



**CRIMINAL COURT**

**THE HON. CHIEF JUSTICE  
VINCENT DE GAETANO**

Sitting of the 28 th December, 2007

Number 57511/2007

**The Police  
(Inspector Stella Attard)  
(Inspectoir Sandro Zarb)**

**v.**

**Yilmaz ASLAN**

**The Court:**

Having seen the application filed yesterday by the Attorney General requesting the variation of the decree delivered also yesterday, 27 December 2007, by the Court of Magistrates as a Court of Committal whereby Yilmaz Aslan (the respondent in these proceedings) was granted bail;

Having seen the relevant documents; having heard Inspector Sandro Zarb and Mr Imdat Aslan (respondent's brother) on oath during to-day's sitting; having heard also submissions by counsel for the applicant (Dr Donatella Frendo Dimech) and for the respondent (Dr Stephen Tonna Lowell); considers:

The Attorney General is not opposing bail; his application is intended only to obtain a variation in the conditions of bail in so far as he contends that these are not adequate to guarantee respondent's appearance in Court if and when the obstacle to his being surrendered to Italy is surmounted. In particular the Attorney General is questioning the adequacy both of the personal guarantee of Lm15,000 and the deposit of Lm2,000.

This Court has repeatedly stated that security by way of a personal guarantee should only be required in extreme cases and moreover that the amount of the said personal guarantee should always respect the rule enunciated in Section 576 of the Criminal Code, in the sense that when a personal guarantee is imposed the court is not justified in increasing it to a figure beyond what would otherwise be required under the said Section 576 (see in this respect the following decree of this Court: ***The Police v. Ezechukwu Prince Okeke*** 7 April 2006, ***Il-Pulizija v. Costantino Gouder*** 24 January 2007, ***Il-Pulizija v. Victor Philip Bajada*** 11 September 2007, and ***The Police v. Eduardo Navas Rios*** 12 September 2007).

Considering the gravity of the charges to which the respondent is being asked to answer before the Courts in Italy (which issued the European Arrest Warrant) and the similar charges pending against respondent here in Malta – to wit, trafficking in human beings and related charges – this Court considers that the security should have been in an amount much higher than a mere Lm2,000. Moreover, considering that the respondent is currently unemployed and considering also his relatively weak ties with Malta,

the conditions attached to his residence should also have been more stringent.

For these reasons the Court allows the Attorney General's application and substitutes for the conditions in the decree of the 27 December 2007 (fol. 19) the following conditions:

**1. that Yilmaz Aslan abides with every order or summons of this Court and of every other Court dealing with these extradition proceedings or with any question arising out of these proceedings or connected therewith, and that he also appears before the competent Court whenever so ordered by the Executive Police or by the Court;**

**2. that he does not communicate or attempt to communicate in any way, whether directly or indirectly or through third persons, with any prosecution witness;**

**3. that he resides at "Sweet Haven", Flat 4, Triq il-Giebja, Swieqi, and that he does not leave the said residence except between 7.00 am and 3.00 pm;**

**4. that he reports daily (including Sundays and public holidays) at the St Julian's Police Station between 7.00 am and noon;**

**5. that he delivers any passport (apart from such as may already be exhibited in the record of these or other proceedings) and any other travel document that may be in his possession to Police Inspector Sandro Zarb; that he does not leave or attempt to leave these Islands in any manner, nor board or attempt to board any boat, yacht, ship or any other vessel or means of transport by sea whatsoever; and that at no time should he be within fifty metres from the shoreline anywhere within the Island;**

**6. that he gives security for bail in respect of these conditions, and for all the purposes of section 579 of the Criminal Code, either (I) by depositing under the authority of this Court the sum of eight thousand liri (Lm8,000), or (II) by producing a sufficient surety who shall enter into a written recognizance in the sum of eight thousand liri (Lm8,000) – should respondent opt to produce such a surety, he is to give prior notice of not less than 24 hours of the proposed surety and this decree granting bail will not have any effect unless and until the surety is approved by this Court; so however that this Court considers that respondent's brother, Imdat Aslan, is a sufficient surety and therefore no prior notice is required in his regard.**

Until these conditions have been complied with, respondent is to remain under arrest, and to that extent only is re-arrest being ordered.

**< Final Judgement >**

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