

1

IN THE HIGH COURT OF FIJI
AT SUVA
CRIMINAL JURISDICTION

Criminal Case No: HAC 041 of 2008
Criminal Misc. Case No: HAM 036 of 2008

STATE

v.

AKUILA DROMUDOLE
ALIFERETI TOKONA
IRIMAIA RATUNARUKUTABUA
VILIMONI SAUMAKI

Hearing: 18th April 2008

Ruling: 21st April 2008

Counsel: Mr. S. Fotofili for State
All accused in person

RULING ON BAIL
PENDING TRIAL

The 1st Accused Akuila Dromudole makes an application for bail pending trial. He makes the application on the ground that the remand facilities at the Korovou Prison are inhumane. He faces charges of robbery with violence in the High Court and in the Magistrates' Court. He has been in remand since he was charged in December 2007. The charges are very serious and allege, on four counts, robbery with four others with pinch bars. The value of the items alleged to be stolen is in excess

of \$18,000. The charges are all dated the 6th of December 2007. The case is currently awaiting an application for consolidation by the State. Thereafter a hearing date will be set. The case management system in the High Court at present ensures trial within 12 months of charge. The Applicant will probably be tried by November 2008.

In response to the Applicant's complaints about the remand facilities, the prosecution called Superintendent Frank Hazelman, the Officer-in-charge of the Korovou Prison. He said that there were 7 dormitories at the Korovou Prison and that 2 were currently used to house the remand prisoners. He said that formerly the Sacau Dormitory was used for the remand prisoners, but that this dormitory was currently being renovated to ensure compliance with the Prisons Act. As a temporary measure, the Applicant and 67 other remand prisoners were kept at two other dormitories until renovations were completed within the next two weeks. With commendable honesty, he agreed that the dormitories had a capacity for 64 prisoners, and that 4 men were sleeping on mattresses on the floor. He said that they were permitted outdoor recreation for half an hour daily but that longer recreation periods were difficult because of the large numbers of remand prisoners held. For the remaining hours of the day, the remand prisoners had the privilege of watching television. He also agreed that the bedding in the dormitories was old but said that with the renovation of the Sacau Dormitory, each prisoner would receive clean and new mattresses and bed linen. He agreed that the toilets were blocked but again said that they were to be replaced, in the course of the renovations.

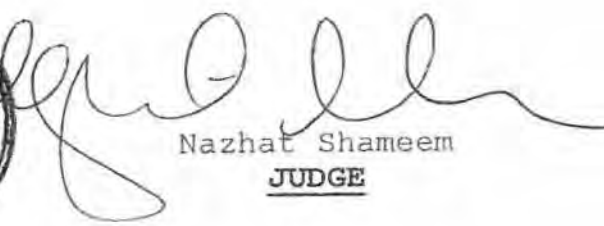
The State opposes bail on the grounds that the Applicant will soon be in better remand facilities, and that he has a history of absconding whilst on bail. Counsel tendered a copy of the Applicant's previous convictions. Since 2001, the Applicant has a list of 6 previous convictions, all for minor offences. However two in 2006 are for absconding while on bail or breaching bail conditions. Clearly, the Applicant has a history of failing to abide by his undertakings to the court.

The accused Felix Vusonitokalau was granted bail for the same charges. However when he applied, the prison officer giving evidence candidly accepted that the remand facilities were unsuitable and did not know of any plans to improve them. That was a month ago. Furthermore Felix Vusonitokalau did not have a history of absconding. This Applicant does.

I refuse bail not only because the Applicant has absconded in the not very distant past, but also because I accept that the remand conditions of which he complains are only temporary in nature. As the Officer-in-Charge has said the Sacau Dormitory will be in compliance with the Prisons Act (and the U.N. Minimum Standard Rules) within 2 weeks.

For these reasons, bail is refused.




Nazhat Shameem
JUDGE

At Suva
21st April 2008