

IN THE HIGH COURT OF FIJI
AT SUVA
MISCELLANEOUS JURISDICTION

CRIM. MISC. CASE NO: HAM 274/2013

BETWEEN : **SATISH LAL**
APPLICANT

AND : **THE STATE**
RESPONDENT

COUNSEL : **Mr S Waqainabete for the Applicant**
Mr Vosawale for the State

Date of Hearing : **06/03/2014**

Date of Ruling : **18/03/2014**

BAIL RULING

- [01] The Applicant **SATISH LAL** had applied for bail pending trial fourth time.
- [02] The applicant has been charged with one count of Aggravated Robbery pursuant to section 311(1) (a) and one count of Theft pursuant to section 291 of Crimes Decree No: 44 of 2009.
- [03] It was alleged that the Applicant on 04th day of July 2011 at Nasinu, being armed with a cane knife, robbed one Mohammed Shahim of the properties valued at \$1547.00 and stole \$1000.00 from the property of Nazmun Begum.
- [04] Applicant's main grounds of Bail are as follows:
1. That due to long period of incarceration he fears for his family's wellbeing and safety.
 2. That he is the sole bread winner in his family.
 3. That the Constitution gives the Applicant the right to be released on bail.
 4. That the only evidence is an unfairly obtained confession.

- [05] Section 3 (1) of the Bail Act states that an accused has the right to be released on bail unless it is in the interest of justice that bail should not be granted. Consistent with this principle, Section 3 (3) of the act provides that there is a presumption in favour of the granting of bail to a person, but a person who opposes the granting of bail may seek to rebut the presumption. In determining whether to grant bail is the likelihood of the accused person appearing in court to answer the charges laid against him or her. (17)
- [06] State opposing to bail being granted submitted that the Applicant was arrested by Taveuni Police after a bench warrant was issued by the High Court when he fled from Court during the adjournment of the trial on 2nd of July, 2012.
- [07] Further Applicant had not taken any endeavour to surrender himself before any Police Station.
- [08] The applicant committed a serious offence which carries maximum 20 years imprisonments if convicted. The Applicant in this case if found guilty is likely to serve a custodial sentence.
- [09] That the applicant is 45 years old and has a large family to support.
- [10] He was granted bail by High Court in the year 2011. Thereafter trial date had been set for 02-13/07/2012. On the trial date i.e. on 02/07/2012, counsel for the applicant withdrew from the case of want of proper instructions. Hence his bail was cancelled and order had been issued to keep the applicant in remand till the conclusion of his case. But he was not taken into custody on that day. As he absconded subsequently, a bench warrant was issued on 4th of July, 2012.
- [11] On 17th of June, 2013, he was arrested and produced before this court by the CID. From then he has been in remand to date.
- [12] Now this case has been fixed for trial between 23-27/02/2015.
- [13] In his fourth bail application, applicant prays that he be granted bail in order to support his family. At present his family is going through untold hardship without proper income and care.
- [14] Considering all these factors into account, especially the new trial date, I decided to grant bail to the applicant with strict bail conditions. I grant bail to the applicant on the following conditions:
1. To secure his own attendance at the High Court by standing in his own recognizance in the sum of \$1000.00 (Non-cash).
 2. To provide 05 sureties. They must sign a bond of \$1000.00 each. (Non-cash)

3. He has to reside in Nabua until conclusion of his case. New address to be furnished before his release.
4. Not to approach any prosecution witnesses directly or indirectly or to interfere with.
5. To surrender his passport if any to court and not to apply for a travel document. The Director of Immigration is informed of the travel ban on the applicant.
6. To report to Nabua Police Station every Monday, Wednesday and Saturday between 6am to 6pm.
7. Not to leave Suva until his case is concluded.
8. Any breach of these conditions is likely to result in cancellation of his bail.

[15] 30 days to Appeal.

P Kumararatnam

JUDGE

At Suva
18/03/2014