

**IN THE COURT OF APPEAL, FIJI**  
**[On Appeal from the High Court]**

**CRIMINAL APPEAL NO. AAU 006 OF 2025**  
**[Lautoka High Court: HAC 090 of 2023]**

**BETWEEN** : **GASTON KEAN**

**Appellant**

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

**Respondent**

**Coram** : Qetaki, RJA

**Counsel** : Appellant In-Person  
Ms. B. Kantharia for the Respondent

**Date of Hearing** : 3 September, 2025

**Date of Ruling** : 16 December, 2025

**RULING**

**(A). Background**

[1] The Appellant and a co-accused were jointly charged on the following information filed by the Director of Public Prosecution:

**Count One**

**Aggravated Robbery:** Contrary to section 313(1)(a) of the Crimes Act 2009.

**Roneel Kumar and Gaston Kean** on the 27<sup>th</sup> of March 2020, at Lautoka in the Western Division, entered the dwelling house of Diana Ali Nand with intention to commit theft.

**Count Two**

**Theft:** Contrary to section 29(1) and 45(1) of the Crimes Act 2009.

**Roneel Kumar and Gaston Kean** on the 27 of March, 2020 at Lautoka in the Western Division, dishonestly appropriated 1 x mini-Dell Laptop \$5750.00 cash, 1 x Rip Curl gold watch, 2 x gold bangles, 1 x 22 carat gold chain and 1 x gold coin, the properties of Diana Ali Nand with the intention of permanently depriving Diana Ali Nand of the said properties.

- [2] The appellant and co-accused were unrepresented at the trial. They pleaded guilty to the charges. The prosecution called six witnesses. At the close of the case for the prosecution, the Court, being satisfied that there was a case for the Appellant and co-accused to answer on each count, put them to their defence. Both accused elected to give evidence under oath. The Appellant called one witness.
- [3] In a judgement delivered on 29<sup>th</sup> November 2024, the trial Judge (per Aruna Aluthge, J) concluded that the prosecution proved the identity of each accused and proved its case beyond reasonable doubt. He found each accused guilty on each count and recorded a conviction accordingly.
- [4] On 12 December 2024, the accuseds were sentenced as follows:
- Mr. Roneel Kumar was sentenced to 5 years and 4 months imprisonment with a non-parole period of 4 years. Mr. Gaston Kean was sentenced to 4 years and 6 months imprisonment with a non-parole period of 4 years.
- [5] The appellant has appealed his conviction and sentence. The appellant is also seeking Bail pending his appeal. That application is also before the Court and will be dealt with in this ruling as well.

## **(B). Facts**

[6] The victim is the General Manager at her husband's law firm. In 2023, she was residing at Pickering Place with her husband and daughter. On 27 May 2023, they left home for dinner at a friend's place at around 7:15 pm and returned at around 10:00 pm. Upon arrival, they noticed that the kitchen grilled door was cut open. She screamed and asked her husband to move out because she suspected that someone must be inside the house. Her 5 year old daughter started crying. She was three months pregnant at that time. The police arrived in 10 to 15 minutes. She was shocked to see that the entire house was in a mess. Her bangles, gold chain worth \$5000, laptop, cash around \$5,700 and duty-free liquor were found missing. Nothing has been recovered to date. After the incident, they decided to relocate to Simla.

## **(C) Grounds of Appeal**

[7] The grounds of appeal are as follows:

### **Against Conviction**

**Ground 1:** *That the learned trial Judge erred in law when his lordship wrongly admitted inadmissible evidence (downloaded USB device) unlawfully obtained, into trial proper on voir dire proceedings without a written ruling delivered. In doing so, I was prejudiced and did not receive a fair trial. A miscarriage of justice in the circumstances of the case.*

**Ground 2:** *That the learned Judge erred in law in convicting me on the judgment dated 29<sup>th</sup> November 2024 for offences disclosed at paragraph 2 of the judgment. In doing so, I was convicted for offences disclosed at paragraph 2 of the judgment and thus this conviction information of charge with respect to the particulars of offences does not conform with the evidence lead at trial. A miscarriage of justice in the circumstances of the case.*

**Ground 3:** *That I did not receive a fair trial by reason of the failure of prosecution in not calling Yu Hin Chiu, DC 6676 Savenaca Joape and PC Solomoni as prosecution*

witness in the trial proper to give evidence on trial proper to give evidence on the extracting, uplifting, handling and downloading of the alleged CCTV footages on USB and likewise the chain of custody of the downloaded USB device. In doing so, resulted in the court and myself been deprived of the benefit of evidence that was to be adduced on cross-examination on trial proper, a miscarriage of justice in the circumstances of the case.

**Ground 4:** That the learned trial Judge erred in law when his lordship did not acquit me at the close of the prosecution case when the prosecution did not make out a prima facie case by failing to call Mr. Yu, DC 6679 Savenaca Joape and PC 6848 Solomoni as prosecution witnesses in trial proper. In doing so, I was denied a fair trial. A miscarriage of justice in the circumstances of the case.

**Ground 5:** I did not receive a fair trial by failure of the prosecution not disclosing summary of facts as disclosures. In doing so, I did not receive a fair trial and thus amounted to a miscarriage of justice in circumstances of the case.

#### **Against Sentence**

**Ground 1:** That the learned trial Judge erred in law in not deducting the full period of one year six months and fourteen days detained in custody on remand as time already served pursuant to section 24 of the Sentencing and Penalties Act 2009. Failure to deduct the full period of remand, suffered grave and substantial injustice.

**Ground 2:** That the learned Judge erred in law in imposing a non-parole period too close to the head sentence.

**Ground 3:** That the learned trial Judge erred in sentencing principle and methodology discussed and observed by the Supreme Court decision in Arakaki Sowane [2016]. Failure to deduct the remand period already served been excess of the head sentence of four years six months. A grave and substantial injustices in the circumstances of the case.

## (D). Appellant's Case

### *Against Conviction*

[8] Grounds 1: The appellant was not provided an opportunity to give evidence on oath on whether he voluntarily admitted to the disputed incriminating downloaded footages. The trial Judge did not pronounce a *voir dire* ruling and give reasons on why the CCTV footage(s) evidence were deemed admissible: **Rokonabete v State**, Criminal Appeal No. AAU0048.2005s, requirement that “...*at conclusion of trial within a trial a ruling must be given before the principle trial proceeds further.....*” The evidence admitted was used by the trial Judge to guide him in convicting the appellant. This results in great injustice and the appellant was substantially prejudiced by it. The trial was not fair. Under the circumstances miscarriage of justice had occurred. The appellant did not receive a fair trial as the trial Judge only took into account the evidence adduced at the *voir dire* enquiry to be evidence in trial proper, not taking account of appellant's evidence.

[9] Ground 2: The trial Judge was mistaken in the particulars of the charge in the Information at paragraph 2 of the judgment. He thus convicted the appellant based on the wrong Information. At paragraph 114 of judgment the trial Judge stated-

*“...the prosecution proved the identity of each accused and proved its case beyond reasonable doubt. I find ach accused guilty of each count. A conviction is recorded accordingly.”*

The trial Judge's finding and conviction was flawed in that the evidence lead at trial proper does not conform to the particulars of offences in both counts thereby rendering the conviction unsafe and unsatisfactory and it cannot stand. Form the evidence of PW1, she testified that her home was broken into on 27 May 2023 and not 27 March 2002 as per information of charges disclosed in paragraph 2 of judgment. A miscarriage of justice occurred, and leave to appeal ought to be granted.

[10] Ground 3: The appellant did not receive a fair trial due to the prosecution not calling a number of “key” individuals involved in the investigation of the offences. These were people who could give evidence on trial proper with respect to the whereabouts of the

original CCTV NVR System, downloading of footage as per USB and two copy CD's. In not calling those individuals, the appellant is being denied and deprived of the benefit of the evidence produced for the purpose of cross-examination. The failure of the prosecution to call these witnesses in trial has created a gap and hole in the prosecution case which cannot be cured. He was gravely and substantially prejudiced and was denied his rights of fair trial, resulting in a miscarriage of justice.

[11] Ground 4: No specific submission. Covered under prejudice and miscarriage of justice

[12] Ground 5: No specific submission. Covered under prejudice and miscarriage of justice.

***Against Sentence***

[13] Ground 1: The sentencing Judge deducted 1 year 6 months as time served in custody. I had actually served 1 year 6 months and 14 days. 14 days was not deducted. It is a question of law.

[14] Ground 2: The trial Judge did not consider and take into account the decisions in established authorities, including: **Akuila Navuda v State** [2023] FJSC 45; **Tora v State** [2015] FJCA 20, and **Inoke Ratu v State** CAV 0024: 2022. An appropriate gap difference between the head sentence and non-parole period should be at least 2 years. The sentencing Judge in this case imposed a sentence of 4 years 6 months - an appropriate non-parole period would be around 2 years and 6 months at least.

[15] Ground 3: The full time in custody was not deducted, it was short by 14 days. Section 24 of the Sentencing and Penalties Act 2009 is relevant. That according to observations in established authorities cited, to deduct the time in custody from the non-parole period. That would mean that 1 year 6 months 14 days must be deducted from the new parole period of 2 years 6 months. If accepted, making an appropriate and meaningful non-parole period of 1 year. In all the circumstances of the case, this ground involves an error in the sentencing process and has merits on the likelihood of success. Leave to appeal must succeed.

[16] The appellant would have served the 1 year (non-parole period) based on the above submission. There is a very high likelihood of success in the conviction grounds of appeal, and the appellant seeks from the following orders: (i) Bail pending the determination of appeal should be granted. (ii) That leave to appeal against conviction be granted. (iii) That leave to appeal against sentence be granted. (iv) An order for No-Retrial be made.

**(E). Respondent's Case**

***Against conviction***

[17] Grounds 1: The respondent submits that there is nothing readily available to verify whether a *voir dire* ruling was given by the trial Judge- “*we need to look at the court record to confirm this*”. However, the trial Judge discussed the *voir dire* at paragraphs 67 to 78 of the judgment dated 29 November 2024. The reasoning does not suggest that the acceptance of the cautioned statement had prejudiced the appellant in any way as the CCTV footage retrieved and produced in court substantiates the evidence of the witnesses who were all acquainted with the appellant and could identify the distinguishing features on their hands, such as tattoos and amputated thumb in court. There was no miscarriage of justice or any prejudice caused to the appellant.

[18] Ground 2: The question is, whether the court can allow the maintenance of a conviction that is based on an indictment that was defective or imperfect. The Court needs to consider (1) Was the appellant embarrassed or prejudiced due to the defect in the judgment, and (2) Was there a miscarriage of justice on any ground?

[19] The State submits that the appellant was not prejudiced or embarrassed as from the initiation of the proceedings from Magistrates Court the appellant was aware of the particulars of the proceedings as the initial charge in the Magistrates Court offers full particulars of the charge. A copy of the charge was provided to the appellant as part of the Record of the Magistrates Court at Suva. A copy of the information was also provided to the appellant on the matter being transferred to the High Court. The copy of Information was filed in Court on 27/7 23 and same was disclosed to the appellant on

28/7/23 and same is signed by the appellant, the person being charged. Furthermore, the sentence delivered by the trial Judge dated 12 December 2024 at paragraph1, correctly stipulates the date as 27<sup>th</sup> May 2023.

[20] Grounds 3 and 4 are interrelated. The appellant alleges miscarriage of justice due to the prosecution not calling as prosecutions witnesses certain specified persons who have been part of the investigation. The State submits that any witnesses who would have been compelled witnesses at the trial, would have been called by the prosecution as its witnesses. It was open to the appellant to have called their witnesses who would favorably testify in support of their case.

[21] The trial Judge had considered the evidence in its totality and decided to accept the evidence of the witnesses for the prosecution as being honest, truthful and reliable and held accordingly. The prosecution had proved the charges beyond reasonable doubt. The trial Judge had highlighted all the evidence of all the witnesses and the appellant was given the opportunity to cross examine the prosecution witnesses. There was no basis for the trial Judge to have acted otherwise for a fair trial. The necessity to deal with the ground of appeal against the conviction does not arise.

[22] **Ground 5:** The ground is misconceived. There is a misunderstanding by the appellant that the prosecution has to disclose the summary of facts to the appellant as part of the disclosure. The disclosure of statements and exhibits by the prosecution is done (on 6 October 2023) in the course of the initiation of the proceedings in view to fair trial. This evidence is only accepted by the courts upon the witnesses taking the stand and adducing their evidence in court as to what was provided by them in their statement. Summary of facts is submitted to the court when the accused in any matter pleads guilty to the offence they are charged with. In this case, the accused pleaded not guilty to the charge and the matter proceeded to trial. Under the circumstances the summary of facts does not have to be disclosed to the accused. There is no basis to this ground.

### *Against Sentence*

[23] It is submitted that Ground 1 is baseless/misconceived. The matter was considered and deduction was made - the learned trial Judge addressed this at paragraph 17 of Sentence dated 12 December 2024.

[24] Ground 2: The State concedes to this ground: **Ismail v State** [2023] FJSC 40; CAV0002.2022 at paragraph [8] per Honorable Chief Justice, Temo:

*“.....the date of release for the prisoner shall be determined on the basis of a remission of one third of the sentence not taking into account the non-paroled period”.*

[25] Ground 3: The ground is misconceived and, in any event, it has been covered in relation to ground I against sentence.

### **(F). Analysis**

[26] The appeal grounds against conviction are to be assessed in the context of the appellant’s posture, who completely denies the allegations in the information by the police, and who relied on mistaken identity and an alibi. The primary issue at the trial is identification/ recognition of the accused where the prosecution relied entirely on the footage extracted from CCTV cameras installed at the complainant’s house to prove the identity of the accused. In the additional grounds of conviction, the appellant submits that his constitutional rights (protected under section 14(2)(k) and (i) and section 13(1)(f) and section 15(1) of the Constitution), had been violated by the Pre-trial Procedures; unfairness in the conduct of the trial, and the inconsistencies in evidence which were not adequately assessed.

[27] The following cases which are cited and discussed in the judgment provide the principles and guidelines on the use of CCTV footage in identification and recognition of Accused generally and in this case in particular: **R v Smith and Others** [2008] EWCA Crim. 1342 (2009) 1 Crim App R 36, The Court of Appeal (England); **R v Lariba and Others** [2015] EWCA Crim 478; **R v Henry McGrath** [2009] EWCA Crim 1758, The English Court of Appeal, and **R v Moss** [2011] EWCA Crim 252.

### Grounds Against Conviction

- [28] Grounds 1: The appellant complains that he did not receive a ruling and the reasons why the trial Judge accepted the CCTV footage evidence, at the end of the *voir dire* hearing. That he was denied a fair trial and there was a miscarriage of justice. He was thereby prejudiced.
- [29] It is clear that the purpose of the conduct of the *voir dire* was to provide the court with an opportunity to view the footages before trial to test their quality - (paragraph 67 of the judgment).<sup>4</sup> prosecution witnesses adduced evidence at the hearing and the accused was given the right to challenge their evidence in cross-examination. Having heard the evidence of the prosecution witnesses, the Court found the CCTV footages to be admissible at the trial.
- [30] There was no written ruling given after the *voir dire* that sets out the reasons for admitting the CCTV footages at the trial. However, at paragraph 67 of the judgment, the trial Judge did touch on that by saying, “*Before delving into trial issues, I must give reasons, albeit briefly, for the voir dire Ruling*”, which he did set out in paragraphs 68-73. He was sure that the quality of the films was not the best, but they were sufficiently clear for the purpose intended.
- [31] The trial Judge’s reasoning does not suggest that his acceptance of the cautioned statement had prejudiced the appellant in any way. The CCTV footage admitted in court substantiated the evidence of the witnesses who were all acquainted with the appellant and who are able to identify his distinguishing features on their hands, such as tattoos and amputated thumb in Court. There was no miscarriage of justice or prejudice caused to the appellant in respect of a fair trial. The Court I believe had properly considered the purpose and the implications on the trial of the CCTV footages as evidence.
- [32] The court is aware of its duty under the circumstances. It recognized the need for it to be cautious in identification and recognition cases and had the opportunity to warn itself of the dangers associated with identification /recognition through a video. At paragraphs 73 and 74 of the judgment the learned trial Judge stated;

*“73. Four witnesses who viewed the footage(s) testified that they recognized one or both of the Accused in the CCTV footage(s). Since the prosecution relies solely on the visual identification of these witnesses to implicate the Accused, the Court took extra caution because of the dangers associated with poor quality visual identification, given that even honest witnesses sometimes make mistakes. Although this is a case of recognition rather than identification, it would be appropriate to direct the Court itself to the need for caution. However, a full Turnbull direction would be inappropriate.*

*74. I must admit the quality of the footage(s) was not the best. Courts have allowed prosecution to establish the identity of offenders through CCTV footage without them first being tested for quality. Whether it is clear enough to identify the offender is a matter for the Court to decide after considering the evidence of the witnesses. The Court can properly warn itself about the dangers associated with the identification/recognition through a video.” (Underlining for emphasis)*

[33] The above ground fails. It is not arguable.

[34] Ground 2: The trial Judge had made a serious mistake on the face of it in incorrectly stating the date the complainant’s house was broken into as 27 March 2002 when in fact, under the Information, the date was 27 May 2023, in paragraph 2 of his judgment. What is the legal effect of that error in terms of the conviction? The date is an important ingredient of the information as the particulars of the offence has to be proven beyond a reasonable doubt by the prosecution.

[35] Does the error amount to a miscarriage of justice, such that, despite the evidence of PW1, when she testified that her home was broken into on 27 May 2023, and not 27 March 2002, as per paragraph 2 of judgment, would affect the very basis or foundation of the conviction? Was the charge defective? In such a situation, in acknowledging the nature of the error made, to consider whether the appellant was embarrassed or prejudiced due to the defect in paragraph 2 of the judgment. Secondly, whether there was miscarriage of justice suffered by the appellant.

[36] The appellant was provided with a copy of the charge from the beginning. The trial proceeded on the basis of the date the complainant’s house was broken into according to the complainant’s testimony, and there are other references in the judgment itself referring to 27 May 2023 as the date of offending. Under the circumstances, it would be

unreasonable to conclude that the appellant was embarrassed by the mistake or that it had caused a miscarriage of justice. The ground is not arguable, it has no merit.

[37] Ground 3 and 4: These grounds are interrelated, based on the contention that the appellant did not have a fair trial due to the prosecution not calling a number of specified persons who were involved in the investigation, but did not give their testimonies at the trial proper. In any trial, it is the prosecution that has the right to determine which witnesses to call at the trial. The appellants cannot dictate to the prosecution which witness it should call to prove its case. If a witness is a compelled witness, he/she would have been called. The “right” of cross-examination of a witness arises only after a witness called by the prosecution or defence, has already given evidence in chief, and it does not arise when a witness is not called. There is no miscarriage of justice or prejudice suffered by the appellant. The ground is not arguable.

[38] Ground 5: The appellant asserts he did not receive a fair trial due to the failure of the prosecution to disclose the summary of facts as “disclosures”. Disclosures are normally made available earlier on at the commencement of criminal proceedings. The summary of facts would be available (in a contested case that is when an accused enters a non-guilty plea), after all the evidence had been adduced and the trial Judge had taken time to assess the admissible evidence from which the facts are summarized. It seems the ground is based on a misunderstanding of when the summary of facts should be disclosed. Or in the case of an accused pleading guilty to a charge, the summary of facts is submitted to the Court, after the guilty plea is taken. Under the circumstances of this case, the appellant had not pleaded guilty and so the facts does not have to be disclosed.

### **Grounds Against Sentence**

[39] An appellate court will only interfere with a sentence from a lower court, if one of the following had been contravened. That the Judge had:

- (i) *Acted upon a wrong principle;*
- (ii) *Allowed extraneous or irrelevant matters to guide or affect him;*
- (iii) *Mistook facts;*

- (iv) *Failed to take into account some relevant considerations: **Kim Nam Bae v State** [1999] FJCA 21;AAU0015.98 (26 February 1999) and reaffirmed in **Naisua v State** [2013] FJSC 14;CAV0010.2013 (20 November 2013).*

[40] Ground 1 - The appellant alleges that the learned sentencing judge did not deduct the full 1 year 6 months 14 days which he had served under section 24 of the Sentencing and Penalties Act 2009. This claim is correct. Paragraph 17 of Sentence indicates that he has been in remand for “*approximately one and a half years. I consider the remand period as part of his sentence already served and is deducted from his sentence to arrive at a sentence of 4 years and 6 months imprisonment.*” It is obvious that 14 days in custody was not taken into account. This ground is arguable. It has merit.

[41] Ground 2: This ground is conceded by the prosecution relying on **Mohammed Ismail v State** (supra) where, per Honorable Chief Justice Temo states, as follows:

*“[8] ....in Kreimanis v State, the Supreme Court stated that this approach was incorrect, given the language of s 27(2) of the Corrections Service Act. That subsection provides that for the purpose of initial classification “the date of release for the release of prisoner shall be determined on the basis of a remission of one third of the sentence **not taking into account the non-parole period.**” (Emphasis added). The background to this subsection is explained in Calanchini J’s judgement in Kreimanis.”*

[42] In the case **Paula Tora v State**, Criminal Appeal No. AAU0063/2001, Calanchini JA, stated:

*“.....to fix a minimum term that the appellant is required to serve before being eligible for any early release. Although there is no indication in section 18 of the Sentencing and Penalties Act as to what matters should be considered when fixing the non-parole period, it is my view that the purpose of sentencing set out in section 4(1) should be considered with particular reference to rehabilitation on the one hand and deterrence on the other. As a result, the non-parole period should not be so close to the head sentence as to delay or discourage the possibility of rehabilitation. Nor should the gap between the non-parole term and the head sentence be such as to be ineffective as a deterrent.” (Underlining for emphasis)*

This ground is arguable. It has merit.

[43] Ground 3: Having considered this ground and the authorities cited by the appellant in support, it is evident that the ground is arguable. The Supreme Court in Navuda v State (supra) discussed the issue in paragraphs [45] to [47], and at paragraph [47] stated:

*“..... As Calanchini P (as he then was) said in Tora v the State [2015] FJCA 20 at para2:*

*“The non-parole term should not be too close to the head sentence as to deny or discourage rehabilitation. Nor should the gap between the non-parole term and the head sentence be such as to be ineffective as a deterrent”.*

*Neither the legislature nor the courts have said otherwise since then despite the scrutiny to which the non-parole period has been subjected. The principle that the gap between the non-parole period and the head sentence must be a meaningful one is obviously right. Otherwise, there will be little incentive for prisoners to behave themselves in prison, and the advantage of incentivizing good behavior in prison by the granting of remission will be lost.....”*

[44] The Supreme Court in Peni Tuilaselase v State CAV 0025 of 2018 (30 August 2023) also discussed similar sentencing grounds and issues, and eventually refusing special leave for enlargement of time. This ground is arguable.

### **Application For Bail Pending Appeal**

[45] The appellant had also applied for bail pending appeal. The grant of bail pending appeal is at the discretion of the Court. The laws relating to Bail Pending Appeal are clearly set out under the Bail Act 2002 (“the Act”), and by case law that has been developed in the courts over the years. Section 17 (3) of the Act sets out the requirements for bail determination. Subsection (3) states:

*“(3) 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-*

*(a) The likelihood of success in the appeal;*

*(b) The likely time before the appeal hearing;*

*(c) The proportion of the original sentence which will have been served by the applicant when the appeal is heard.*

[46] The facts of the case and the determination of the applications by the appellant for leave to appeal against conviction and sentence at the leave stage has been concluded which has mixed results, and no doubt they will be considered before the Full Court at a later date. This bail pending appeal application was heard together with the application for leave.

**Likelihood of success in the appeal**

[47] I have refused the appellant's application for leave to appeal conviction for the reasons I have stated above, and have allowed leave for the appellant to appeal against sentence. It is open to the appellant to renew his conviction ground for the Full Court to consider, that is for the appellant to decide. The leave against sentence is granted. Given the situation, I consider the likelihood of success against conviction as not very high. On that basis I would not allow the application for bail pending appeal. There are no exceptional circumstances: **Vualili v State** [2021] FJCA 91; AAU0009.2018 (7 April 2021); **Naikalivou v State** [2024] FJCA 63; AAU017.2022 (26 March 2024), at paragraphs [22] to [25].

**Likely time before appeal hearing**

[48] This will be determined by the speed with which the Court Records are prepared by the appellant for the Chief Registrar to certify. It also depends on the instructions that the appellant will provide, in case he obtains legal representation, of on his own initiative to progress his appeal to the full Court in accordance with the Rules of the Court.

**Proportion of the sentence which will have been served by the applicant when the appeal is heard**

[49] Whether the appellant's appeal against sentence is successful or not, the sentence would have reduced considerably at the time the appeal is heard.

**Conclusion**

[50] Under the circumstances the application for bail pending appeal is disallowed.

**Order of Court**

1. *The application for leave to appeal against conviction is refused.*
2. *The application for leave to appeal against sentence is allowed.*
3. *The application for bail pending appeal is disallowed.*



A handwritten signature in blue ink, appearing to be "Alipate Qetaki", written over a horizontal line.

**Hon. Justice Alipate Qetaki**  
RESIDENT JUSTICE OF APPEAL

**Solicitors**

Appellant In-Person  
Office of the Director of Public Prosecutions for the Respondent