

1947

Present : Windham J.

RATNAYAKE *et al.*, Petitioners, and SUB-INSPECTOR, POLICE,
DUNAGAHA, Respondent.

S. C. 319—Application for Bail in M. C. Negombo, 51,825.

Bail—Prima facie case against accused—Does it justify refusal?

Bail should not be refused merely on the ground that there is a strong *prima facie* case against the accused.

APPPLICATION for bail.

H. A. Kottegode, for the petitioners.

H. A. Wijemanne, C.C., for the Attorney-General.

August 1, 1947. WINDHAM J.—

In this case the learned Magistrate, in refusing bail after he had previously granted it, relied on the Court of Criminal Appeal case *Rex v. Phillips*, reported in the Weekly Notes of May 17, 1947. But I think he erred in applying the ruling in that case to the facts of the present one. The real ground for refusing bail in that case was that the accused had a number of previous convictions for similar offences, and had been caught red-handed in the commission of one of the offences with which he was charged, which offence he admitted. It was not merely that there was (as there is in the present case) a strong *prima facie* case against the accused. The present accused has a clean record.

In these circumstances I grant this application, and the case is remitted to the Magistrate to release the accused on bail as he thinks fit in the proper circumstances.

Bail allowed.
