

IN THE HIGH COURT OF FIJI

AT SUVA

MISCELLANEOUS JURISDICTION

*CRIMINAL MISC. CASE NO.: HAM 050 OF 2008*

BETWEEN:

RAYMOND RAJENDRA SINGH

v.

THE STATE

Mr. H. Shah for Applicant

Mr. A. Rayawa for Respondent

Date of Hearing: 19<sup>th</sup> May 2008

Date of Judgment: 20<sup>th</sup> May 2008

## JUDGMENT

The Appellant/applicant appeals against the refusal of bail by the Magistrates Court. He also requests that the High Court consider bail afresh. There is both a petition of appeal before the court and a motion and affidavit for a fresh bail application.

The Appellant/Applicant (whom I will refer to as the Applicant) is charged with the murder of his wife Wendy Linda Singh. His case has been transferred to the High Court and he has been served with disclosure. He is unlikely to be tried until January or February 2009. He has been in custody since the 11<sup>th</sup> of May 2008, the date of the alleged offence.

The grounds for the appeal and the application are that the Applicant is a first year law student with no previous convictions, that he is not a flight risk, that the lower court erred in refusing bail because of the concerns of the international community and that the Applicant has no wish to engage with or approach the relatives of his late wife or with other witnesses.

The State called four witnesses to support its objection to bail. Two witnesses were children of the deceased from her first marriage, one was the sister of the deceased and one was Constable Alipate who tendered disclosed statements in the case.

The evidence of the three witnesses (all of whom are British by nationality) was that they feared for their own safety if the Applicant was granted bail, that the Applicant had a history of family violence including episodes of abuse towards his two step children and that the witnesses wished to return to the United Kingdom after making suitable arrangements for the body of their mother and sister.

The disclosed documents reveal a circumstantial case of murder by a cut throat injury resulting in severe blood loss. The case rests substantially on the evidence of neighbours. The Applicant exercised his right to remain silent when interviewed by the police. However after his arrest and after he had been cautioned he told Inspector Dharmen Chandra – ***“All this happened out of frustration ..... I killed my wife because of frustration”***.

The case was first called in the Suva Magistrates Court on the 13<sup>th</sup> of May 2008. A bail application was made, and opposed.

Bail was refused on the grounds that the investigations were still ongoing, that the international community was concerned because the victim was a British citizen, and that it was not in the public intent to grant bail.

The Applicant appeals against this ruling on the grounds that the learned Magistrate took extraneous matters into account and failed to consider the statutory provisions of the Bail Act.

I accept that the fact that the victim was a British subject is not a valid ground for refusing bail. Certainly on its own, such a reason for refusing bail would be contrary to the principle of equality before the law. Further, the concern of the international community is not a valid consideration on a bail application.

Despite this error however, on the point of the learned Magistrate, I do not consider that bail should be granted. Nor do I consider that the refusal of bail in the Magistrates Court, on the basis of the information available to that court, was an error of law or fact.

In the Magistrates Court, the State had evidence of continuing investigations, and the expectation of relatives arriving in Fiji to finalise funeral arrangements.

In the course of the hearing in the High Court, evidence has been led of the Applicant's two step-children that they anticipate violence. One of the two is George Graham Barrett (aged 16) who is a prosecution witness. He gave evidence that as a result of the Applicant's conduct towards him in the United Kingdom, he and his step brother Caleb were placed under a State-sponsored child-protection scheme. This is disputed by counsel for the Applicant.

I accept that the relatives of the deceased live in fear of the Applicant while they live in Fiji, and that an order for bail at this stage could lead to their intimidation. In particular, it could lead to the intimidation of George Barrett who is a witness in this case. Such a finding is sufficient to rebut the presumption in favour of bail.

Counsel has referred me to a number of authorities which he relied on the Magistrates Court in the course of his bail application. I accept those authorities

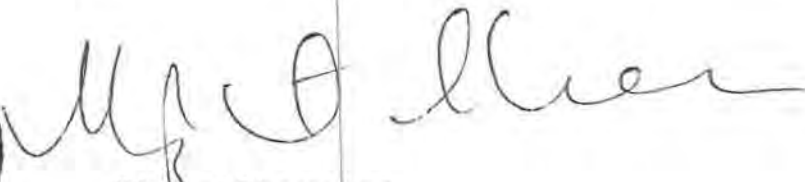
as correctly stating the principles of bail. Certainly I accept that the seriousness of the offence on its own, or the strength of the prosecution case on its own, are not sufficient to rebut the presumption in favour of bail. I accept that all suspects have a right to bail, and that it is the State which must satisfy the court that bail should be refused. Relevant to the consideration of bail are the grounds set out in section 19 of the Bail Act.

In this case, the clear apprehension of violence and abuse expressed through the evidence of the witnesses, is sufficient to rebut the presumption in favour of bail.

Bail is refused. The appeal against the bail refusal in the Magistrates court is dismissed. The matter will be called again after the transfer first call on the 23<sup>rd</sup> of May 2008 for bail review. The contents of this ruling may not be reported in the media because evidence of the Applicant's character may prejudice his trial before the assessors. All that may be reported is as follows :

***"The High Court refused bail after hearing oral evidence from relatives of the deceased, Wendy Linda Singh. The case will next be called in the High Court on the 23<sup>rd</sup> of May 2008."***



  
[Nazhat Shameem]  
JUDGE

At Suva  
20<sup>th</sup> May 2008