

**IN THE COURT OF APPEAL, FIJI**

**[On Appeal from the High Court]**

**CRIMINAL APPEAL NO. AAU 0007 OF 2020**

**[Suva High Court Case No: HAC 148 of 2018]**

**BETWEEN** : **JOSEPH CHRISTOPHER**

**Appellant**

**AND** : **THE STATE**

**Respondent**

**Coram** : **Mataitoga, P**

**Counsel** : **Appellant in Person**  
: **Kantharia B for the Respondent**

**Date of Hearing** : **25 November, 2025**

**Date of Ruling** : **3 December, 2025**

**RULING**  
**BAIL PENDING APPEAL**

[1] The appellant was charged with one count of Aggravated Robbery, contrary to section 311 (1)(b) of the Crimes Act 2009 in the High Court at Suva. The particulars of the appellant's offending was that on 17 November 2016, at Namena Road, Nabua he robbed the victim [Dushyant Narayan Singh] of \$3400.00.

- [2] The respondent in their submission acknowledged that the case was more a street-mugging type offending.
- [3] At the High Court trial, the appellant pleaded not guilty to the charge, a trial before assessors was held and the appellant was found guilty and convicted on 14 August 2018. It is noted that the assessors were not unanimous in their verdict of guilty: it was a majority verdict of 2 out of 3, which the trial judge accepted.
- [4] On 19 September 2018, the appellant was sentenced to 9 years 6 months and 20 days imprisonment with non-parole period of 7 years 6 months and 20 days.
- [5] The appellant had filed an untimely appeal against conviction and sentence. The ruling by the single Judge was delivered on 16 August 2023 wherein he refused enlargement of time to appeal against conviction but allow enlargement of time to appeal against sentence. He also refused bail pending appeal.
- [6] The appellant with assistance of counsel from the Legal Aid Commission [LAC] filed a new submission for bail pending appeal.

### **Relevant Law**

- [7] The Court of Appeal have set out in 2 decisions [**Tirtiri v State** [2015] FJCA 95 and **Balagaan v State** [2012] FJCA 100] the governing principle for determining an application for bail pending appeal by an appellant and section 17 (3) of the Bail Act. Under the Bail Act there is no presumption in favour of bail for a convicted person appealing against conviction and/or sentence, it is necessary to consider the factors that are relevant to the exercise of the discretion. In the first instance these are set out in section 17 (3) of the Bail Act which states:

*"When a court is considering the granting of bail to a person who has appealed against conviction or sentence the court must take into account."*

[8] The respondent in their written submission on this bail application pending appeal by the appellant, have concluded as follows:

*“The Respondent respectfully submits that it is proper that the appellant is enlarged on bail pending appeal with restricted grounds imposed and suitable sureties..”*

[9] The court also took into consideration the single Judges comment when refusing the appellant’s first bail pending appeal at paragraph 30 of the ruling in at paragraph 30: **Joseph Christopher v State [2023] FJCA 165:**

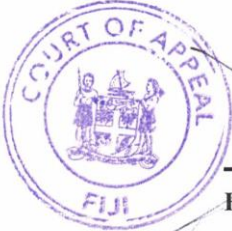

*“[30] Although, the appellant has some ‘likelihood of success’ in his sentence appeal, I cannot say that the other two factors need necessarily be answered in the appellant’s favour at this stage. His application looks somewhat premature at this point of time. However, at an appropriate time in the future he may lodge a fresh application for bail pending appeal if his appeal is not taken by the full court by then.”*

[10] I am satisfied that on the facts of this application, the relevant legal consideration and in fairness to both parties to the proceeding, the appellant application for bail pending appeal is granted subject to the conditions made in the order below.

**ORDER:**

Appellant’s application for bail pending appeal is granted subject to the following conditions:

- i) All appellant’s travel documents to be surrendered to the court;
- ii) The appellant must not travel outside;
- iii) A surety in the sum of \$2000.00 by a person approved by the Court;
- iv) A Prohibition Order to travel outside of Fiji to issue effective from today.

  
  
\_\_\_\_\_  
Hon. Justice Isikeli U. Maitoga  
PRESIDENT, COURT OF APPEAL