her admission to bail. It is one of the unavoidable harsh and painful consequences of conviction and imprisonment that the immediate and close family of the convicted person will suffer hardships. It is impermissible generally to treat this factor as a ground for the grant of bail. As regards hers or her husband's state of health, this court makes two observations: One is, that it is conceivable without difficulty that an appellant's state of health might be, in certain circumstances, a ground on which to admit her to bail. But, as at present advised, I am of the opinion that the circumstances must be very special indeed to make the state of health of the appellant's husband by itself, if at all, such a ground or an auxiliary one. In this case, it certainly is not. The other observation is, that the allegations as regards their state of health is unsupported by any medical evidence whatever. I will concede that it is not at all wholly inconceivable that in certain particular circumstances grounds (a), (b) and (c) cumulatively might justify a grant of bail. But they certainly do not do so in this case. Accordingly, in any event, I would not act on these grounds. I think, however, that

the fourth ground deserves careful consideration.

Undoubtedly, this court has the jurisdiction to admit an appellant to bail pending the determination of an appeal. It is accepted law that it is a matter of discretion. An appellant has no common law or statutory or constitutional right to bail. But like all other discretionary powers it must be exercised judicially. If appellants are admitted to bail freely on appeals from the verdict of juries, a dangerous situation could arise inimical to the public interest. In England, under the Court of Criminal Appeal Act 1907, a similar statutory discretion to admit an appellant to bail existed until its repeal. A study of the many judgments of the Court of Criminal Appeal there would indicate the considerations by which that court did so and its successor is guiding itself in the exercise of this discretion.

These authorities are clear that the circumstances must be 'exceptional' to justify the grant of bail to persons convicted by juries: *Gordon* ((1912) 7 Cr App Rep 182); *Gott* ((1921) 16 Cr App Rep 86); *Wise* ((1922) 17 Cr App Rep 17); *The Duke of Leinster* ((1923) 17 Cr App Rep 147); *Davidson* ((1927) 20 Cr App Rep 66); and *Howeson* ((1936) 25 Cr App Rep 167). Indeed in *Joseph Greenberg* ((1929) 21 Cr App Rep 106), the Lord Chief Justice said ((1929) 21 Cr App Rep at p 106): 'It is only in very exceptional cases that bail is granted in this Court.' This way of putting it did not find favour with Graham-Perkins J

105

in *R v Rudolph Henry* ((1975) 13 JLR 55). That very learned judge, on this point, said ((1975) 13 JLR at p 56):

> 'By virtue of the provisions of ss 28 and 29 of the Judicature (Appellate Jurisdiction) Law 1962 the Court of Appeal, or a judge thereof,"may, if it seems fit, on the application of an appellant, to admit the appellant bail pending the determination of his appeal." The words "if it seems fit" are unmistakably clear. Their intentment is to vest in the court, and the judges thereof, *a discretion to admit an appellant to bail in circumstances in which, in the opinion of the court, or a judge, such a course is desirable or just. This court has never, as far as I am aware, sought to formulate a catalogue of principles by reference to which an application by an appellant to be admitted to bail is to be determined.* It is to be hoped that no such attempt will ever be made. Parliament has, by the terms of ss 28 and 29 supra, and without equivocation, entrusted this court, and its judges, with a discretion in the widest possible terms in the knowledge, it must be supposed, that that discretion will be responsibly exercised. For these and other reasons I am constrained to the conclusion that in the exercise of the discretion with which I am here concerned *it is eminently desirable to avoid reference to such vague and indeterminate phrases as "in the exceptional circumstances of the case*" from which, by their very nature, no common statement of principle can be extracted.'

But I would venture to suggest with respect that the English judges meant nothing really different in their use of the words 'exceptional' or the phrase 'very exceptional.' What was being emphasised was that normally bail would not be granted to an appellant or a prospective one after his conviction by a jury; that it was not to be lightly allowed; and so an applicant had to show that, in his case, there were special circumstances which made it the just thing to do to put him on bail pending the hearing of his appeal. For example, if on the face of the papers before the court, the conviction appears plainly wrong so that his appeal has every prospect of success (as in *R v Rudolph Henry*) ((1975) 13 JLR 55), this would be a factor which could make the case exceptional. But an instance of more frequent occurrence is where the sentence is a short one and it is administratively impossible to hear the appeal or there is not much hope of doing so before his sentence terminates. For, if the appeal succeeds after this, justice might not appear to have been done. And this might even be so where, although the appeal may or will be heard before the sentence ends, he will by then have served most or a very substantial part of it.

In *Joseph Selkirk* ((1925) 18 Cr App Rep 172) the applicant was convicted for conspiracy to defraud and sentenced to four months' imprisonment. He appealed and was put on bail in the sum of £500 with two sureties in the sum of £250 each; in *Michael McDonald* ((1928) 21 Cr App Rep 26), on an application for leave to appeal against conviction and a sentence of 18 months' imprisonment for receiving stolen property, in view of the long interval expected to run before the hearing, he was put on his own bail in the sum of £50 and that of a surety in the same sum; and in *Isaac Waxman* ((1930) 22 Cr App Rep 81) the applicant was convicted of obtaining goods by false pretence and sentenced to 15 months' imprisonment. It was calculated that his appeal could not be heard for a number of months. The court granted him bail for £1,000 with two sureties each to the approval of the police, for £1,000 each. Again, in *Alexander Stewart* ((1931) 23 Cr App Rep 68) for the same reason, the applicant, sentenced to 12 months' imprisonment, was put on his own bail in the sum of £100 with two sureties in the sum of £100 each; in *Harding* ((1931) 25 Cr App Rep 143) on an appeal from a sentence of 12 months the applicant was put on bail with two sureties of £100 each and on his own recognisance of £100, the sureties to be accepted to the satisfaction of the police; and in *R v Tarran* (The Times, 16 Dec 1947), (cited in Archbold's Criminal Pleadings, (37th Edn) (1969) p 308, para 882), bail was granted in view of the fact that owing to the length of the transcript of shorthand notes, the appeal would probably not be heard until the end or after the expiration of the sentence. More recently in *Gregory Page* ([1971] 2 QB 330, [1971] 2 WLR 1308, [1971] 2 All ER 870, 55 Cr App Rep 184, 115 Sol Jo 385) the appellant, sentenced to nine months for fraud, was put on bail as 'the only proper course'; and in *R v Kallia and others* ((1975) 60 Cr App Rep 200) where the trial lasted 69 days and the proceedings took up 2,000 pages of transcript, the appellant was sentenced to 18 months' imprisonment. Forbes J put them on bail, and the appeal was heard nearly a year after. So an

106

appellant on a short sentence of six months should have his appeal heard promptly. If this is impracticable, then this court might properly admit him or her to bail.

At the hearing of this petition the Director of Public Prosecutions himself appeared. And it is only fair to record that he did not oppose it on this last ground. As regards his appearance I would like, without comment, to draw attention to the observations of the court in *Frank Ridley* ((1909) 2 Cr App Rep 113) ((1909) 2 Cr App Rep 113 at p 114):

'...there is no rule under the Act that notice should be given to the prosecution on applications for bail being made. It may be necessary to provide for it, but there being no rule we cannot bind the Court by saying that the prosecution ought to be present. But we think it desirable that a judge, or the Court, in the exercise of his or their discretion, should direct that such notice should be given, especially in cases in which the Director of Public Prosecutions is concerned, and that where such notice has not been given applications for bail should be refused.'

I have not seen the record of evidence and this court is not in a position to reach any sensible view as to whether or not this appeal has any prospect of success. Further, this court is not in a position to say whether or not a sentence imposed was warranted by the facts presumably found by the jury. But this court is aware that the offence for which the appellant has been convicted, not infrequently is punished by fines of varying severity. While nothing that this court says in this ruling should be interpreted as accepting or suggesting that the appeal has a fair chance of success either as to the conviction or as to the sentence, having regard to the nature of the offence and the very short sentence imposed, it is felt that this is a fit case to admit her to bail. It must be wrong that she should be exposed to the almost certain consequence of, in effect, serving her sentence before having her appeal determined. And it is certainly very likely, if not certain, that this will occur if bail is refused. If it is and subsequently the appeal is dismissed, both as to conviction and sentence, then retrospectively, no harm will have been done. On the other hand, if bail is refused and subsequently the appeal succeeds to the extent that either her conviction is set aside or, if not, the sentence is varied to a monetary one, then she will have suffered imprisonment or detention pending her appeal, unjustifiably. Everyone will agree that justice would not appear to have been done in such event. This court is satisfied that if bail is refused to the petitioner, there is at least a real possibility of a danger of injustice being done to her.

This court wishes to make it clear that the sex of the appellant has nothing whatever to do with the decision to admit her to bail. This decision rests wholly on the factors just enumerated. If the facts presumably found by the jury to be true warrant a sentence of imprisonment on a person convicted for a grave offence such as this, then I, speaking for myself, would say that a trial judge would be justified in imposing such a sentence, whether the guilty person is a man or a woman. Further, it should be made clear that if the appeal fails, the appellant will still be liable to serve the sentence of six months. In the case of *R v Cullis* and *R v Nash* ([1969] 1 All ER 593, [1968] 113 Sol Jo 51, *sub nom R v Cullis (Norman Anthony Paul) R v Nash (David John)* 53 Cr App Rep 162, CA) ([1969] 1 All ER 593), it was argued in the Court of Criminal Appeal that it would be very unfortunate if a convicted person who is given leave to appeal against conviction, obtains bail, is let out of prison and so encouraged to think that that is probably the end of the matter, should later find himself back in prison in respect of the same conviction. Lord Justice Salmon in the judgment of the court said (at p 593):

'This court, however, did not intend to lay down any general principle... to the effect that once a convicted person has been let out on bail, there can never be a question of sending him back to prison. Obviously there can be no such general principle, because otherwise it would follow that once a convicted person is granted bail, in effect the judge who grants him bail thereby necessarily ensures that he never returns to prison. Everything must depend on the circumstances of the particular case.'

The appellant must understand that, depending on the result of the appeal, she might still have to serve her sentence according to law. If there was any doubt about the position,

it was removed in *R v Kallia and others* ((1975) 60 Cr App Rep 200) (supra) where Roskill LJ said (at p 209):

'This Court desires to say as plainly as possible that where (exceptionally) intending appellants or applicants are released on bail and delay follows in the hearing of the appeal, that delay cannot and must not be relied upon, whenever the appeal or application fails, as a reason for their not being sent back to prison to serve their sentence. That is usually made plain when bail is granted, and it must be clearly understood that that is so.'

In 10 Halsbury's Laws (3rd Edn) 526, para 967, this passage appears:

'If the Court of Criminal Appeal admits an appellant to bail pending the determination of his appeal, the Court must specify the amount of the recognisances and may direct before whom they are taken; but if the Court does not give such a direction, the recognisances of the appellant may be taken before a justice of the peace who is a member of the visiting committee of and at the prison in which the appellant is then confined, or before the governor thereof, and the recognisances of any surety for the appellant may be taken before any petty sessional court. The appellant must be ordered, by the order admitting him to bail, to be present personally at each and every hearing of his appeal, and at the final determination thereof.

'The order for bail may be varied or revoked at any time when the appellant is before the court. If a surety suspects that the appellant when he has been released on bail is about to depart out of England, or in any manner to fail to observe the conditions of his recognisances, the surety may take steps for the arrest of the appellant. On breach of the appellant's recognisances the Court may order them and those of his sureties to be estreated.'

This court should adopt the practice set out in it mutatis mutandis.

It is, therefore, the order of this court that the appellant be admitted to bail pending the hearing and determination of her appeal. The

conditions of this admission are: she shall sign her own recognisance in the sum of $2,000 with a surety in a like sum, the said surety to be acceptable to the Registrar of the Court of Appeal before whom the recognisances shall be executed; the appellant, unless excused by this court beforehand, shall be present personally at each and every hearing of her appeal and at the final determination thereof. This is the Order of the court.

Petitioner admitted to bail pending hearing and determination of her appeal.