

IN THE COURT OF APPEAL, FIJI
ON APPEAL FROM THE HIGH COURT OF FIJI

CRIMINAL APPEAL AAU 0172 OF 2016
(High Court HAM 151 of 2016)

BETWEEN : MIKAELE RAIVASI
Appellant

AND : THE STATE
Respondent

Coram : Calanchini P

Counsel : Appellant in person
Ms P Madanavosa for the Respondent

Date of Hearing : 25 May 2018

Date of Ruling : 25 June 2018

RULING

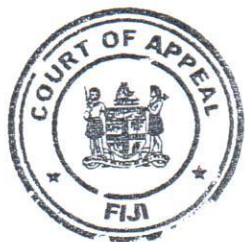
[1] The appellant, along with two others, was charged with the offence of unlawful cultivation of an illicit drug namely, cannabis sativa. The three accused first appeared in the High Court on 18 March 2016 and were remanded in custody, having already been held in remand for about 5 months. On 11 April 2016 they each applied for bail pending

trial. The State opposed bail pending trial. In an ex tempore ruling the High Court Judge refused the applications for bail pending trial with written reasons to follow. In a ruling dated 2 September 2016 the learned Judge delivered his written reasons for refusing bail.

- [2] On 14 December 2016 the Legal Aid Commission on behalf of the appellant, filed a notice of appeal against the refusal to grant bail pursuant to section 21(3) of the Court of Appeal Act 1949 (the Act). The notice was about 2 months out of time and consequently on 15 February 2017 the Commission filed an application for an enlargement of time pursuant to section 26 of the Act.
- [3] When the application was listed for mention on 7 April 2017 the Court was informed that the appellant's trial was listed for hearing in the High Court on 31 July 2017. Directions were given to the parties to file and serve written submissions on leave and the appeal itself. The Commission filed submissions on behalf of the appellant on 20 April 2017. The respondent did not file written submissions and as a result the appeal was not listed for call-over or fixed for hearing prior to the trial in the High Court.
- [4] As the trial has taken place the appeal against the refusal to grant bail pending trial is now vexatious and is dismissed under section 35(2) of the Act.

Order:

Appeal against refusal to grant bail pending trial is dismissed.



W. Calanchini

Hon Mr Justice Calanchini
PRESIDENT, COURT OF APPEAL